



30 October, 2020

The Honourable Jonathan Wilkinson, P.C., M.P.
Minister of Environment and Climate Change
Ottawa, ON K1A 0H3

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Cc: Fraser.Ross@canada.ca

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Comments submitted online at Project Homepage
<https://iaac-aeic.gc.ca/050/evaluations/proj/80702?culture=en-CA>

RE: First Comments Regarding Teck Coal Limited's Initial Project Description for the Castle Project

Dear Minister Wilkinson:

These comments provide the initial joint comments by the Confederated Salish and Kootenai Tribes ("CSKT") and the Kootenai Tribe of Idaho ("KTOI") (collectively "Tribal Councils") regarding the Ministry of Environment and Climate Change ("ECCC") assessment of Teck Coal Limited's ("Teck") Initial Project Description ("IPD") for the proposed Castle Mine Project ("Project").

Thank you very much for the notification regarding the acceptance of the IPD and the invitation to provide comments on the impacts the proposed Project will have on our people and resources.

The Tribal Councils represent constituent governments of the transboundary Ktunaxa Nation and work closely with our counterparts at the Ktunaxa Nation Council in the northern portion of

Ktunaxa Territory in British Columbia. The Project will likely pose great additional risk to Ktunaxa Territory resources on both sides of the international boundary. For that reason and others, we appreciate and support your decision to pursue a Federal review of this mine “expansion”.

Given the unique nature of the Project, the scale of the mine expansion proposed, and the matter of extra-territorial impacts beyond the Province of British Columbia and Canada, we respectfully request that you refer this impact assessment to a review panel. Assessment of the Project via review panel is appropriate given the documentation of adverse impacts from existing mines, including impacts to water quality and fish in downstream United States, Indigenous Nation and State jurisdictions.

We therefore submit the following important new information to help inform your consideration of the Project.

1. The State of Montana has initiated the process for adoption of a site-specific selenium standard for the transboundary Kooconusa Reservoir at the international boundary, based on over five years of data collection and development of a peer-reviewed, site-specific model by the U.S. Geological Survey. There are several relevant developments related to Montana’s adoption of a site-specific standard for Kooconusa Reservoir:
 - Kooconusa Reservoir is currently considered impaired due the impacts of selenium inputs into the reservoir from the Elk Valley mines in British Columbia.
 - Given the concerns regarding the sensitivity of certain species of fish in Kooconusa Reservoir, and other species in the aquatic food web, the State of Montana is recommending a standard of 0.8 ug/L at the international boundary, which is 1.2 ug/L less than the current Site Performance Objective in the Elk Valley Water Quality Plan.
 - The impact assessment process for the proposed “Fording River Operations Castle Project” must take into consideration the intent of the State of Montana to adopt a conservative and protective criteria at the international boundary in Kooconusa Reservoir, and the current data showing that selenium concentrations at the international boundary already exceed the proposed standard (average monthly concentrations of 1.1 ug/L).
2. The State of Idaho, in consultation with the United States Environmental Protection Agency (“USEPA”), is initiating the process to list the Kootenai River under the Clean Water Act, as impaired due to selenium impacts to fish and water quality in the Kootenai River:
 - The Kootenai River is critical habitat for the endangered Kootenai River white sturgeon, which are the most sensitive species of fish in the database regarding vulnerability to impacts from selenium bioaccumulation.
 - In addition to the sturgeon, burbot, culturally important to the Ktunaxa Nation, have been functionally extirpated from the Reservoir. Limited data collected by the Kootenai Tribe of Idaho show that burbot in the mainstem Kootenai River in

Idaho are accumulating selenium at rates that are known to cause significant adverse physiological effects on other fish species.

- Data for mountain white fish in the Kootenai River in 2018 and 2019 exceed the USEPA egg-ovary threshold for selenium, of 15.1 mg/kg dw.
3. We remain concerned about the lack of information regarding the impacts of selenium bioaccumulation in Koocanusa Reservoir, the Kootenai/y River, and Kootenay Lake with respect to harvesting of fish for food and the potential for associated risk to human health.
 4. Teck has failed to meet the conditions set forth in 2013 in B.C. Ministerial Order M113, specifically, to *stabilize and reverse* increasing trends in water contaminant concentrations.
 - We note with concern that the Provincial Water Quality Guideline for Protection of Aquatic Life is 2.0 ug/L, and that data for selenium levels in the Fording River are close to 200 ug/L on a monthly average. Selenium levels in both the Elk and Fording Rivers have exceeded the Provincial guideline for protection of aquatic life for as long as records have been kept.
 - In addition, for the last several years in winter months, selenium has exceeded 2 ug/L at the Order Station at the international boundary in Koocanusa Reservoir. We have already noted above the process underway in Montana to adopt a site-specific selenium standard of 0.8 ug/L at the international boundary.

Given the information outlined above, we are disappointed and concerned with mischaracterizations in Teck's Initial Project Description that "the geographic extent of impacts to water quality will therefore be limited and is not anticipated to extend beyond the boundaries of B.C."

This is simply not true.

The last five years of data collected in Koocanusa Reservoir by multiple governmental agencies and industry entities, *including Teck itself*, clearly demonstrate that selenium impacts are already occurring to water quality, fish, and other aquatic life in the Reservoir and in the Kootenai/y River downstream. Likewise, the IPD excludes the CSKT and KTOI from Indigenous Nations that may be affected by the Project (pg 151), despite data collected by Federal, State and Indigenous governments and industry entities demonstrating and documenting selenium degradation of waters south of the international boundary.

In addition to the misinformation provided by Teck regarding the limited geographic extent of mining impacts in Montana and Idaho, we call your attention to several additional recent instances of fact distortion perpetuated recently by Teck:

- Teck appears to be attempting to unduly influence the process underway in the State of Montana to adopt a site-specific selenium criteria for Koocanusa Reservoir by falsely claiming disagreement amongst the committee of experts that have been working for five years to develop a protective criteria. Four out of five members recommended a criteria at or below 0.9 ug/L (0.6-0.9), whereas Teck's representative was the *sole* committee member to recommend 1.5 ug/L.

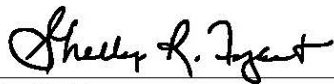
- Likewise, Teck has made claims unsupported by credible data that the selenium trends are decreasing downstream of the mines, whereas data from 1987 – 2020 show clear increasing trends of selenium, with exceedance above Provincial water quality standards beginning in 1992.
- Additionally, Teck is making vague claims about the volume of wastewater treated in its active wastewater treatment facilities. We note that no data has been made publicly available to support these claims. In addition, mitigation technologies that require the company to operate them in perpetuity are unproven and, therefore, unacceptable.

The lack of scientific credibility and verification of Teck's claims require a Federal review panel, with Canadian and U.S. Federal, Indigenous Nation and State participation, and independent scientific verification of all data.

Thank you for your continued commitment to a robust and transparent evaluation of the potential impacts of the Castle Project, including a comprehensive evaluation of extra-territorial impacts to U.S. and Indigenous Nation waters and fish. We remain concerned about the unresolved issues of long-term monitoring, assessment of damages and enforcement of protective environmental standards important to our sovereign, cultural and treaty waters, species, and resources.

We look forward to working with your agency to protect water quality for Canadian, United States and Indigenous Nation resources and citizens.

Sincerely,



Shelly Fyant
Confederated Salish and Kootenai Tribes
Chairwoman



Gary Aitken, Jr.
Kootenai Tribe of Idaho
Chairman