

**To:** Impact Assessment Agency of Canada (IAAC)

**Project:** Fording River Extension Project (Reference No. 80702)

**Subject:** Formal Submission on the Draft Federal Appendix and Joint Assessment and Engagement Plan

We thank you for the opportunity to provide feedback on the Fording River Extension Project's (the "Project") Joint Assessment and Engagement plan and Application Information Requirements draft federal Appendix. Below are summaries of our biggest concerns and a request for these issues to be addressed via an independent review panel.

There is no dispute the Project is exceptionally large. The Agency acknowledged as much in its 2020 Analysis Report. The well documented likelihood for the Project to cause adverse impacts in areas of federal jurisdiction necessitate a thorough, comprehensive and transparent process involving an independent review panel. Incorporating the suggestions set out in this letter are critical to achieve that goal.

### **Expansion of Indigenous Inclusion**

On September 19th 2025, the BC EAO released letters to the Kainai, Piikani, Siksika, and Stoney Nakoda Nations, notifying them that they have been assessed as requiring consultation commensurate with the "low end of the Haida spectrum". This includes notification and consultation at specific milestones, but goes further and includes language meant to exclude them from "economic accommodations or co-management arrangements". These nations exist mainly in Alberta, but historically have used and occupied areas of BC, including the Elk Valley. These letters from the EAO limit consultation requirements, raising doubts about the legitimacy of the provincial environmental assessment procedure. This further accentuates the need for the federal Impact Assessment to thoroughly consult with all affected nations, as the province is clearly signalling reluctance to do so.

Internationally, the Transboundary Ktunaxa including the Kootenay Tribe of Idaho and the Confederated Salish and Kootenay Tribes have been strong advocates for improving water quality. These nations are located downstream of these mines and are directly impacted by its pollution. Their voices were vital in moving forward with the International Joint Commission study, which they also continue to be a part of. Responsible transboundary water management and indigenous relations should involve these nations.

### **Compliance with the Boundary Waters Treaty and International Standards and Obligations**

The Draft Federal Appendix must mandate that the proponent demonstrate how the Project will comply with Canada's international obligations under the Boundary Waters Treaty of

1909, which prohibits the pollution of waters crossing the boundary to the injury of health or property. The assessment must address the fact that Lake Koocanusa is currently listed as an "impaired water body" under the US Clean Water Act, and that Montana's site specific selenium standards for Lake Koocanusa have been violated in 121 of the 140 measurements on record at the Elk Valley Water Quality Hub for the Koocanusa Reservoir Order Station since the standard came into effect in March of 2020. The Project's Information Requirements must require modeling against Montana's site-specific selenium standard of 0.8 µg/L, which is already being frequently exceeded.

Furthermore, BC is in the second stage of their Area Based Management Plan amendments, which promises to reevaluate their own standards for selenium levels in Lake Koocanusa. It is likely that any reevaluation of standards based on scientific evidence as to what is protective for aquatic life will result in a lowering of BC's current guidelines and permitted levels for the reservoir. It is important that space be made in the impact assessment for consideration of this, as the reservoir is currently already above scientifically supported health standards, and FRX will do nothing but increase selenium loads.

The assessment process must also be flexible enough to incorporate the findings of the International Joint Commission (IJC) study currently investigating the Elk-Kootenai watershed. This report promises to compile existing data and studies with traditional knowledge, creating recommendations that will be a valuable roadmap forwards if utilised. It is important that this work be incorporated into the impact assessment for this project.

## **Downstream Impacts of Selenium at Lower Concentrations**

We request that the Application Information Requirements (AIR) be expanded to require a comprehensive study of selenium's bioaccumulation and trophic transfer at low concentrations throughout the entire downstream system:

The study must not stop at the B.C. border. It must extend through Lake Koocanusa, the Kootenay River (through Montana and Idaho), and into the Columbia River. Studies by the USGS have shown that selenium travels the full extent of the watershed, and impacts from this long range pollution should be fully understood.

Recent research indicates that even at "low" dissolved concentrations, selenium bioaccumulates in benthic invertebrates, leading to reproductive failures. Sensitive fish species are also susceptible at levels below what BC currently considers to be safe. The proponent must provide multi-generational population modeling for vulnerable species across the full downstream range.

## **Cumulative Effects on Land, Water, and Air**

Over a century of Elk Valley coal mining has led the Elk Valley to become one of the worst examples of selenium pollution in the world. Furthermore, expansive mountaintop removal mining practices have led to enormous terrestrial impacts. Westslope Cutthroat Trout

population collapse and the destruction of high elevation grasslands which provide vital winter forage for bighorn sheep are just two examples of the cumulative effects of existing mine operations. FRX would expand and accelerate these pressures, further undermining efforts to recover aquatic and terrestrial species and safeguard water quality, while expanding industrial impact on wildlife corridors essential for ungulate migration. Phase one of FRX already promises to remove virtually all the high elevation grassland on Castle Mt, which is prime winter forage for species such as Bighorn Sheep, who will be displaced by this project. Consideration as to what will be done with these displaced animals and the effects on nearby high elevation grasslands if displaced sheep create additional pressure on the severely limited available grassland ecosystem. The Joint Assessment Plan must define "Cumulative Effects" to include the combined land and water impacts of FRX with existing EVR operations. The assessment must also evaluate the total selenium load in the watershed, rather than treating FRX as an isolated incremental increase.

Recent research has also shown that air pollution is not just a local concern, but dust plume models indicate airborne coal dust and selenium transport for hundreds of kilometers downwind. These dust plumes not only affect wildlife by bioaccumulating in aquatic ecosystems, but have demonstrated health impacts in humans as well. A study on the increases in dust load and changes in wind patterns associated with knocking down another mountain should be performed, as well as include study on health impacts and public health costs for Elk Valley residents subject to chronic coal dust exposure.

## **Conclusion**

In its August 19th 2020 Analysis Report on the Castle Mountain Expansion project, the Agency concluded:

“The Project has the potential to cause adverse direct and cumulative effects to fish and fish habitat and the potential to cause adverse effects across provincial and international borders.”

The Agency also concluded that the Project warranted designation because it was “exceptional” in nature. Given that it is “extremely large” and would be the largest coal mine in B.C., and one of the largest in Canada, it had a “high likelihood” to cause effects to areas of federal jurisdiction. The Agency also concluded that the Project had the potential to cause adverse impacts on Aboriginal and Treaty rights.

Nothing fundamental has changed in the transition from the Castle Mountain Expansion to the Fording River Extension. The project still threatens water quality, fish and insect populations, human health, threatened grassland ecosystems, and traditional land usage.

This poignant passage from the Ktunaxa Nation Council to the EAO on October 1st 2025 regarding FRX entering the EA process sums up these concerns well:

“We had expected that there to be more progress on concerns around existing operations before this decision was at our tables. There are still water quality non-compliances from EVR’s current operations that will likely be exacerbated should this Project be approved. In any case, contemplating an expansion while compliance has yet to be achieved is not acceptable. We are also highly concerned with the pace and quality of reclamation in Qukin ʔamakʔis. The amount of land that has been reclaimed to Ktunaxa standards and is ready to be returned is negligible compared to the land currently impacted by mining. Again, contemplating additional disturbance without substantial progress on reclamation is unsatisfactory. The Upper Fording River is highly impacted by mining. As such, Ktunaxa rights in the area have been highly impacted, additional disturbance, including the loss of trails, hunting areas and habitation sites is impossible to support. For these reasons and others highlighted below, we do not endorse FRX moving into the EA phase of the process.”

Given the exceptional nature of the Project, the Joint Assessment and Engagement Plan must be thorough, comprehensive, and impartial. In order to do so, an independent review panel is a must. I request that this project be referred to a Review Panel under Section 36 of the Act. The complexity of selenium management and terrestrial issues in the Elk Valley and the high level of public concern require the transparency of an independent review panel and public hearing.

**Sincerely,**

Simon Wiebe

Mining Policy and Impacts Lead

Wildsight