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OUR FILE No. 154436 /IMO

YOUR FILE No. 80101

July 20, 2020

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Grassy Mountain Coal Project Joint Review Panel
c/o Canadian Environmental Assessment Agency
160 Elgin Street, 22nd Floor
Ottawa Ontario Canada K1A 0H3

Attention: Samantha Sabo, Acting Panel Manager

Dear Madam:

**Re: Benga Mining Limited/Riversdale Resources - Grassy Mountain Coal Project
AER Application Nos. 1844520 and 1902073
Impact Assessment Agency of Canada Reference No. 80101
Participation at the Public Hearing for the Grassy Mountain Coal Project**

In the Joint Review Panel's (the "Panel") letter dated June 29, 2020, the Panel requested the Coalition of Alberta Wilderness Association and Grassy Mountain Group (the "Coalition") to provide information regarding their intention to participate in the proceeding, the scope and nature of the participation and the Coalition's views on preferred dates, locations and format of the hearing. The Coalition submits the following in response.

1. The Coalition's Intent to Participate and Contact Information

The Coalition confirms its intention to participate fully in the proceeding. The Coalition is represented by Ackroyd LLP, Ifeoma M. Okoye and Richard C. Secord. The Coalition's legal representatives' contact information is:

Ackroyd LLP
1500 First Edmonton Place
10665 Jasper Ave, Edmonton
T5J 3S9
Attention: Ifeoma M. Okoye/ Richard C Secord

Emails: <email address removed> ; <email address removed>
Phone #s: <contact information removed>

As the Coalition is made up of two groups, each group has appointed a representative. The contact information for Alberta Wilderness Association's representative is:

Alberta Wilderness Association
455 12 Street NW Calgary, AB T2N 1Y9
Attention: Ian Urquhart
<contact information removed>

The contact information for the representatives of the Grassy Mountain Group is:

Larry and Ed Donkersgoed
<personal information removed>

2. Nature and Scope of the Coalition's Intended Participation

The Coalition intends to fully participate in the hearing process and at the hearing before the Panel. Members of the Coalition will provide written submissions, attend the hearing either in person or virtually, testify and present oral evidence to the Panel at the hearing. The Coalition intends on calling expert witnesses who will submit written evidence/reports, attend the hearing either in person or virtually to provide evidence to the Panel.

The Coalition intends to address the following issues at the hearing:

- a) Location of the project
- b) Noise impacts
- c) Water impacts including groundwater/surface water interactions, climate change, instream flow needs and assessment, and water chemistry including sedimentation
- d) Impacts to fishery and other aquatic organisms
- e) Terrestrial and biodiversity impacts including impacts on whitebark pine and other species at risk
- f) Property values impacts
- g) Economic/costs impacts of the project

The Coalition intends to cross-examine witnesses put forward by Benga Mining Limited through its counsel as well as witnesses put forward by other parties involved in the hearing who are adverse in interest to the Coalition. The Coalition will present final argument in this proceeding.

3. Coalition's Views on Preferred Dates, Location and Format of the hearing

The Coalition notes that the Panel anticipates commencing the hearing in October 2020 and plan to hold a portion of the public hearing sessions in proximity to the Project.¹ The Coalition is generally available in October 2020 and the first two weeks in November, in the event the Panel considers having part of the hearing in November. Two of the Coalition's experts are not available on October 5 through 16, 26 and 27, 2020. While the Coalition can work around the experts' unavailability in scheduling witnesses, the Coalition is notifying the Panel about those dates ahead of time.

The Coalition's preference is for a hybrid hearing process. The Coalition would prefer that the hearing be held in-person as much as possible with the option for some witnesses to appear virtually if necessary. Holding part of the hearing virtually with a live webcast of proceeding will provide opportunities for those witnesses who are not able to travel to participate.

In relation to in-person hearing, the Coalition proposes that the in-person hearing be held in Calgary for the first part of the oral hearing and then in a location in the Town of Blairmore for the final part of the oral hearing. The Coalition suggests that the first part of the oral hearing in Calgary be held in the Alberta Energy Regulator's (AER) hearing room and that the AER's hearing room is set up with the capability for a video broadcast so that the public can access and follow the proceedings remotely. The hearing would start with the proponent's witness panel or panels followed by the witness panels for the various intervenor groups who have been granted standing. The Coalition suggests that access to the Hearing room be limited by ensuring that only representatives of the party being questioned and the counsel cross-examining the party are present at any one time. Limiting access will ensure that any COVID 19 restrictions are observed, such as physical distancing.

Similar access restrictions would be imposed in the local location where the second part of the oral hearing will be held. Holding the hearing locally will ensure that the local Coalition members and other interveners who are located in close proximity to the project area and who may not have access to the internet can participate in the proceeding without having to travel to Calgary for the first part of the hearing.

In the Coalition's letter dated June 26, 2020, the Coalition requested a pre-hearing meeting to address hearing related issues including procedures to be adopted with respect to the hearing, narrowing of issues and any other matters that will assist in a fair and expeditious disposition of the

¹ Grassy Mountain Coal Project Joint Review Panel dated June 29, 2020, page 1.

proceeding. The Coalition submits that a brief pre-hearing meeting to be held by Zoom or Webex would be useful considering the scale of the project, the number of interveners currently with standing to participate, and the significance of the environmental effects arising from open pit coal mining in this ecologically sensitive area. While the Panel has requested parties to provide submissions on the date, time and place of the hearing, there are other matters specified in section 15 of the AER's Rules of Practice that are yet to be dealt with. For instance, the actual hearing procedures to be adopted regarding the order and timing for each participant to introduce their evidence and to be cross examined and the timelines for argument have not been determined. Participants, including the Coalition, will benefit from the certainty that a clear procedure would provide.

The Coalition notes that the hearing schedule contained in the Notice of Hearing did not provide for information requests and responses from the participants and the applicant. The Coalition submits that the hearing schedule should be expanded to provide opportunity for participants to ask questions related to the final materials that Benga is relying on and to receive answers from Benga. Including information requests and responses schedule in the hearing schedule will reduce the time spent in cross examination and ultimately, the time spent during the hearing. Including information requests and responses in the schedule is also supported by sections 8(3) and 12 of the *Alberta Energy Regulator Rules of Practice*, Alta Reg 99/2013.

Should the Panel have any questions regarding the above, we would be happy to address them.

Yours truly,

ACKROYD LLP

Original signed by

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