

Allisson Lefebvre
Senior Consultation Analyst
Prairie and Northern Region
Impact Assessment Agency of Canada

RE: LOUIS BULL TRIBE SUBMISSION ON TENT MOUNTAIN IPD

Background to the Tribe

Louis Bull Tribe (LBT) is a signatory of Treaty 6 and is one of the four First Nations with reserve lands in Maskwacis (the other three being: Ermineskin Cree Nation, Samson Cree Nation and Montana Cree Nation). LBT is a Cree community consisting of 1,500 on-reserve residents and 1,800 residents living off-reserve. LBT members have familial ties to other First Nation communities and currently practice traditional land uses as far as central and northeast British Columbia, western Saskatchewan, Montana, and northern Alberta. The Tribe's reserve lands are located within Alberta's central parkland natural subregion (Natural Regions Committee 2006), approximately 375 km northeast of the proposed project.

Pursuant to Treaty 6, Louis Bull has constitutionally protected Treaty and Aboriginal rights adjacent to the Project area, as it lies within the traditional territory. Louis Bull's rights under Treaty 6, as expanded by the Natural Resource Transfer Agreement, 1930, include, but are not limited to:

- The right to hunt, fish, trap and gather "on all unoccupied Crown lands and on any other lands to which the said Indians may have a right of access";
- The right to transmit traditional knowledge to subsequent generations; and
- Practices reasonably incidental to Treaty harvesting rights, including use of traditional trails to access an area, camping and other activities (R v Sundown, [1990] 1 SCR 393; R v Badger, [1996] 1 SCR 771).

Louis Bull's Aboriginal and Treaty rights are entrenched and protected pursuant to section 35 of the Constitution.

The extent of the potential adverse effects of the Tent Mountain Coal Mine (the Project) to LBT traditional rights cannot be adequately defined without conducting a traditional land use assessment and impact study. The following is a brief summary based on known impacts from other mines within the region, and throughout the eastern slopes of Alberta. It is reasonable to anticipate that there will be long-term environmental impacts arising from an approval of this Application.

Impacts to Rights

Montem Resources claims that the Project will not impact traditional rights, since operations will only occur within the previously disturbed mine permit boundary. If Montem plans to allow any contaminated surface water or groundwater to be released from the mine boundary during operations, then there is potential for adverse downstream impacts to fish or fish habitat which extends beyond the permitted boundaries. LBT is skeptical that the Project will not impact to fish or fish habitat in this way, and deterioration of fish and aquatic health directly impacts food security for LBT citizens and the exercise of their Treaty right to fish. The Athabasca Rainbow Trout Recovery Plan (2014) states that "long term

changes to stream flow regimes may occur because open pit mining results in the complete loss of forest cover for periods often exceeding four decades, and some portions of the of the mined landscape are never reforested.” Similar circumstances are likely for the Tent Mountain Mine as the use of groundwater will and inflict changes to hydrology and stream quality characteristics such as temperature, vegetation species composition, etc. which will indirectly effect stream ecology. There are also several Species at Risk Act (SARA) listed Schedule 1 species found within the vicinity of the Project area including the western toad, bank swallow, lark bunting, olive-sided flycatcher, American badger, grizzly bear, wolverine, limber pine, and whitebark pine, as well as the COSEWIC designated endangered rainbow trout. Long term changes to hydrology and stream quality will have cascading effects to all species in the area, including these. Louis Bull is concerned that adequate mitigation efforts to prevent adverse impacts have not been incorporated.

One particular water quality parameter of concern will also have cascading effects to all species in the area. Selenium toxicity is a result of the treatment and management of contaminated waters from coal mining within Alberta, British Columbia, and the continental United States of America and is a severe and long-lasting problem. Alberta has long adopted a water quality standard of 1 ug/L for selenium as the trigger for a management response. This is meant to ensure that downstream concentrations of selenium do not exceed the 2 ug/L levels required to protect aquatic life. LBT has observed that exceedance of this water quality standard has failed to trigger any subsequent management responses across various mined watersheds in Alberta. Toxic levels of these contaminants result in direct negative impacts to fish, aquatic system health, human health, biodiversity, and biomagnify through the greater food-web. Again, the deterioration of fish and aquatic health directly impacts food security for LBT citizens and their ability to exercise their Treaty right to fish. Furthermore, LBT’s Treaty rights and traditional land use are directly impacted by biomagnification and chronic impacts of selenium and other pollutants in wildlife, which impacts the safety of harvesting all wildlife and plants from the area. There is evidence of this in high selenium concentrations measured in the blood of bighorn sheep attracted to and inhabiting reclaimed mine lands in the Upper McLeod River watershed (Kneteman 2015). Studies indicate that these impacts persist during mine operations, through the reclamation process and even after a reclamation certificate has been issued. While the results of environmental monitoring in relation to the Tent Mountain mine are unknown, LBT does not believe the declines in aquatic ecosystem quality and health observed downstream of coal mining in other watersheds in Alberta should not be expected to also occur downstream of this mine.

Long term environmental impacts of major resource development projects cause LBT Elders, land users, and youth emotional and mental distress. LBT’s traditional territory has been impacted to a state where less than 5% of accessible Crown lands within Treaty 6 are available to carry out the practice of rights, culture and way of life. It is distressing to observe increasing development approved without adequately cleaning up and reclaiming historic and existing development projects. LBT is extremely concerned about this deteriorating health of the environment resulting from the rapid rate of development without an equivalent rate of restoring existing development to natural habitat for carrying out the practice of traditional rights within the Project area. Only a small percentage of land remains available to practice traditional rights in LBT’s traditional area for this reason, while cumulative impacts in the area continue to increase. There will be nowhere left for Alberta First Nations and Metis to practice rights if

Governments of Alberta continue to permit development at this rate without enforcing timely reclamation of abandoned and inactive sites (Muehlenbachs 2017).

Thank you for your consideration, if there are any concerns please let me know,

Melanie Daniels
Manager, Lands and Consultation
Louis Bull Tribe

References

Alberta Athabasca Rainbow Trout Recovery Team (AARTRT). 2014. Alberta Athabasca Rainbow Trout Recovery Plan, 2014-2019. Alberta Environment and Sustainable Resource Development. Alberta Species at Risk Recovery Plan No. 36. Edmonton, AB. 111 pp.

Kneteman, J. G. 2015. Resilient Space: Bighorn Sheep (*Ovis canadensis*) Ecological Resilience in the Northern Rocky Mountains. M.Sc., University of Alberta.

Muehlenbachs, L. 2017. 80,000 Inactive Oil Wells: A Blessing or a Curse? The School of Public Policy Briefing Paper. Volume 10, Issue 3, February 2017.