



12 May 2020

The Honorable Jonathan Wilkinson
Minister of Environment and Climate Change Canada
Environment and Climate Change Canada
200 Sacré-Coeur Boulevard
Gatineau, Quebec
K1A 0H3

Sent by Email to: Jonathan.Wilkinson@parl.gc.ca
& EC.MINISTRE-MINISTER.EC@CANADA.CA

Dear Hon. Wilkinson,

We write to you as one on behalf of the Tribal Councils of the Confederated Salish and Kootenai Tribes (CSKT) and the Kootenai Tribe of Idaho (KToI). We are the United States Tribal governments of the transboundary Ktunaxa Nation, who have lived on these lands since long before the existence of Canada, the United States, or the border between them.

We are writing independently and jointly to request that the government of Canada pursue and complete a comprehensive environmental assessment by the Impact Assessment Agency of Canada, under the Canadian Impact Assessment Act, for Teck Mining Company's proposed "Fording River Operations Castle Project."

Impacts from the Fording River Operations Castle Project require review under CIAA for many reasons, including, but not limited to, the following:

- 1) The importance of consideration of impacts from the Castle Project in U.S. and traditional tribal territory, including legacy, on-going and future mining contamination to water quality, fish, wildlife, and traditional cultural uses by our Nations.
- 2) Recent data from 2019 collected by the U.S. Environmental Protection Agency, U.S. Geological Survey, and the Kootenai Tribe of Idaho documenting elevated concentrations of selenium and nitrates, originating from Teck Coal Ltd.'s Elk Valley

mines, in the Kootenai River of Montana and Idaho, that exceed U.S. EPA thresholds for Kootenai River fish.¹

- 3) Previous and on-going federal investigations by Environment and Climate Change Canada into mortality of Westslope cutthroat (West Line Creek AWTF)² and recent data documenting declines of Westslope cutthroat in the Upper Fording River.
- 4) Lack of demonstrated, successful technology to mitigate mining contamination and reduce risks to water quality and aquatic life.
- 5) The importance of accurately and robustly evaluating cumulative environmental impacts, at the appropriate geographic scale, from mining in the Elk Valley to the transboundary Kootenai watershed, including Teck Coal Ltd. mine expansions, as well as the three proposals for new mines seeking permits in the watershed.
- 6) For many years the province of BC, State of Montana, and Teck mining company have separately and at times collectively promised to fix existing problems and for as many years have failed to yield improvements to water quality and stop degradation of water and the fish, wildlife, and human uses dependent on Teck's and BC's effluent into the US. The Canadian government must provide review and analysis of these provincial, state, and company failures *prior* to any new or expanded mine permitting.

We are deeply concerned about the increasing contamination trends in the Elk River, transboundary Kootenai Reservoir, and Kootenai River. These concerns are confounded by the lack of evidence that scientifically defensible, effective mitigation strategies are available at scale, to *stabilize and reverse* increasing trends in water contaminant concentration, as specified in the provincial Ministerial Order M113. Rather than decreasing contamination or improving water quality, Teck's and BC's trend has been ongoing plan revision without full implementation nor even partial success.³ Now the company and BC have proposed yet another plan (Saturated Rock Fill), with unproven technologies.

Out of concern for the lack of scientifically validated mitigation, the U.S. EPA recently wrote to the B.C. Ministries of Environment and Climate Change Strategy and Energy, Mines and Petroleum Resources requesting that U.S. federal agencies have the opportunity to evaluate the effectiveness of proposed mitigation approaches. Contamination from Teck's Elk Valley mines continues to increase across the international boundary and current modeling predicts that when Montana revises the existing selenium criteria at the international boundary, water quality will immediately fail compliance (BC is participating but declined to sign a formal participation agreement rendering its future unknown).

Further, we call to your attention the long-standing record of concern from transboundary Ktunaxa Nation leadership regarding the matter of legacy, current and future impacts in the transboundary Elk/Kootenai/Kootenai watersheds, resulting from large-scale open pit

1 T.S. Presser, et al., "USGS Measurements of Dissolved and Suspended Particulate Material Selenium in Lake Kootenai in the Vicinity of Libby Dam (MT), 2015-2017" (update): U.S. Geological Survey data release, <https://doi.org/10.5066/P9HB555F> (2018)

2 <https://environmental-protection.canada.ca/offenders-registry/Home/Record?RefNumber=198>

3 This is underscored by ongoing, yet unresolved potential charges by Canadian federal prosecutors of ongoing Fisheries Act violations in connection with discharges of selenium and calcite from the mines.

coal mining in the Elk River of British Columbia. Specifically, we have provided letters of record requesting action by the Canadian and U.S. federal governments with respect to engaging a federal-led process working jointly with Indigenous governments to address issues of enforcement, long-term monitoring, and damages assessment in international waters.

Referral of the Fording River Castle Operations project to the Impact Assessment Agency of Canada is critical to the evaluation of long-term, cumulative impacts of coal mining in the Elk Valley to U.S. and Tribal territories. This Canadian participation is essential to any long-term resolution, including assessment of damages from Canadian mines in the Elk River Watershed to sovereign, cultural, and treaty waters and resources.

Sincerely,

<original signed by>

Shelly R. Fyant, Chairwoman
Confederated Salish and Kootenai Tribal Council

<original signed by>

Gary Aitken, Jr., Chairman
Kootenai Tribe of Idaho