



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

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Ref: 8WD-IO

May 21, 2021

President David McGovern
Impact Assessment Agency of Canada
160 Elgin Street
Ottawa, Ontario K1A 0H3

Dear President McGovern:

On April 14, 2021 U.S. EPA met with representatives from the Impact Assessment Agency of Canada (IAAC) about the Tent Mountain Mine Redevelopment Project (Project) proposed by Montem Resources Alberta Operations Limited (Montem AB). We have also reviewed available information about the project that is available on the IAAC and Alberta Energy Regulator (AER) websites. This letter is to request that you exercise your discretionary authority under subsection 9(1) of the Impact Assessment Act and designate the Project, thereby requiring the completion of a federal impact assessment prior to Project approval and construction. We believe that this Project warrants designation and a federal assessment for the reasons described below. In developing this request, we are following the process recommendations for designation requests found in the Impact Assessment Agency of Canada (IAAC) *Operational Guide for Designating a Project under the Impact Assessment Act (the Operational Guide)*.

The Project includes reopening and expanding the Tent Mountain Mine (last operated in 1983), which would entail new mining areas and construction of a new coal handling and processing plant, waste rock disposal sites, and water management and treatment facilities. Operations would expand over a 750-ha total area to reach a raw coal production rate of 4,925 metric tons per day over a 14-year mine life. Montem AB proposes that the project commence construction and reoperation in 2023 with a phased expansion that begins with the reopening of existing mines as outlined in Section 5.8.1 of the 2020 Project Technical Assessment Report provided by SRK Consulting. Drainages and discharges from the Project would primarily be to the Crowsnest River via Crowsnest Creek in Alberta. However, due to the location of the Project in Alberta, at the border with British Columbia (B.C.), it is our understanding that some discharges would also be to B.C. in the Michel Creek basin which flows into the Elk River. The Elk River then discharges to transboundary Koocanusa Reservoir approximately 100 km downstream.

The AER has notified Montem that an Environmental Impact Assessment report under Alberta's Environmental Protection and Enforcement Act is required for the project. Due to the potential for the project to have direct and cumulative impacts to U.S. waters that are already being impacted by existing and historical coal mining in the Elk Valley, EPA believes that a federal impact assessment is also needed.

As EPA understands the Canadian Impact Assessment Act, the Minister of Environment and Climate Change can designate a project for an impact assessment if the Minister is of the opinion that "either the

carrying out of the project may cause adverse effects within federal jurisdiction or adverse direct or incidental effects, or if public concern related to those effects warrants that designation”.

EPA believes that the Project may cause adverse effects and should be subject to federal impact assessment based on the following factors (as outlined by the guiding questions in IAAC’s *Operational Guide* to the Impact Assessment Act).

- The project has the potential to cause adverse effects that fall within federal jurisdiction, including impacts to the environment both inside and outside of Canada. The proposed Project is located approximately 150 km upstream of Lake Koocanusa. Direct and cumulative impacts from coal mining in the Elk Valley have resulted in impacts to Lake Koocanusa and the Kootenai River water quality, fish, and fish habitat in the United States. While only a portion of the total project wastewaters will be discharged to the Elk River, the extent of Project information currently available to EPA has not clarified the potential quantity, quality, or nature of water resources impacts to the Elk River watershed and therefore warrants further exploration. EPA is concerned that new projects will increase pollutant loading to Lake Koocanusa and the Kootenai River. ECCC and IAAC are aware of these concerns through our ongoing conversations and input from EPA during our reviews of other proposed coal mines in the Elk Valley. EPA is also concerned about impacts to aquatic resources in B.C that are under federal jurisdiction and could extend to downstream Lake Koocanusa resources.
- The project involves a new technology. According to the *Technical Assessment Report for the Tent Mountain Mine Re-start Project, British Columbia, Canada* (SRK 2020), Montem AB is proposing the use of saturated rockfill technology (SRF), semi-passive biochemical reactors, and wetlands to treat contact water that is expected to be contaminated with selenium and nitrates resulting from mining and waste rock disposal operations. EPA has been involved in reviewing SRF technology, in coordination with B.C. While SRF has shown short-term effectiveness at treating selenium, its long-term effectiveness and permanence is unproven over the long time periods (decades of operation and post-closure) that would be required. While we hope that this technology will be effective, it has not been demonstrated that it will achieve selenium water quality objectives and standards over long time periods.

In summary, EPA believes that a federal impact assessment is warranted for the Project because the project: (1) involves a new technology whose long-term effectiveness has a high degree of uncertainty; (2) has the potential to impact aquatic resources under Canadian federal jurisdiction; and, (3) has the potential to cause adverse direct and cumulative impacts on U.S. waters and aquatic resources. We respectfully request that you designate the Project accordingly. This is consistent with the May 2017 letter sent by EPA Principal Deputy Assistant Administrator Jane Nishida to Minister McKenna requesting that federal assessments should be conducted for projects whose impacts could include "watershed or airshed effects crossing provincial or national boundaries". In addition, we respectfully request that EPA and other affected U.S. stakeholders (including tribes) be afforded the opportunity to comment at appropriate points during the federal impact assessment process. Thank you for your consideration of this request.

Our point of contact for this request is Jason Gildea at 406-457-5028 or Gildea.Jason@epa.gov. Please feel free to contact me with any questions or concerns regarding our request.

Sincerely,

5/20/2021

 Humberto Garcia

Humberto Garcia
Acting Director, Water Division, USEPA, Regi...
Signed by: HUMBERTO GARCIA

cc:

Chris Dorrington, Director, MT DEQ

Shelly Fyant, Chairwoman, Confederated Salish and Kootenai Tribes

Gary Aitken, Jr. Chairman, Kootenai Tribe of Idaho

Courtney Hoover, US DOI

Tara Fulton, Impact Assessment Agency of Canada