

Laurie E. Adkin, Ph.D., Professor of Political Science, University of Alberta
Submission to the Joint Review Panel for the proposed Grassy Mountain coal mine
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My name is Laurie Adkin. I am a professor of political science and environmental studies at the University of Alberta, where I have taught for thirty years. My areas of expertise include Canadian environmental policy and environmental consultation processes, as well as the political economy of Alberta. I am the editor and co-author of *First World Petro-Politics: The Political Ecology and Governance of Alberta*, published in 2016 by the University of Toronto Press. Additional information relevant to my qualifications as an intervenor may be found on [my website](#). More personally, I am a fourth-generation descendant of settlers to east-central Alberta and a fifth-generation descendant of settlers to Quebec. I live on Treaty Six land.

Like others who have contributed comments to the Joint Review Panel (who, as I write this, now number about a thousand), I have reviewed submissions to the inquiry that outline the many environmental and socioeconomic issues that the Panel will be weighing. I have read the final argument of the proponent, Benga Mining Ltd., through the prism of many years of research into such public consultation processes as well as my knowledge of the environmental problems facing Canada today. Moreover, I have reviewed these documents in the context of my research into the political economy of Alberta and the processes that have led to the opening of the eastern slopes of the Rockies to coal mining and to current proposals to alter the provincial regulation of water allocations. On these bases, I am in agreement with the independent scientists that *the environmental risks posed by the Grassy Mountain coal mine project are too great to permit the approval of this project by the federal Minister of Environment and Climate Change Canada* (cf. Golub #1012, Hopkinson #1322, Quinlan #1184, van Tighem #1549, Vessey #1306). There are further grounds for rejecting this proposal, which, together with the environmental risks, add up to a very clear decision for the federal minister.

Approval of this project would contravene the *Species at Risk Act* (SARA), and would conflict with federal investments in water management in southern Alberta, federal responsibility to protect fisheries and interprovincial waterways, and federal commitments to reduce greenhouse gas emissions to net zero by 2050 (or sooner). While the proponent of the project observes in more than one location in its filed arguments that “[a]ctivities that affect an aquatic species at risk or its critical habitat may be permitted pursuant to ss. 73 and 74 of the SARA, and these permits are not rare,”¹ the Minister should consider (a) that such permits have been extensively over-used, and (b) approval of the Benga mine is likely to be challenged in the courts by environmental organizations on the grounds that it violates the SARA. Albertans who submitted comments to the JRP are almost unanimously opposed to the further endangerment of the fish species for which there are few remaining habitats outside of the eastern slopes. Livelihoods depend on agriculture, tourism, and fly-fishing for trout in the area that will be degraded by the mine. It is clear from the citizen feedback that the Panel has received that Albertans

¹ Benga Mining Ltd., “Final Argument,” prepared by its lawyers, Osler, Hoskin & Harcourt LLP, <https://www.iaac-aeic.gc.ca/050/documents/p80101/137172E.pdf>, p. 94.

value trout, clean water, and existing landscapes over any foreseeable economic benefits from coal mining.

The independent scientists who have submitted comments to the Panel, along with the conservation organizations, have made the important points that Benga's proposed methods to prevent or remediate harms to the Westslope Cutthroat Trout, Bull Trout, White Pine, Limber Pine, and other wildlife (e.g., the species that migrate through the area) are unconvincing and unproven. Likewise, the company's assurances that it will find ways to prevent the leaching of selenium into groundwater have been called into question by scientists who have extensive, first-hand knowledge and experience both of other open pit coal mine impacts and of the topography, hydrology, climate, and ecosystems of the Oldman watershed. Much of Benga's discussion of how it will address environmental impacts in fact speaks not to *prevention* of harms but rather to *experimentation* (with unproven methods) or *monitoring* of the effects of its operation. The evidence we have from existing open pit coal mines does not give us grounds for confidence that problems like selenium contamination can be avoided. The stakes are far too high to proceed on the basis of uncertainty and reassurances from an interested proponent.

In such a context, the federal minister is ethically (and possibly legally, depending on one's interpretation of the relevant Acts) obliged to be guided by **the precautionary principle**. That is, in situations where there is a significant possibility of harm, and the stakes of the risk are high, the prudent course of action is *not to proceed* with the use of a technology or another action. There should be a very high level of certainty regarding the outcome of an action when the outcome is not a trivial matter. For example, when a new drug is being developed, it is not administered to humans until there is a high level of certainty that the benefits (of preventing or curing illness) greatly outweigh the risks of significant harm (worsening the condition, or death). Hopefully, you see the parallel here with decisions whose outcomes might be the extirpation or extinction of a species.

Application of the precautionary principle, in the case of the proposed Grassy Mountain coal mine, is even more advisable because *there is no compelling reason to take the risk* of destroying rare habitat, extirpating trout populations, irremediably contaminating groundwater, worsening water scarcity, or jeopardizing the health and livelihoods of people who depend on the ecological integrity of the watershed. The projected economic benefits of the Benga coal mine for Albertans are so minimal, and the probable economic costs of the mine's environmental degradation are so great, that no one who has examined this ledger from the perspective of the public interest can find a reason for the project's approval. The number of jobs that may be created for the life of the mine, estimated to be fewer than 400, could easily be generated by economic activity that would not pose such great environmental risks. Indeed, alternative forms of employment could entail ecological restoration work, the building of water conservation systems, or the installation and maintenance of renewable energy infrastructure. The most important resources of the future economy are water, land, wind, and sun, and it is only water that is lacking in southwest Alberta.

The problems of unemployment and lack of opportunities for people to live in the small towns they grew up in and have attachments to – problems to which some Crowsnest Pass residents have spoken –

are very real and must be given answers. But a coal mine, which provides unhealthy jobs that are almost exclusively for young men, and that depend on global demand for metallurgical coal and on the worsening of the climate crisis, while putting at risk *other* livelihoods in tourism and agriculture (where women have higher rates of participation) is hardly the solution to the region's problems.

Indeed, it is simply not credible that what drives the UCP government's support for the Benga mine is job creation. At the university where I work, 600 jobs have been lost in the past year due to the UCP government's deep cuts to post-secondary education grants.² This government, while promoting coal mines as a form of "economic recovery" for the province, has chosen to throw tens of thousands of public sector employees out of work.

Providing ecologically sustainable livelihoods and income for everyone is a challenge for all governments today, as we make the inevitable shift to low-carbon "degrowth" economies. If we cannot--in 2021, in the midst of climate destabilization--envisage and implement alternatives to coal mines for the provision of jobs, where and when can we do so? This is an opportunity for the federal government to show real leadership in developing a pan-Canadian green transition strategy.

As this document is already long, I will not review in detail the arguments about Benga's estimates of revenues from royalties and taxes (cf. Urquhart # 1334). Proponents invariably exaggerate the economic benefits and minimize the long-term environmental and social costs of their projects. We have seen similar debates around the benefits and costs of all the pipeline projects, for example. Let the oil sands be a cautionary tale to the Panel as it considers Benga's claims. The period of rapid growth of investment in bitumen extraction lasted from roughly 2000 to 2014. During that time, the province received billions in royalties (albeit far less than it would have done with a royalty regime that approximated industry norms). In 2021, we find ourselves with a drained Heritage Savings Trust Fund, a \$24 billion budgetary deficit, and estimated clean-up costs for abandoned oil and gas wells and the mine sites of \$260 billion. The latter figure (the environmental liabilities) *completely cancels out* the revenue received by the province from oil and gas between 1970 and 2018.³ Of course, the projected royalty and tax revenue from the Benga mine pales by comparison to oil sands revenue. Indeed, total coal royalty revenue from existing mines was only \$10 million in 2018-19 and \$13 million in 2019-20.⁴ Alberta's revenue from the cannabis tax in 2018-19 was \$30 million. (And cannabis won't leave us with a 2,800 hectare mine site to "restore".)

² Non-Academic Staff Union, University of Alberta, <https://www.nasa.ualberta.ca/nasa-response-set-transition-plan>.

³ Government of Alberta, "Historical royalty revenue," data spreadsheet, <https://open.alberta.ca/opendata/historical-royalty-revenue#summary>. Government of Alberta, "2018 Historical royalty summary Revenue workbook," <https://open.alberta.ca/dataset/382b7a1e-9c34-47c7-9531-38e67ca5441d/resource/a8066772-4671-443c-975c-f3ff49e40d10/download/senergycommunicationswebsitescurrentroyalty-archive2018revenueworkbook.xlsx>.

⁴ Government of Alberta, "Historical royalty revenue," <https://www.alberta.ca/historical-royalty-revenue-data.aspx> (accessed January 13, 2021).

In other words, the analysis of socioeconomic benefits really must consider the laws, regulations, and enforcement capacity in place to require the proponent to pay the full environmental and social costs of production as well as the proponent's previous record regarding the fulfillment of promises to fully remediate or restore mine sites, watersheds, harms to species, etc. Your analysis must also consider whether there is persuasive evidence to support the proponent's claims regarding the *feasibility* of reclamation and remediation. Moreover, what does "remediation" amount to, and is this result acceptable to Albertans? Alberta's Mining Financial Security Program (MFSP) says: "Before receiving our approval to begin a project, companies must provide a reclamation plan to *return the land back to how it looked and how it was used (or similarly) before development took place*" (italics added).⁵ But has this ever been done? Is it realistic, following a mountain-top removal? Has it happened with the Cheviot mine? Has Benga accomplished this before? Does it have such a plan for Grassy Mountain? Have its cost estimates been independently assessed? What provisions are in place should Benga declare bankruptcy, given that both Benga and its parent company, Riversdale Resources, are limited liability corporations?

Past experience shows that large extractive projects like this are only profitable because the full environmental and social costs of production are not paid by the owners. Governments are effectively subsidizing these corporations with public revenue so that profits can be generated for shareholders. Shouldn't we be investing public revenue instead in the development of an ecologically sustainable economy that provides diverse employment opportunities, high-quality public services, and income security? *This is a choice; strip mining of the eastern slopes* (remember that other projects are lined up behind Grassy Mountain) *is not the only option for economic development in Alberta*. The benefits and costs of the Benga mine should be weighed against those of *alternative* opportunities for employment and revenue.

I would like to speak, lastly, to questions that may not fall within the strict purview of the inquiry, but which are nevertheless of great importance to the Minister's deliberation on the approval of the project. The Panel will have noted that approximately 98 per cent of the individual comments that have been submitted express strong opposition to coal mining on the eastern slopes of the Rockies, beginning with the proposed Grassy Mountain strip mine. Nearly all of these comments also appear to be from Albertans, and particularly, from Albertans who live in the south of the province.

It is worth taking the time to read a selection of these comments. (I have read or skimmed all of them.) I trust that the Panel will be impressed, as I have been, by the effort these citizens have made to inform themselves about the risks and possible benefits of this project. But also notable is the depth of their feeling about the urgency of protecting the environment, and the places they call home. When citizens have become aware of the possibility of coal mining on the eastern slopes, and have learned about the likely consequences, they are almost unanimously opposed. And as more citizens learn about the proposed mines, we can expect this opposition to grow.

⁵ Alberta Energy Regulator, <https://www.aer.ca/regulating-development/project-closure/reclamation> (accessed January 13, 2021).

Multiple citizens' groups and non-governmental organizations are working hard to inform Albertans and other Canadians about what has been proposed and what is at stake. They have had very little help from mainstream media outlets or from the official opposition, and certainly the UCP government has made no effort to inform Albertans about its rescission of the 1976 "Coal Policy," its leasing of lands in the mountains to coal mining companies, or its plans to rewrite water use regulations for the Oldman watershed to permit mining companies to draw more water. *There has been no consultation of Albertans on any of these decisions.* The rescission of the coal policy has been challenged (via a request for a judicial review) by landowners' and conservation associations as well as by two First Nations on the grounds that there was no public or Indigenous consultation prior to the taking of the decision. My point is that the UCP's promotion of coal mining on the eastern slopes has almost no public support and is, on the contrary, viewed as a highly undemocratic manoeuvre that is not in the public interest. *This project has no democratic legitimacy.*

For these reasons, any government that approves the Benga mine project should be prepared for public opposition on a scale that has not been seen before in Alberta and which may well include civil disobedience. Surely a better path would be to respect the will of informed Albertans who are also those with the most at stake in this decision, and to work with them to develop ecologically sustainable forms of employment in the region. They have, in their hundreds of pleas and arguments, invited the federal government to take this path.

Moreover, while Benga states that it has met the requirements of the Alberta Aboriginal Consultation Office to consult with affected First Nations, and that it has obtained letters from Band and Tribal councils affirming that they will not contest the project (following agreements that have been made with Benga), these letters constitute—as the federal government surely knows by now—a highly questionable form of consent. It is dubious indeed whether the conditions of free, prior, and informed consent have been fulfilled in the Grassy Mountain case any more than in numerous other resource extraction projects across the country. This is because the Indigenous communities do not have meaningful alternatives for economic development and employment, do not have infinite resources to engage fully and meaningfully in these consultation processes, and do not have the right to veto the siting of these projects in their territories. At present, some members of the Blackfoot Confederacy are claiming that the communities were not consulted by the authorities that provided the letters. The Niitsitapi Water Protectors are trying to stop the project. Some FNs, as mentioned above, have legally challenged the provincial government's rescission of the coal policy. There have been harms to Indigenous communities located in the foothills from the Cheviot mine. Is it not time for the federal government to restore to Aboriginal peoples the land and recognition they need to develop autonomous paths of development?

I believe that the federal minister has ample grounds upon which to withhold approval of the Benga mine project. *SARA alone is sufficient grounds, particularly when the precautionary principle is invoked.* Albertans are choosing the protection of trout and safe water over coal. Let the federal government demonstrate that it takes SARA (and democracy) seriously. Let us define clearly the criteria for economic development in Canada in the 21st century. We cannot build an ecologically sustainable economy by

approving open pit coal mines, the clear-cutting of old growth forests, more plastics plants, or the continuation of non-conventional oil and gas extraction. The belief that these forms of resource extraction and industry are necessary because the commodities are exported is wrong; most of the revenue from these exports does not accrue to Canadians. Our economy needs to become less export-dependent, more self-sufficient, more localized, less carbon-intensive, and more subject to democratic decision-making by engaged citizens. The time to introduce the alternatives is now. The Grassy Mountain decision is an opportunity for the federal government to demonstrate its commitment to building an economy that is both ecologically and socially sustainable, in partnership with Canadians and First Nations.