



Consultation & Land

August 23, 2021

Allison Lefebvre
Impact Assessment Agency
Prairie and Northern Region
Suite 1145 9700 Jasper Avenue
Edmonton Ab T5J 4C3
Email: iaac.pnr-rpn.aeic@iaacaeic.gc.ca

Re: Reconsideration of Designation Requests for the Proposed Coalspur Mines (Operations) Ltd. ("Coalspur") - Vista Test Underground Mine ("VTUM") and Vista Mine Phase II ("Phase II") Expansion under the *Impact Assessment Act*

Dear Ms. Lefebvre:

This is in response to the Agency's letter of August 3, 2021 to Louis Bull Tribe ("LBT") regarding the reconsideration of the request under section 9(1) of the *Impact Assessment Act* to designate the proposed expansions to Coalspur's Vista Mine. LBT remains of the view that both the VTUM and Phase II should be designated under the *Impact Assessment Act*.

LBT continues to rely on the information in our May, 2020 and July, 2020 letters to the Minister of Environment and Climate Change in relation to our previous designation request for the VTUM and Phase II. Our concerns outlined in these previous submissions remain and we rely on those for this reconsideration as well as the additional information in this letter.

Additional Information

LBT provides the following additional information in support of the designation of Phase II and the VTUM:

- Since our original designation request, we have learned more about the VTUM. The estimate of less than 3 hectares as reported in your August 3, 2021 letter and the Agency's Analysis report dated September, 2020 is no longer accurate. Based on recent information LBT received from Coalspur, the VTUM will result in 7 hectares of additional surface disturbance. This has the potential to increase the combined surface footprint of Phase II and the VTUM to 50% of the

existing surface mine's footprint, and therefore meet or exceed the threshold for automatic designation under the Project List regulations.

- We encourage the Agency and the Department of Fisheries to review the Information Request Responses on the AER's website for the VTUM application as it appears the proposed VTUM has changed significantly since its application was originally filed.
- The VTUM will require freshwater diversion ditches as well as an additional above-ground pond which was not considered in the Agency's original review of the VTUM. These will have impacts on surface water and the environment, including plants and animals that rely on water in the area. Impacts on water impact LBT's Treaty rights.
- LBT disagrees with Coalspur's unsubstantiated assertions (made during the planning phase) that the VTUM will have no impacts on water or the environment. It is clear that the VTUM will require more water for the actual underground mining, increased water use and to "wash" the additional coal extracted from VTUM and the VTUM will result in increased tailings.
- LBT is concerned about long-term ecosystem accumulation and chronic impacts of selenium and other pollutants associated with the VTUM and Phase II into the greater food-web. There is evidence of high selenium concentrations in the blood of bighorn sheep attracted to and inhabiting reclaimed mine lands in the Upper McLeod River watershed (Kneteman 2015). Accumulation of selenium and other pollutants from the VTUM and Phase II on wildlife has the potential to lead to questions about the safety of harvesting wildlife, fish and plants from the area, which will directly impact LBT's Treaty rights and traditional land uses. Studies indicate that these impacts persist during mine operations, through the reclamation process and even after a reclamation certificate has been issued (Kneteman, J. G. 2015. Resilient Space: Bighorn Sheep (*Ovis canadensis*) Ecological Resilience in the Northern Rocky Mountains. M.Sc., University of Alberta).
- Coalspur's extremely short time estimates for reclamation are unrealistic and unsubstantiated.
- Coalspur does not have an Environmental Protection Plan for the Vista Mine and it has been our observation that Coalspur is generally not aware of assumptions and commitments identified in the 2012 EIA for Phase I of the Vista Mine.
- Since the first designation request, the Government of Canada has issued a policy statement with respect to thermal coal applications. LBT agrees with that policy statement.
- In the spring of 2021 Coalspur became subject to insolvency proceedings. LBT has significant concerns about the expansion of a mine by an insolvent company.

No Crown-Indigenous Consultation on VTUM without an IAA designation

The provincial Aboriginal Consultation Office on August 17, 2021 reconfirmed that no Crown consultation will occur with any Indigenous rights holders, including LBT, on the VTUM (See the ACO August 17, 2021 letter on the AER website for the VTUM). So, **unless the VTUM is designated, there will be no Crown-Indigenous consultation on the VTUM.**

Where there are potential adverse effects within federal jurisdiction as there clearly are with the VTUM and Phase II, including impacts on Indigenous rights and interests, it is imperative that the Government of Canada, as LBT's Treaty partner, ensure a process capable of consulting on and accommodating impacts on Treaty rights. For this reason alone, it is imperative that the VTUM and Phase II be designated under the IAA.

The Provincial processes, particularly as they apply to VTUM, are not capable of assessing, mitigating or accommodating impacts on LBT's rights. Likewise, there is no adequate provincial process to address the cumulative impacts of development on LBT's Treaty rights. The provincial regional planning process meant to deal with cumulative effects was started more than a decade ago. Nevertheless, the process to develop the regional plan for the area where the Vista Mine is located has not yet started. There is no meaningful provincial process to assess cumulative effects, in particular, cumulative effects on Treaty rights.

We appreciate the opportunity to provide our feedback.

Sincerely,

<Original signed by>

Melanie Daniels B.Sc.
Consultation & Land Manager
Louis Bull Tribe

Cc: Chief & Council, Louis Bull Tribe