



# Kootenai Tribe of Idaho

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April 22, 2026

Sent via Electronic Mail

The Honourable Julie Dabrusin  
Minister of Environment and Climate Change  
c/o Impact Assessment Agency of Canada (IAAC)  
1800-1138 Melville Street  
Vancouver, British Columbia V6E 4S3  
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RE: Request for Referral to an Independent Review Panel – Impact Assessment for  
Fording River Extension Project (Reference No. 80702)

Ki?su?k kyukyit Hon. Dabrusin,

I write on behalf of the Kootenai Tribe of Idaho (“KTOI”) to formally request that you exercise your discretion under Section 36(1) of the Impact Assessment Act to refer the Fording River Extension (“FRX”) Project to an independent Review Panel. Referring the FRX Project to an independent Review Panel is firmly in the public interest. The FRX Project will have an adverse impact on the recognized and affirmed Section 35 rights of our sister Ktunaxa governments, and will have significant adverse federal effects, including transboundary effects on our Tribes, peoples, and rights.

For over a decade, we have worked together with ?akisq̓nuk, ?aq̓am, yaq̓an nu?kiy, Yaq̓it ?a·knuq̓i’it, and the Confederated Salish and Kootenai Tribes—the five other governments of the transboundary Ktunaxa Nation—to address and reduce legacy and ongoing contamination from abandoned, developed, and operating mines in the Elk Valley of British Columbia. Mining impacts to the transboundary Kootenai/y watershed from Glencore’s Elk Valley coal mines is an issue that affects our rights and our natural and cultural resources and practices.

We are deeply concerned about the adverse effects of the FRX Project, and the continued dismissal of Ktunaxa concerns about the adverse effects of the project. On October 1, 2025, our sister governments ʔakisq̓nuk, ʔaq̓am, and yaq̓an nuʔkiy wrote to British Columbia to communicate their findings that the FRX Project will have Extraordinarily Adverse Effects, and as a result, should not receive a Readiness Decision. Despite these findings, BC issued a Readiness Decision on October 9, 2025. The letter and other communications from our Ktunaxa sister governments communicated the range of extraordinarily adverse effects the FRX Project will have on Ktunaxa rights, as well as adverse federal effects from the Project, all of which are areas of known Ktunaxa and public concern.

We share these concerns with our sister governments. The FRX Project is one of the largest coal mine projects ever proposed in ʔamakʔis Ktunaxa, and it is situated in the most impacted area of the region. The Project will cause significant adverse impacts on Ktunaxa rights and cultural practices. It will cause significant adverse effects to endangered high elevation grasslands and ridges that provide important habitat and movement corridors, particularly for kwitq̓i (Rocky Mountain bighorn sheep). It will cause significant adverse effects to water quality, aquatic habitat, and unique fish populations in Canada and throughout the transboundary watershed, undoing many Ktunaxa efforts to restore critical fish populations, including endangered Kootenai River white sturgeon and westslope cutthroat trout. These concerns are shared by the broader public, as evidenced by three similar requests for an independent Review Panel, signed collectively by three dozen organizations and businesses from both sides of the border. All of this counsels in favor of referral to an independent Review Panel.

Further, the Project is being proposed on top of an already heavily impaired watershed. Extremely high levels of contaminants, including selenium, nitrates, sulfates and other pollutants leaching from mining waste rock, already enter the Fording and Elk Rivers and pollute the entire transboundary Kootenai/y River and watershed. These contaminants result in regular exceedances of BC drinking water guidelines, water quality limits and objectives, and aquatic health benchmarks. They resulted in the largest Fisheries Act fine in Canadian history and current outstanding charges against the mining company for discharging a deleterious substance into fish-bearing waters in Dry Creek. And they result in violations of Canada's international obligations under Article IV of the Boundary Waters Treaty.

These high levels of contaminants extend hundreds of kilometers downstream, crossing the international border and impacting KTOI, the Confederated Salish and Kootenai Tribes, Montana, Idaho, and the U.S., and our peoples and ecosystems. Selenium and nitrates originating from BC's Elk Valley mines persist all the way to the confluence of the Kootenai/y watershed with the Columbia River. The contaminants impact our rights to fish in our ancestral territory. These contaminants regularly exceed the Montana-promulgated and U.S. EPA-approved Clean Water Act site-specific standard of 0.8 µg/L for selenium in Koocanusa Reservoir. As a result of this pollution, Idaho has already designated the Kootenai River as impaired for selenium under the U.S. Clean Water Act, and Montana is likely to do the same.

The FRX Project will substantially increase the total amount of waste rock and pollution that enters the watershed, making this already extraordinary situation worse. The public, including in

particular our tribal members, have significant and extensive concerns related to these many adverse effects.

As a result of our concerns about the transboundary impacts of pollution originating from BC's Elk Valley mines, all six Ktunaxa governments long called for Canada and the United States to issue a reference to the International Joint Commission (IJC) under the Boundary Waters Treaty to address the mine-sourced pollution in the Kootenai/y watershed. In 2024, after over a decade of requests, Canada and the United States, in partnership with the Ktunaxa Nation, issued an IJC reference. This reference created the IJC Elk-Kootenai/y Watershed Study Board to investigate water pollution in the watershed and the Governance Body to develop an Action Plan to reduce and mitigate the impacts of pollution. Both of those processes are currently ongoing. In addition, BC is currently beginning a process to amend its Area Based Management Plan to update its selenium criterion for Koocanusa Reservoir. BC first committed to update this criterion back in 2014. This criterion will be an important component of any Impact Assessment. The longer timelines of the Review Panel process would allow for the Review Panel to adequately consider these important processes that are currently ongoing, including the IJC Elk-Kootenai/y Watershed Study Board, the Governance Body process, and BC's current Amendment 2 to its Area Based Management Plan. It is in the public interest to allow time for all information to be adequately considered for a project that would be in place for decades and potentially have centuries worth of pollution impacts.

We urge you to refer the Fording River Extension Project to an independent Review Panel. The extraordinary nature of this Project, the significant adverse impacts on recognized Ktunaxa rights, the importance to Ktunaxa and the public, and the high likelihood of adverse effects within federal jurisdiction create a clear mandate for a Review Panel.

Sincerely,

<Original signed by>

Jennifer Porter  
Chairwoman  
Kootenai Tribe of Idaho