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Agency File No: 005723

May 27, 2020

ELECTRONIC MAIL

Michael Shepard
Executive Project Director
British Columbia Environmental Assessment Office
836 Yates Street
Victoria BC V8W 1L8
EMAIL: Michael.Shepard@gov.bc.ca

Dear Michael Shepard:

Subject: Designation Request for the Proposed Castle Project

On May 21, 2020, the Minister of Environment and Climate Change received a request under subsection 9(1) of the *Impact Assessment Act* (the Act) to designate the Castle Project (the Project) proposed by Teck Coal Limited. 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).

The Proposed Project

As the Environmental Assessment Office (EAO) is aware given your ongoing provincial environmental assessment, the Project would be located near Elkford, in southeastern British Columbia and would expand the existing Fording River Operations metallurgical coal mine. The Project would maintain the existing production capacity of 27 400 tonnes per day, and would increase the area of mine operations by 35.7 percent. The Project as proposed is not described in the *Physical Activities Regulations* under the Act.

Designation Request

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 a federal decision), or public concerns related to those effects warrant the designation.

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

- information about the Project;
- views of the requesters, the public, and Indigenous groups;
- expert advice from federal authorities;
- input from provincial ministries coordinated through the EAO; and
- input from other key stakeholders such as the State of Montana and the United States Environmental Protection Agency.

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, 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. Should the Project be designated, the Agency will work closely with the EAO, consistent with the *Impact Assessment Cooperation Agreement between Canada and British Columbia (2019)* to coordinate activities between the federal impact assessment and the ongoing provincial environmental assessment.

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.

Seeking Provincial Input

The Agency is requesting that you complete and provide the enclosed form by June 16, 2020. We are interested in understanding the views of the EAO and other key provincial ministries (for example, the Ministry of Environment and Climate Change Strategy, the Ministry of Mines, Energy and Petroleum Resources, the Ministry of Forests, Lands, Natural Resources Operations and Rural Development, etc.). You are welcome to provide us more than one form to present these views. Please provide your submission(s) to the Agency by email using the contact information provided below. 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.

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 organization. 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

Enclosure: Provincial Advice Record

c.c.: Todd Goodsell, British Columbia Environmental Assessment Office

ENCLOSURE:

**Provincial Advice Record: Designation Request under the Impact Assessment Act
Response requested by June 16, 2020**

Castle Project- Teck Coal Limited

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| Ministry | |
| Lead Contact | |
| Full Address | |
| Email | |
| Telephone | |
| Alternate Ministry Contact | |

1. In general terms, please confirm and describe your ministry's role (if applicable) in the review of the Project.

2. Please provide the contact information of the person or persons responsible for managing your ministry's oversight of the Project (if different from lead contact above).

3. Describe the provincial legislative or regulatory process or approvals administered by your ministry that may assess or manage the potential adverse effects of the Project. For each mechanism or approval, please provide information regarding the following:

- Name of the process or authorization (e.g. certificate, licence, permit or approval) and the associated legislative framework;
- Whether (for each) the authorization would set conditions and if yes, what issues would those conditions address;
- Whether (for each) the authorization would require public and/or Indigenous consultation and if yes, provide information on the approach to be taken; and
- Whether (for each) your ministry has guidance material that would be helpful to the proponent or the Agency (please provide these as attachments or hyperlinks in your response).

4. Confirm whether any authorization listed above would contemplate the following matters raised by the requester and if yes, discuss, in general, the benchmarks or standards to which a project of this nature may be held (be specific in relation to each point below that may be applicable to your ministry's mandate):
- The importance of effectively evaluating cumulative effects of current and future coal mining in the Elk Valley on the Kootenai Watershed;
 - elevated concentrations of selenium and nitrate pollution in the Kootenai River watershed due to effluent from BC mines;
 - transboundary effects in the U.S. and traditional tribal territory on water quality, fish, wildlife, and traditional cultural uses;
 - mortality of the Westslope cutthroat trout in the Upper Fording River;
 - Ineffective efforts by BC, Montana, and Teck to improve water quality; and
 - lack of sufficient measures and proven technology to mitigate mining contamination.
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5. Have you received public comments/concerns in relation to the Project? If yes, provide an overview of the key issues and the way in which (in general terms) your ministry intends to address (or would normally manage) these matters.
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6. Have you received Indigenous community comments/concerns in relation to the Project? If yes, provide an overview of the key issues and the way in which (in general terms) your ministry intends to address (or would normally manage) these matters.
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7. Do you have any other information about the Project in relation to potential adverse effects or impacts to the public, or Indigenous peoples and their rights as protected under section 35 of the *Constitution Act, 1982*?
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Name of responder

Title of responder

Date