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Agency File No: 005723

May 27, 2020

ELECTRONIC MAIL

David Baines
Senior Lead, Regulatory Approvals
Bag 2000
421 Pine Avenue
Sparwood BC V0B 2G0
EMAIL: David.Baines@teck.com

Dear David Baines:

Subject: Designation Request for the proposed Castle Project

On May 21, 2020, the Minister of Environment and Climate Change (the Minister) received a request under subsection 9(1) of the *Impact Assessment Act* (the Act) to designate the proposed Castle Project (the Project). The request was made by the Confederated Salish and Kootenai Tribal Council and the Kootenai Tribe of Idaho. The letter requesting designation and a description of the Project have been posted to the Canadian Impact Assessment Registry internet site, publicly available at Canada.ca/iaac (Reference 80702).

Under subsection 9(1) of the Act the Minister may, by order, designate a physical activity that is not described in the *Physical Activities Regulations*. The Minister can do this, if, in the Minister's opinion, the physical activity may cause adverse effects within federal jurisdiction or adverse direct or incidental effects (resulting from federal decisions), or public concerns related to those effects warrant the designation.

To support the Minister in considering the request, the Impact Assessment Agency of Canada (the Agency) will review:

- information about the Project;
- input provided in response to this letter by Teck Coal Limited;
- concerns expressed by the requester, the public, and Indigenous groups;
- expert advice from federal authorities;
- input from provincial ministries; and
- input from other key stakeholders such as the State of Montana and the United States Environmental Protection Agency.

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We anticipate that the Minister's determination on whether the Project is to be designated, with reasons, will be posted to the Registry by August 19, 2020.

If designated, to proceed with the Project Teck Coal Limited would be required to formally submit an Initial Project Description to the Agency, thereby commencing the planning phase of the Act. In that case, the planning phase would include the Agency determining whether a federal impact assessment is required.

Additional information regarding the process for designation requests is available on the Agency's website at www.canada.ca/en/impact-assessment-agency/services/policy-guidance/designating-project-impact-assessment-act.html.

In accordance with subsection 9(3) of the Act, and to inform its advice to the Minister, the Agency is requesting that you provide information you have about the Project, along with relevant documents. By June 16, 2020, please provide available information regarding:

- potential adverse effects to fish and fish habitat, migratory birds and species at risk;
- adverse changes to the environment that would occur on federal lands (e.g., the Dominion Coal Blocks) and lands outside British Columbia or Canada; and
- adverse impacts, resulting from any change to the environment, on Indigenous peoples (e.g., changes to the environment impacting physical and cultural heritage, current use of lands and resources for traditional purposes, and structures, sites or things of historical, archaeological, paleontological or architectural significance) or changes to their health, social or economic conditions.

Please also include available information regarding adverse effects (changes to the environment or to health, social or economic conditions) that are directly linked or necessarily incidental to a federal authority's exercise of a power, performance of a duty or function, or provision of financial assistance, that would enable the carrying out of the Project, in whole or in part.

In particular, the Agency requests available information regarding:

1. Information about key project activities, maps and layouts of the location of project components, project coordinates, land tenure, zoning, and estimated timelines for planning, construction, operation, decommissioning and abandonment.

2. A list of all regulatory approvals (federal, provincial, municipal, other) and any federal financial assistance that would be required for the Project and the associated project components or activities.
- 3a. For each regulatory approval that would be required, please provide the following information:
 - i. Name of the licence, permit, authorization or approval, the associated legislative framework, and the responsible jurisdiction.
 - ii. Whether it would involve an assessment of any of the effects outlined in the paragraphs above, and if so, a general description of the assessment that you intend to undertake. Would conditions be set and if yes, what effects would those conditions address?
 - iii. Whether public and/or Indigenous consultation would be required and if yes, provide information on the approach you intend to take (if any steps have been taken, please provide a summary, including issues raised as well as your responses).
- 3b. Identify whether any licence, permit, authorization or approval listed above would address any of the following matters raised by the requester:
 - i. the importance of effectively evaluating cumulative effects of current and future coal mining in the Elk Valley on the Kootenai Watershed;
 - ii. elevated concentrations of selenium and nitrate pollution in the Kootenai River watershed due to effluent from B.C. mines;
 - iii. transboundary effects in the U.S. and traditional tribal territory on water quality, fish, wildlife, and traditional cultural uses;
 - iv. mortality of the Westslope cutthroat trout in the Upper Fording River;
 - v. ineffective efforts by B.C., Montana, and Teck Coal Limited to improve water quality; and
 - vi. lack of sufficient measures and proven technology to mitigate mining contamination;
 - vii. If yes, discuss, in general, the benchmarks or standards that you intend to meet (or would be expected to meet); and
 - viii. If the Project is anticipated to result in permanent changes or cumulative effects, how you intend to manage those impacts.

4. For all federal licences, permits, authorizations, approvals, and/or financial assistance that may be provided for the Project, describe any anticipated adverse direct or incidental effects (including changes to health, social and economic conditions) that may occur as a result.
5. What steps have you taken to consult with the public? What steps do you plan to undertake during all phases of the Project? Are you aware of any public concerns in relation to this project? If yes, provide an overview of the key issues and the way in which (in general terms) you intend to address these matters.
6. What steps have you taken to consult with Indigenous communities? What steps do you plan to undertake during all phases of the Project? Are you aware of any Indigenous community concerns in relation to this project? If yes, provide an overview of the key issues and the way in which (in general terms) you plan to address these matters.
7. Do you have any other comments in relation to environmental effects or impacts to the public or Indigenous peoples and how you intend to address and manage those?
8. Explain your views on whether the Project should be designated under the Act.

You are strongly encouraged to contact the Agency using the contact information provided below in the next few days to discuss how much time will be required to produce the information requested. Please note that all comments received will be posted on the public Registry.

Important Note: All records produced, collected or received in relation to the designation request process – unless prohibited under the *Access to Information Act* or *Privacy Act* – are considered public and may be released. If you have provided any comments or documents that contain confidential or sensitive information that you believe should be protected from release to the public, please contact the Agency as soon as possible. The Agency does not accept information marked as confidential without prior contact.

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If you have any questions regarding the Project and the contents of this letter, please contact me at 604-562-5665 or at *IAAC.Castle.AEIC@canada.ca*.

In closing, I acknowledge that given the circumstances concerning the novel coronavirus (COVID-19) pandemic, these may be very challenging times for your company. We appreciate your consideration of our request at this time, and it is our hope that you, your family, and your colleagues are healthy and safe.

Sincerely,

<Original signed by>

Fraser Ross
Project Manager, Pacific and Yukon Region