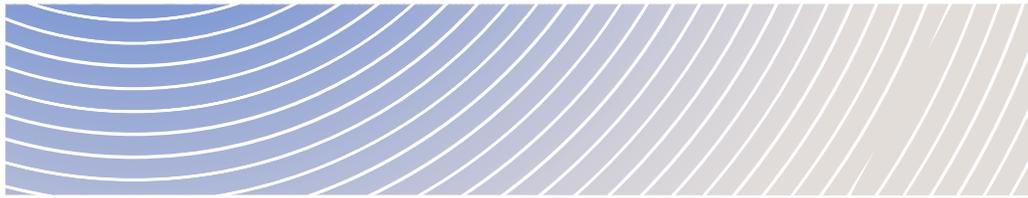


Analysis Report



WHETHER TO DESIGNATE THE **COALSPUR MINE LTD. VISTA COAL UNDERGROUND MINE AND EXPANSION ACTIVITIES PROJECT** IN ALBERTA PURSUANT TO THE *IMPACT ASSESSMENT ACT*

July 30, 2020



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Purpose

The Impact Assessment Agency of Canada (the Agency) prepared this report for consideration by the Minister of Environment and Climate Change (the Minister) in deciding whether to designate the Vista Coal Underground Mine and Expansion Activities Project (the Project) pursuant to section 9 of the *Impact Assessment Act* (IAA).

Project

Coalspur Mine (Operations) Ltd. is proposing to expand the existing Vista Coal Mine Project (Phase I), an open-pit surface coal mine for the extraction and export of thermal coal. As proposed, the Vista Underground Mine (VUM) would be located within the Phase I mine permit area and is additional to the Phase II mine expansion which would extend westward from Phase I. The Project is located approximately ten kilometres east of Hinton, Alberta, at its western boundary.

Context of Request

On May 1, 2020, the Minister and the Agency received two requests to designate the Project, one from Ecojustice on behalf of Keepers of the Water, Keepers of the Athabasca and the West Athabasca Bioregional Society, and one from MLT Aikins on behalf of the Louis Bull Tribe. On June 30, 2020, the Minister and the Agency received a third request to designate the Project from Rae and Company on behalf of the Stoney Nakoda Nations. The Agency is also aware of online campaign activities regarding the Project such as an open letter to the Minister signed by 47 Canadian environmental, Indigenous, health, civil society, and faith organizations and a letter writing campaign led by Ecojustice.

The requesters expressed concerns about project splitting, the provincial process, impacts on Indigenous people, traditional land and established Aboriginal and Treaty rights, the lack of federal assessment for the Project, the scale of the proponent's expansion activities in relation to the thresholds in the *Physical Activities Regulations* (the Regulations) and project-related effects to the local environment and to areas of federal jurisdiction (including to fish, migratory birds and climate). The requesters expressed the view that the Project and the Vista Coal Mine Phase II Project (Phase II), a proposed westward expansion of the Phase I open pit coal mine, should be considered as one single project and that characterizing them as separate projects misrepresents the total depth and breadth of their potential impacts. Phase II was considered for designation pursuant to IAA in 2019, and the Minister determined that the Project did not warrant designation (see Section: Background: Phase II Designation Request below).

The Agency informed the proponent of the designation requests on May 11, 2020, and on May 14, 2020, requested information on the proposed Project. The proponent responded to the Agency's information requests on May 29, 2020, with information about the Project, its potential adverse effects, proposed design and expressed that the Project should not be designated. The Agency sought advice and views from federal authorities and the provincial regulator.



Advice on applicable federal legislative mechanisms and potential effects due to the Project were received from Environment and Climate Change Canada, Fisheries and Oceans Canada, Natural Resources Canada, Health Canada and Transport Canada. The Alberta Energy Regulator provided information on provincial authorizations for the Project.

Underground Mine and Expansion Activities Project Designation Request

On February 5, 2020, the proponent applied to the Alberta Energy Regulator (AER) for amendments to existing licences and approvals, as well as a new mine licence, for the VUM within the Phase I mine permit area.¹ In April 2020, the proponent submitted two additional applications to the AER for the approval of an accelerated progression of the center dump overburden disposal area, the relocation of explosive facilities and the construction of surface water management structures within the Phase I mine permit area (referred to as expansion activities).²

This Analysis Report presents an analysis of the VUM and expansion activities. The Agency referred to the Agency's Analysis Report³ and the Minister's Response to the Phase II Designation Request⁴, to assess the potential cumulative effects of the Project and Phase II.

Background: Phase II Designation Request

In 2019, the Minister received requests to designate Phase II from Ecojustice on behalf of the citizen groups Keepers of the Water and the West Athabasca Bioregional Society, the Alberta Wilderness Association, Keepers of the Athabasca (a community chapter of Keepers of the Water) and from the public as part of an Ecojustice-led letter campaign. The Project was not considered during the Phase II designation request process.

Advice on applicable federal legislative mechanisms and potential effects due to Phase II were received from Environment and Climate Change Canada, Fisheries and Oceans Canada, Natural Resources Canada, Health Canada and Transport Canada. The Alberta Energy Regulator provided information on provincial authorizations for Phase II. The Agency received input from Louis Bull Tribe, Gunn Métis Local 55, Paul First Nation and Descendants of Michel First Nation Association, Ecojustice on behalf of Keepers of the Water, Keepers of the Athabasca and West Athabasca Bioregional Society, the requester who is a member of the public and a Professor from the Faculty of Law, University of Calgary.

¹ AER Application documents:

https://dds.aer.ca/iar_query/ApplicationAttachments.aspx?AppNumber=1927365

²AER Application documents:

https://dds.aer.ca/iar_query/ApplicationAttachments.aspx?AppNumber=1928090

³ Impact Assessment Agency of Canada. 2019. Whether to Designate the Coalspur Mine Ltd. Vista Coal Mine Phase II Project in Alberta. Ottawa. 30 pp. <https://iaac-aeic.gc.ca/050/documents/p80341/133221E.pdf>

⁴ Vista Coal Mine Phase II Project Minister's Response: <https://iaac-aeic.gc.ca/050/evaluations/document/133222>

Based on input received from federal departments, the Agency was of the view that the Project may result in adverse effects to areas of federal jurisdiction, including effects to fish and fish habitat, migratory birds, and Indigenous peoples of Canada. However, adverse effects within federal jurisdiction, and related concerns, are expected to be appropriately managed by comprehensive legislative mechanisms such as the review of any Application for Authorization under the *Fisheries Act* by Fisheries and Oceans Canada, the *Migratory Birds Convention Act, 1994* and the provincial environmental assessment and regulatory processes. These processes provide mechanisms for consultation with Indigenous peoples, including addressing potential adverse effects and concerns raised by Indigenous peoples and members of the public.

On December 20, 2019, the Minister determined that Phase II did not warrant designation under IAA.⁵

Project Context

Project overview

The Project is the expansion of the existing Phase I. The Project includes an underground coal mine, the VUM, situated within the Phase I permit area, for the extraction and export of thermal coal to international markets (Figure 1), and an acceleration of the Central Dump and relocation of explosive storage facilities within the Phase I permit area (Figure 2).

The VUM will mine a coal seam within the Phase I, extracting coal that cannot be recovered economically by surface mining. The VUM will use existing Phase I infrastructure such as coal processing facilities and refuse dumps. The mine yard and underground entries will be developed within a developed Phase I surface mine pit. As such, new surface disturbance due to the VUM is limited to at most 2.85 hectares. The area of underground mining will be approximately 121.8 ha. The underground mine will operate for three years. Further expansions may occur dependent on the underground conditions.

Other expansion activities include construction of the Centre Dump overburden disposal area as per approved mine plans but at an accelerated rate, relocation of the explosive storage areas and associated soil and surface water management activities. The proponent has submitted an application to the AER for approval of these activities which are required to address changes to the mining sequence and plans for Phase I. The Agency is of the understanding that these are typical of the types of operational modifications that may occur over the lifespan of a coal mine. The proponent states the expansion activities will cause limited surface disturbance. The explosives storage area will be relocated in approximately six years into the backfilled mining areas of Phase I.

⁵ Vista Coal Mine Phase II Project Minister's Response: <https://iaac-aeic.gc.ca/050/evaluations/document/133222>



Project components and activities

The scope of the Project includes all physical works and activities associated with the construction, operation and decommissioning of the VUM and the progression of the Centre Dump, explosive storage area relocation and soil and surface water management alterations.

Components and activities related to the Project include:

- Underground entries; the VUM mine yard, which will consist of temporary facilities such as bathhouse, office trailer, supply yard, underground ventilation fans, mine air heaters, ROM stockpiles and conveyor belt systems, mining of coal via room and pillar methods, belt conveying of coal for processing on the Phase I site and decommissioning via removal of infrastructure and equipment, should underground mining prove to be unsuccessful.
- Other expansion activities include removal of vegetation and soils for the Centre Dump overburden disposal area and interim relocation areas for the explosive facilities, construction of the interim explosive facilities, construction of temporary and permanent water management structures and construction of a permanent settling pond.

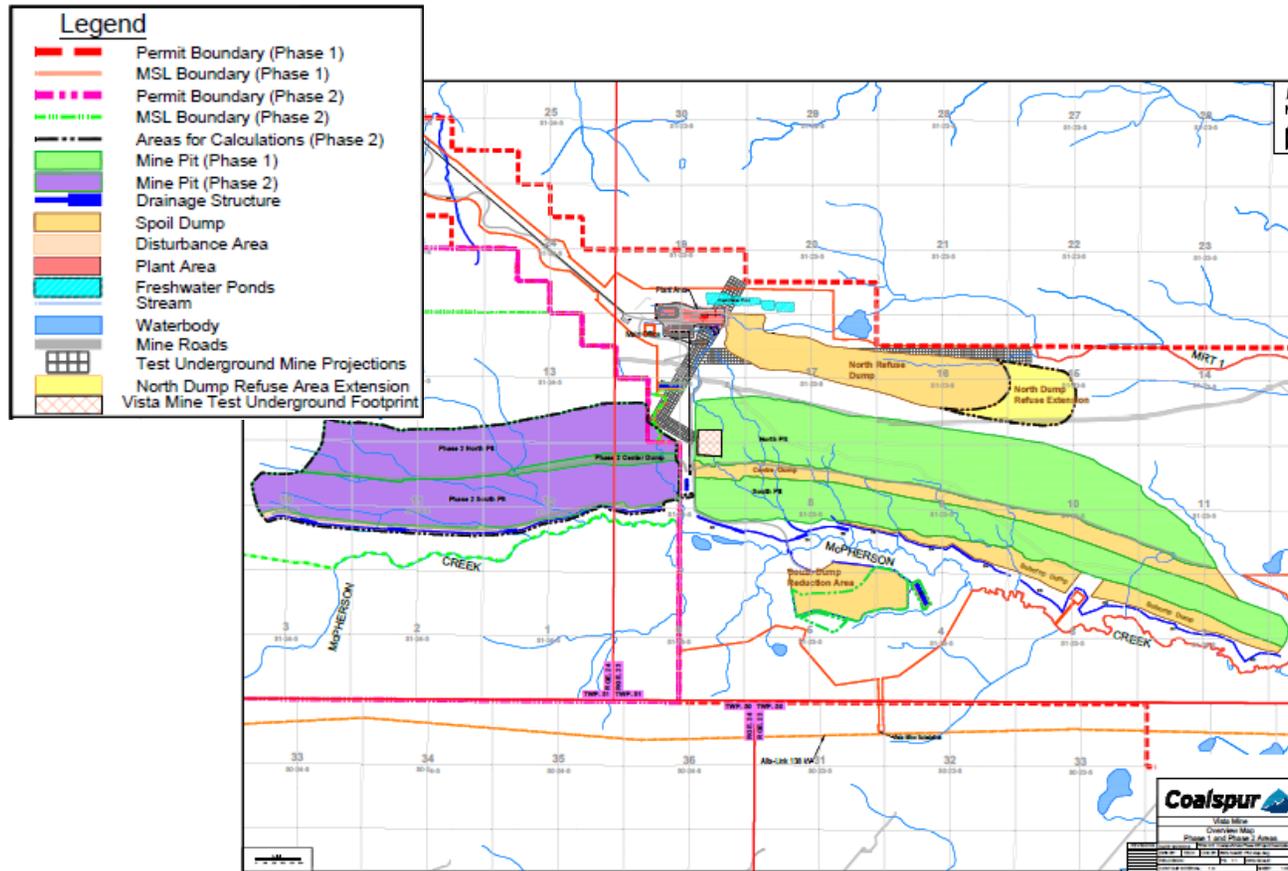


Figure 1: Phase I, Phase II and Vista Underground Mine Location ⁶

Source: Coalspur Mines Ltd. (legend enlarged for readability)

⁶ The Vista Underground Mine is referred to as the Test Underground Mine or the Vista Mine Test Underground in the legend.

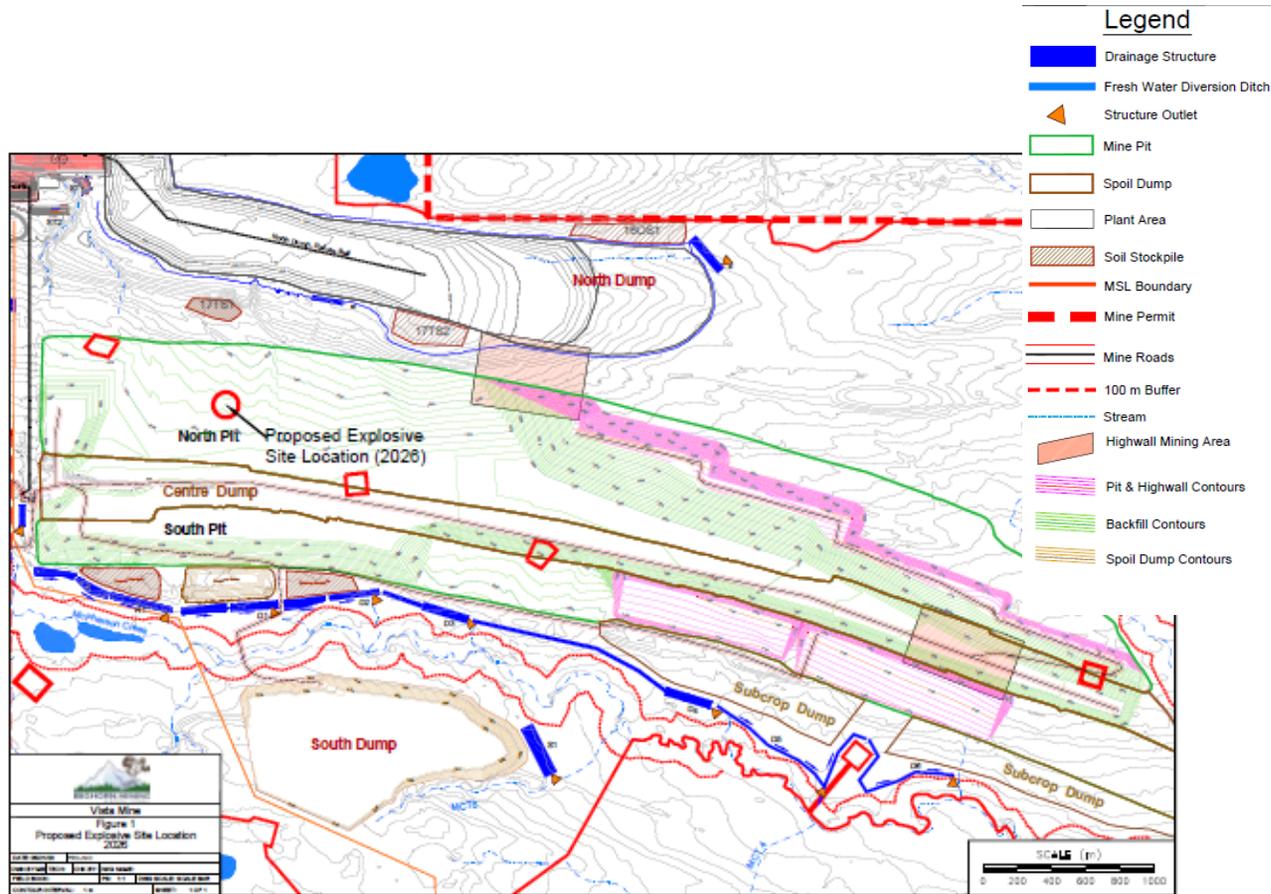


Figure 2: Expansion Activities Location

Source: Coalspur Mines Ltd. (legend enlarged for readability)



Analysis of Designation Request

Authority to designate the Project

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

The Project has not begun and no federal authority has taken any action that would prevent the exercise of the Minister's authority to designate the VUM under subsection 9(1) of IAA⁷. On April 1, 2020, Natural Resources Canada granted an amendment to a Factory Licence for the Project to allow the relocation of an explosives facility (the emulsion plant). Consequently, this would prevent the designation of the relocation of the explosive storage facility. The accelerated progression of the Centre Dump overburden disposal area and surface water management activities were not considered in the amendment and would be eligible for designation.

The Regulations identify the physical activities that constitute designated projects. The Regulations include coal mine expansions that would result in an increase in the area of mining operations of 50 percent or more and a total coal production capacity of 5 000 tonnes per day or more after the expansion.

The proponent indicated that there is no resulting increase in the area of mining operations from the VUM. Using available information, the Agency calculated that, at most, the Project would result in an increase in area of mining operations of 0.2 percent and a total clean coal production capacity of 21 508 tonnes per day after the expansion. Therefore, the Project does not meet the thresholds in the Regulations.

The requesters asked that the Agency determine whether the Project in combination with Phase II would be a designated activity under the Regulations. In the Phase II Analysis Report, the Agency calculated that the Phase II Project would result in an increase in the area of mining operations between 42.7 to 49.4 percent, depending on how future anticipated changes to the Phase I footprint are considered.⁸ If the Project were considered in combination with Phase II, the resulting increase in area of mining operations would still be less than the 50 percent threshold described in the Regulations (42.7 to 49.6 percent) and the total clean coal production capacity would exceed the 5 000 tonnes per day threshold described in the Regulations.

⁷ The Minister must not make the designation if the carrying out of the physical activity has substantially begun, or a federal authority has exercised a power or performed a duty or function in relation to the project (subsection 9(7) of IAA).

⁸ Impact Assessment Agency of Canada. 2019. Whether to Designate the Coalspur Mine Ltd. Vista Coal Mine Phase II Project in Alberta. Ottawa. 30 pp. <https://iaac-aeic.gc.ca/050/documents/p80341/133221E.pdf>

Given this understanding of the Project, the Agency is of the view that the Minister may consider designating this Project pursuant to subsection 9(1) of IAA.

Potential adverse effects within federal jurisdiction

The surface disturbance caused by the Project is limited and occurs primarily within the previously disturbed footprint of Phase I. There are no federal lands near the Project. While there is the potential for adverse effects within federal jurisdiction, as defined in section 2 of IAA, any effects are expected to be limited through project design and the application of standard mitigation measures and managed through existing legislative mechanisms. Annex I and Annex II provide a summary of the potential adverse effects, mitigation measures proposed by the proponent and regulatory mechanisms that will apply if the Project proceeds.

Fish and Fish Habitat

The Agency considered information provided by the proponent, Fisheries and Oceans Canada, Environment and Climate Change Canada, and the requesters and is of the view that the Project may cause adverse effects to fish and fish habitat including aquatic species at risk and part of their critical habitat or the residences of their individuals. These potential adverse effects relate to alterations to fish habitat from:

- changes to stream flow through Project-related water withdrawal and discharge, including dewatering of the underground mine; and
- changes to surface water quality such as increased contaminants or sediments from Project activities, including increased mining and associated activities and groundwater-surface water interactions during underground mining.

Two species, Rainbow Trout (Athabasca River populations) and Bull Trout (Saskatchewan–Nelson Rivers populations), listed as endangered and threatened under the *Species at Risk Act*, respectively, are known to occur in fish habitat downstream of the Phase I mine pit (including McPherson Creek, which runs approximately 100 metres from the Phase I mine pit). Critical habitat for Rainbow Trout (Athabasca River populations) has been identified in McPherson Creek in the vicinity the Project.⁹

Migratory Birds

The Agency considered information provided by the proponent, Environment and Climate Change Canada, and the requesters and is of the view that the Project may result in adverse effects to migratory birds. While the proponent indicated the scope of habitat effects will be relatively small, Environment and Climate Change Canada indicated that due to the limited information available regarding the effects of the Project

⁹ Fisheries and Oceans Canada. 2020. Recover Strategy for the Rainbow Trout (*Oncorhynchus mykiss*) in Canada (Athabasca River populations) [Proposed]. *Species at Risk Act Recovery Strategy Series*. Fisheries and Oceans Canada, Ottawa. vii + 92 pp. <https://www.canada.ca/en/environment-climate-change/services/species-risk-public-registry/recovery-strategies/rainbow-trout.html#toc13>



on migratory birds and lack of baseline information on migratory birds and their habitat, it was unable to assess the effects of the Project on migratory birds, including species at risk. Potential adverse effects relate to changes to habitat, changes to movement via sensory disturbance or physical blockage, bird mortality and effects to health through exposure to deleterious substances, including via water and air pathways or secondary receptors (e.g., vegetation) and direct effects such as collisions and interactions with mine waste, could occur if migratory birds, including species at risk, or their habitat occur within the Project area.

Indigenous Peoples of Canada

The Agency considered information provided by the proponent, Fisheries and Oceans Canada, Natural Resources Canada, Environment Climate Change Canada, Health Canada, and the requesters and is of the view that the Project may result in adverse effects to traditional and cultural use of lands, health, social or economic conditions of Indigenous peoples of Canada and impacts on the exercise of Aboriginal or Treaty rights. The Project is situated on provincial crown land, in Treaty 6 territory and Métis Nation of Alberta–Region 4. The Project is located primarily within the disturbed footprint of Phase I. The proponent does not anticipate the Project will impact historical and archaeological resources that have been identified in the Phase I project area.

Indigenous groups have raised concerns regarding potential adverse effects of the Project to traditional and cultural use of lands and potential impacts to health, social and economic conditions as a result of the following:

- changes to the habitat and abundance of wildlife species of importance;
- greenhouse gas emissions at the project site and downstream;
- changes in land access, current use of lands and resources for traditional activities, potential and perceived decreases in the quantity and quality of resources for harvest (e.g., medicinal plants, game animals);
- accidents and malfunctions;
- changes in air quality, noise, water quality and food; and
- impacts on the ability to access sites of ceremonial and spiritual significance and subsequent impacts on the intergenerational transfer of knowledge.

Potential effects to fish and migratory birds, as noted above, or other wildlife species of importance could adversely effect the current use of lands and resources for traditional purposes by Indigenous peoples. Health Canada stated that potential effects to the health of Indigenous peoples could occur through increases in air emissions, release of coal dust, Project related noise, changes in water quality and contamination of country foods, but that further information would be needed to fully understand the potential for such Project-related effects.

Annex I and II provide summary tables of the potential adverse effects within federal jurisdiction, mitigation measures proposed by the proponent, and relevant legislative mechanisms, if the Project proceeds.

Other Considerations

Cumulative Effects

The requesters asked that the Agency consider the effects of the Project in combination with Phase II. The Agency is of the view that there could be cumulative effects due to the Project and Phase II. Fisheries and Oceans Canada has indicated that there is high uncertainty as to whether adequate measures to offset harm to fish and fish habitat could be proposed to address impacts of the Project and Phase II. Environment and Climate Change Canada has indicated there are wildlife species listed under the *Species at Risk Act* whose ranges overlap with the Project area and is of the view that Project and Phase II may collectively result in adverse environmental effects on migratory birds, species at risk, water quality and air quality. The Agency anticipates these potential effects would be limited through project design, the application of standard mitigation measures, and managed through existing legislative mechanisms. In addition, the provincial environmental assessment process for Phase II will consider cumulative effects including any cumulative effects due to the Project.

Legislative and Regulatory Oversight

The Agency considered that all Project activities must be carried out in compliance with applicable federal legislation including the *Fisheries Act*, *Migratory Birds Convention Act, 1994* and *Species at Risk Act* (Annex II). The Agency considered that, should it not be possible to avoid or mitigate effects that are likely to cause serious harm to fish, the proponent will require an authorization under the *Fisheries Act*. The proponent will be required, if authorized, to abide by the conditions of the authorization. The Agency understands that Fisheries and Oceans Canada would review the Application for Authorization including fish and fish habitat assessments, detailed information on impacts and the proposed plans to offset losses, conduct consultation with potentially affected Indigenous groups in relation to the Application and issue an authorization if deemed appropriate. Fisheries and Oceans Canada must be satisfied that the activities will not jeopardize the survival or recovery of aquatic species at risk prior to issuing a *Species at Risk Act* permit and *Fisheries Act* authorization, among other required considerations. Fisheries and Oceans Canada indicated that it is probable the department may be required to exercise a power or perform a duty or function related to the Project to enable it to proceed and anticipates impacts associated with the VUM and Phase II would be considered in a single review under the *Fisheries Act* and *Species at Risk Act*.

Authorizations, approvals and licences will be required under Alberta provincial legislation, including the *Water Act*, the *Coal Conservation Act* and the *Environmental Protection and Enhancement Act*. These provide additional tools to manage and mitigate the adverse impacts of the Project (Annex II).

Greenhouse Gas Emissions

The Agency also considered the extent to which the effects of the Project hinder or contribute to the Government of Canada's ability to meet its environmental obligations and its commitments in respect of climate change, including in the context of Canada's 2030 emissions targets and forecasts. The Agency understands that activities associated with the Project may result in emissions of greenhouse gases, such as fugitive methane which is associated with underground mining. Greenhouse gases are also anticipated from the burning of coal from the Project for electricity generation, which would occur outside of Canada.



Canada announced the launch of a strategic assessment to provide guidance on how future new thermal coal mine projects will be assessed under IAA on December 20, 2019¹⁰. Additionally, Canada has prepared a Strategic Assessment of Climate Change that will apply to projects assessed under IAA.¹¹

Potential adverse direct or incidental effects

Direct or incidental effects refer to effects that are directly linked or necessarily incidental to a federal authority's exercise of a power or performance of a duty or function that would permit the carrying out, in whole or in part, of a project, or to a federal authority's provision of financial assistance to a person for the purpose of enabling that project to be carried out, in whole or in part.

The Project may potentially require the exercise of powers, duties, or functions to proceed, such as a *Species at Risk* permit and a *Fisheries Act* authorization. Therefore, direct or incidental effects are possible. Additional information would be required to understand the potential effects.

Public concerns

In addition to the concerns expressed by the requesters, the Agency was made aware of public concerns related to the Project by the Alberta Energy Regulator. A summary of the concerns identified by the public and the requesters include:

- Inadequate assessment of potential impacts of the Project on fish and fish habitat, migratory birds, water quality and greenhouse gas emissions;
- Effects to biophysical environment (e.g., release of contaminants, changes to air quality, surface and groundwater quality and quantity, noise effects on wildlife and nearby communities, effects to vegetation, wetlands and wildlife) and cumulative effects that may result in adverse effects to areas of federal jurisdiction including fish and fish habitat, migratory birds, species at risk and with respect to the Indigenous peoples of Canada;
- Impacts on Aboriginal and Treaty rights, including fishing, hunting and gathering rights;
- Threats to populations of endangered Rainbow Trout (Athabasca River populations) and threatened Bull Trout (Saskatchewan - Nelson Rivers populations) and their habitat, in the Project area;
- Contribution of impacts of coal-fired electricity on human health and climate change from the export of thermal coal;
- Concerns of downstream greenhouse gas emissions on areas of federal jurisdiction;

¹⁰ <https://www.canada.ca/en/environment-climate-change/news/2019/12/canada-launches-strategic-assessment-of-thermal-coal-mining.html>

¹¹ Government of Canada. 2020. Strategic Assessment of Climate Change. Environment and Climate Change Canada, Ottawa. 26 pp.

<https://www.canada.ca/en/services/environment/conservation/assessments/strategic-assessments/climate-change.html>

- Concerns with waste management (e.g., waste water, selenium);
- Concerns with fragmentation of woodland caribou habitat;
- Concern that neither Phase I or the proposed Phase II were subject to federal environmental assessments despite the large scales of these projects;
- Concern that the Project avoided federal impact assessment due to the revision of the mine plan to be under the thresholds in the Regulations;
- Concern that the provincial processes may not address effects in areas of federal jurisdiction, provide opportunities for Indigenous consultation, or provide regulatory oversight;
- Concerns regarding proponent's ability to successfully reclaim the Project, Phase I and Phase II to support future Indigenous land use;
- Lack of compensation for the use of coal within the traditional lands; and
- Concern that the provincial reclamation standards do not consider Indigenous use.

Annex I provides a summary of the concerns expressed related to potential adverse effects within federal jurisdiction and adverse or incidental effects, the associated mitigation measures proposed by the proponent, if any, and applicable regulatory mechanisms.

Potential adverse impacts on the rights of Indigenous peoples

The Agency is of the view that the Project may cause adverse impacts on the rights of the Indigenous peoples of Canada that are recognized and affirmed by section 35 of the *Constitution Act, 1982* (section 35 rights) including impacts on rights from potential adverse effects to areas of federal jurisdiction. The Project is located on provincial Crown land within Treaty 6 and Métis Nation of Alberta–Region 4.

The Agency received designation requests from Ecojustice on behalf of Keepers of the Water, Keepers of the Athabasca and the West Athabasca Bioregional Society, and MLT Aikins on behalf of the Louis Bull Tribe. The Alberta Energy Regulator received comments (statements of concern) on the VUM from the Stoney Nakoda Nations and Louis Bull Tribe indicating that the Project would adversely impact the ability to exercise rights. The Stoney Nakoda Nations and Louis Bull Tribe noted that the Project is located within their traditional territory.

Concerns relate to:

- the cumulative impact of the Project in combination with Phase I, Phase II and other existing and proposed projects, in taking of lands and restricting access to sites of cultural importance;
- diminished ability to practice rights affirmed by section 35 of the *Constitution Act, 1982* and intergenerational transfer of knowledge;
- the lack of consideration of impacts to practice rights affirmed by section 35 of the *Constitution Act, 1982* from the Project in combination with Phase I and Phase II;

- reduced access to lands for current and traditional uses and activities and the impacts on the health, social and economic condition of Indigenous groups;
- lack of consultation by the province and the federal government;
- impacts on water quality through Project operations and accidents and malfunctions and the risks to health and safety;
- impacts on wildlife species of importance for food, cultural and medicinal purposes;
- the reclamation process; and
- project splitting which may misrepresent the depth and breadth of the potential impacts of the Project and undermine engagement and meaningful consultation.

The Agency understands that the Alberta Aboriginal Consultation Office concluded that consultation was not required for the Project. At the time of this analysis, the Alberta Energy Regulator is reviewing the Statements of Concerns received on the VUM to determine whether the application will require a public hearing. The Alberta Energy Regulator has a responsibility to consider the potential adverse impacts of energy resource applications on the existing rights of Indigenous peoples as recognized and affirmed under Part II of the *Constitution Act, 1982* within its statutory authority under the *Responsible Energy Development Act*.

The proponent stated that as part of their ongoing consultation, Indigenous communities would be informed of the proposed VUM, and short and long-term plans for Phase I. The proponent will continue to evaluate and address the effectiveness of mitigation measures developed to address concerns raised by Indigenous groups. The Agency understands that Fisheries and Oceans Canada would review the Application for Authorization including fish and fish habitat assessments, detailed information on impacts and the proposed plans to offset losses, conduct consultation with potentially affected Indigenous groups in relation to the Application; and issue an authorization if deemed appropriate.

Regional and strategic assessments

There are no regional or strategic assessments pursuant to sections 92, 93 or 95 of IAA that are relevant to the Project.

Conclusion

The Agency is of the view that the Underground Mine and Expansion Activities Project does not, on its own, warrant designation pursuant to subsection 9(1) of IAA. The potential for adverse effects, as described in subsection 9(1) of IAA, including cumulative effects, would be limited through project design, the application of standard mitigation measures and through existing legislative mechanisms (Annex I). The concerns expressed by the requesters and those that are known to the Agency related to the Project are expected to be addressed through provincial processes, specifically, the *Environmental Protection and Enhancement Act*, the *Coal Conservation Act* and the *Water Act*. Adverse effects within federal jurisdiction



and related concerns can be appropriately managed through this process and other existing mechanisms such as the review of any Application for Authorization under the *Fisheries Act* by Fisheries and Oceans Canada and other regulatory processes.

To inform its analysis, the Agency sought and received input from proponent, federal authorities (Environment and Climate Change Canada, Health Canada, Transport Canada, Natural Resources Canada and Fisheries and Oceans Canada) and the provincial regulator (Alberta Energy Regulator). In addition, the Agency considered the concerns in the designation requests sent to the Minister and the Agency by Ecojustice and Louis Bull Tribe and comments from Louis Bull Tribe and the Stoney Nakoda Nations associated with the proponent's joint application for amendments to approvals under the *Environmental Protection and Enhancement Act*, *Water Act*, *Public Lands Act* and *Coal Conservation Act*. Further, the Agency considered the potential for the Project to cause adverse impacts on the rights that are recognized and affirmed by section 35 of the *Constitution Act, 1982* and is satisfied that existing legislative mechanisms (e.g., *Fisheries Act* authorization, *Environmental Protection and Enhancement Act* amendment) would include consideration of such impacts. The *Fisheries Act* authorization process, if triggered, would provide a mechanism for consultation with Indigenous peoples to address potential impacts.



ANNEX I

Annex I: Analysis Summary Table

| Adverse Effect or Public Concern in Relation to Subsection 9(1) of the <i>Impact Assessment Act</i> | Effects and Mitigation Proposed by the Proponent and Advice from Federal and Provincial Experts | Relevant Legislative Mechanisms |
|---|---|--|
| <p>A change to fish and fish habitat, as defined in subsection 2(1) of the <i>Fisheries Act</i></p> | <p>Proponent</p> <p>McPherson Creek and its tributaries drain the Project area. McPherson Creek and several of its tributaries are habitat for fish.</p> <p>The proponent does not expect that the Project will impact fish and fish habitat and will use the existing mitigation and monitoring plans developed for Phase I. The proponent does not anticipate undergoing the <i>Fisheries Act</i> authorization process. Mitigation including stream augmentation will occur to maintain adequate water volume in fish bearing tributaries, a surface water management plan and adaptive management based on continuous monitoring within the receiving stream will occur. The proponent will monitor surface water quality throughout the life of the mine.</p> <p>Federal Authorities</p> <p>Fisheries and Oceans Canada (DFO) indicated that the Project may result in changes to stream flow and adverse environmental effects, including:</p> <ul style="list-style-type: none"> ○ the death of fish and/or harmful the harmful alteration, disruption or destruction of fish habitat; and ○ effects to listed aquatic species at risk (endangered Rainbow Trout (Athabasca River populations), threatened Bull Trout (Saskatchewan–Nelson Rivers populations)), part of their critical habitat or the residences of their individuals in a manner which is prohibited under the <i>Species at Risk Act</i>. <p>DFO indicated that there is significant uncertainty regarding effects to aquatic species at risk, their habitat and their survival and recovery.</p> | <p>Impacts to fish and fish habitat and aquatic species at risk are prohibited unless authorized under the <i>Fisheries Act</i> and <i>Species at Risk Act</i> subsequent regulations.</p> <p><i>Species at Risk Act</i> authorization is required if there are impacts to an aquatic species at risk, any part of their critical habitat or the residences of their individuals.</p> <p>Authorization under <i>Fisheries Act</i> may be required if the project is likely to cause the harmful alteration, disruption, or destruction to fish habitat or is likely to result in the death of fish.</p> <p>Deposit of deleterious substances into waters frequented by fish, unless authorized by regulations or other federal legislation, is prohibited under the <i>Fisheries Act</i>.</p> <p>Authorization under Alberta's <i>Water Act</i> is required for temporary disturbances to wetlands including marshes and for the temporary diversion of water.</p> |



| Adverse Effect or Public Concern in Relation to Subsection 9(1) of the <i>Impact Assessment Act</i> | Effects and Mitigation Proposed by the Proponent and Advice from Federal and Provincial Experts | Relevant Legislative Mechanisms |
|---|--|---|
| | <p>Environment and Climate Change Canada (ECCC) advised that the Project may result in adverse environmental effects on water quality (related to increased migration of contaminants, introduction of deleterious substances, increased runoff, seepage discharges and releases, increased erosions and sedimentation and increased nitrogen releases), changes in flow of surface and/or groundwater discharge, effects of blasting, loss of habitat from subsidence and effects of extreme weather events on seepage and runoff and corresponding management of waste and wastewater.</p> <p>Provincial Authorities Authorizations or permits are also required under relevant provincial legislation such as the <i>Water Act</i>, which would consider, address and mitigate the potential impacts of the Project.</p> <p>Indigenous and Requester concerns Indigenous concerns include impacts to fish species at risk, concerns regarding destruction and alteration of fish-bearing habitat, threats to fish from water quality changes (e.g., elevated contaminants concentrations such as selenium), waste management, potential for spills and related impacts to water, fish and fish habitat and threats to aquatic species at risk from changes in stream flow, changes in groundwater levels and hydrology on habitat and water quality. Concerns were also raised regarding cumulative effects to fish and fish habitat from the construction of Phase I and Phase II.</p> | |
| <p>A change to aquatic species, as defined in subsection 2(1) of the <i>Species at Risk Act</i></p> | <p>See fish and fish habitat section. No adverse effects to marine plants are anticipated, as there is no interaction between the Project and the marine environment.</p> | <p>See fish and fish habitat section.</p> |

| <p>Adverse Effect or Public Concern in Relation to Subsection 9(1) of the <i>Impact Assessment Act</i></p> | <p>Effects and Mitigation Proposed by the Proponent and Advice from Federal and Provincial Experts</p> | <p>Relevant Legislative Mechanisms</p> |
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| <p>A change to migratory birds, as defined in subsection 2(1) of the <i>Migratory Birds Convention Act, 1994</i></p> | <p>Proponent</p> <p>The proponent anticipates the Project has the potential to affect wildlife (including migratory birds) due to revisions in the reclamation sequencing, alterations to the Phase I footprint and potential subsidence from underground mines.</p> <p>The proponent will use the existing mitigation and monitoring plans developed for Phase I. Mitigation proposed includes a progressive reclamation plan intended to minimize the project footprint, expedite revegetation and promote the development of habitats required by wildlife.</p> <p>Federal Authorities</p> <p>ECCC indicated that there is insufficient information to fully understand the potential effects of the Project on migratory birds. ECCC has identified potential adverse environmental effects to migratory birds, including species at risk whose ranges overlap with the Project area (two species listed as threatened and four species listed as special concern). Effects from the Project on migratory birds may result from effects to: key habitat, including breeding (nesting) habitat, health or mortality through exposure to deleterious substances, air emissions, or collisions, changes in movement through sensory disturbance of physical blockage, local and regional populations through combined effects of the Project on habitat, mortality, movement and health, traditional use of wildlife species by Indigenous peoples.</p> <p>Indigenous groups' and Requester Concerns</p> <p>Indigenous groups' and requesters' concerns included inadequate assessment of Project effects on migratory birds, impacts of noise, changes to wildlife habitat and behaviour, impacts to wetland habitat, increases in</p> | <p>Compliance with the <i>Migratory Birds Convention Act, 1994</i> is required.</p> <p>Compliance with the <i>Species at Risk Act</i> is required.</p> |



| Adverse Effect or Public Concern in Relation to Subsection 9(1) of the <i>Impact Assessment Act</i> | Effects and Mitigation Proposed by the Proponent and Advice from Federal and Provincial Experts | Relevant Legislative Mechanisms |
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| | toxicity to air, soil and water and resulting effects to wildlife. | |
| A change to the environment that would occur on federal lands. | <p>Proponent</p> <p>The proponent did not provide information on potential effects of the Project that would occur on federal lands.</p> <p>The nearest federal land, Jasper National Park, is approximately 35 kilometres from the Project and the nearest reserve lands are Alexis Nakota Sioux Nation Alexis Cardinal River #234, located approximately 73 kilometres southwest of the Project and Alexis Elk River Reserve #233, and located approximately 76 kilometres south of the Project.</p> <p>The Louise Bull Tribe’s reserve lands are located approximately 300 kilometres from the Project.</p> | <p>A determination under section 82 of IAA would be required for projects on federal lands but is not applicable to the Project.</p> <p>Compliance with the <i>Species at Risk Act</i> is required.</p> |
| A change to the environment that would occur in a province other than the one in which the project is being carried out or outside Canada. | <p>The Project is approximately 85 kilometres from the British Columbia border.</p> <p>Specific information regarding potential effects of the Project to the environment in a province other than the one in which the project is being carried out or outside of Canada was not available to the Agency at the time of this analysis.</p> <p>Proponent</p> <p>Information available from the proponent did not include potential changes to the environment that would occur in another province or country associated with the Project.</p> | <p>The Project would be subject to federal greenhouse gas emissions reporting, pursuant to the <i>Canadian Environmental Protection Act, 1999</i>, if it emits 10 kilotonnes or more of greenhouse gas (GHG) emissions, in carbon dioxide equivalent units per year.</p> <p>Canada has announced the launch of a strategic assessment to provide guidance on how future new thermal coalmine projects will be assessed under the <i>Impact Assessment Act</i> on December 20, 2019¹².</p> |

¹² <https://www.canada.ca/en/environment-climate-change/news/2019/12/canada-launches-strategic-assessment-of-thermal-coal-mining.html>

| Adverse Effect or Public Concern in Relation to Subsection 9(1) of the <i>Impact Assessment Act</i> | Effects and Mitigation Proposed by the Proponent and Advice from Federal and Provincial Experts | Relevant Legislative Mechanisms |
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| | <p>Federal Authorities</p> <p>ECCC indicated that Project operations may increase emissions of nitrogen dioxide, particulate matter, dust, other Criteria Air Contaminants and GHGs such as fugitive methane, which is associated with underground mining.</p> <p>Indigenous groups' and Requester Concerns</p> <p>Concerns were raised regarding climate change impacts and the impact of the Project on GHG emissions at the project site and during downstream use. Louis Bull Tribe indicated that climate change associated with increased GHG emissions have impacted Indigenous peoples.</p> | <p>Additionally, Canada has prepared a Strategic Assessment of Climate Change that will apply to projects assessed under the <i>Impact Assessment Act</i>¹³.</p> |
| <p>With respect to the Indigenous peoples of Canada, an impact - occurring in Canada and resulting from any change to the environment - on physical and cultural heritage.</p> | <p>See also section on: change to the environment - on any structure, site, or thing that is of historical, archaeological, paleontological or architectural significance.</p> <p>Proponent</p> <p>The provincial Terms of Reference for the Phase I Environmental Impact Assessment (EIA) approved in 2014 required the proponent to assess historical resources, identify impacts on Indigenous land use, describe and discuss traditional land use areas, incorporate Traditional Ecological Knowledge and Traditional Land Use information and determine impacts on traditional, medicinal and cultural purposes and identify possible mitigation strategies. The baseline studies completed as part of the Phase I cover the proposed footprint for the Project.</p> | <p>The Alberta Energy Regulator is reviewing the Statements of Concerns received on the VUM to determine whether the application will require a public hearing. The Alberta Energy Regulator has a responsibility to consider the potential adverse impacts of energy resource applications on the existing rights of Indigenous peoples as recognized and affirmed under Part II of the <i>Constitution Act, 1982</i> within its statutory authority under the <i>Responsible Energy Development Act</i>.</p> |

¹³ Government of Canada. 2018. Draft Strategic Assessment of Climate Change. Environment and Climate Change Canada, Ottawa. 25 pp.
https://www.canada.ca/content/dam/eccc/documents/pdf/sacc/Draft_Strategic_Assessment_of_Climate_Change.pdf



| <p>Adverse Effect or Public Concern in Relation to Subsection 9(1) of the <i>Impact Assessment Act</i></p> | <p>Effects and Mitigation Proposed by the Proponent and Advice from Federal and Provincial Experts</p> | <p>Relevant Legislative Mechanisms</p> |
|---|---|---|
| | <p>The proponent indicated that Traditional Land Use Knowledge and Traditional Ecological Knowledge collected for the Phase I EIA covers the footprint for the Project.</p> <p>The Alberta Aboriginal Consultation Office has stated that consultation is not required for the Project. The proponent has stated that Indigenous communities will be informed of the proposed Project changes.</p> <p>Federal Authorities</p> <p>The Agency, ECCC and DFO are of the view that changes to the environment, such as change to fish and fish habitat and to migratory bird habitat, may affect the use of the physical environment by Indigenous peoples.</p> <p>Indigenous Groups' and Requester Concerns</p> <p>Indigenous groups' concerns identified include: potential impacts on Aboriginal and Treaty rights, the ability to carry out a traditional way of life on the land in this area (such as harvesting), the increased impact on the environment, the cumulative effect of the Project in combination with Phase I, Phase II and other anthropogenic disturbances in the region and the potential adverse effects on their physical and cultural heritage and the intergenerational knowledge transfer and cultural learning will be disrupted.</p> | |
| <p>With respect to the Indigenous peoples of Canada, an impact - occurring in Canada and resulting from any change to the environment - on current use of lands and resources for traditional purposes.</p> | <p>Proponent</p> <p>The proponent indicated that Traditional Land Use Knowledge and Traditional Ecological Knowledge collected for the Phase I EIA covers the footprint for the Project.</p> <p>The Alberta Aboriginal Consultation Office has stated that consultation is not required for the Project. The proponent has stated that</p> | <p>At the time of this analysis, the Alberta Energy Regulator is reviewing the Statements of Concerns received on the VUM to determine whether the application will require a public hearing. The Alberta Energy Regulator has a responsibility to consider the potential adverse impacts of energy</p> |

| Adverse Effect or Public Concern in Relation to Subsection 9(1) of the <i>Impact Assessment Act</i> | Effects and Mitigation Proposed by the Proponent and Advice from Federal and Provincial Experts | Relevant Legislative Mechanisms |
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| | <p>Indigenous communities will be informed of the proposed Project changes.</p> <p>Federal Authorities</p> <p>ECCC stated there is insufficient information to properly understand the potential effects of the Project and that there may be adverse environmental effects to migratory birds, federally-listed species at risk whose ranges overlap with the Project area, including migratory birds, and traditional use of wildlife species by Indigenous peoples.</p> <p>Health Canada indicated that there may be potential for contamination of country foods (e.g., coal dust contamination, methylmercury in fish) and that information on receptors and on what country foods may be consumed or affected by the Project would be needed to assess effects.</p> <p>DFO indicated the Project may have potential adverse effects on fish and fish habitat, including species at risk. The Agency is of the view these effects could result in effects on current use of lands and resources for traditional purposes.</p> <p>Indigenous Groups' and Requester Concerns</p> <p>Indigenous groups' concerns identified include: loss of lands for traditional and current use, effects to wildlife and health from contaminant release (air, soil, and water) from coal mining, waste management practices, effects of climate change as relating to the current use of lands and resources for traditional purposes, changes to wildlife habitat and behaviour, effects to gathering, fishing, and hunting opportunities and the Alberta Government's lack of Indigenous consultation.</p> | <p>resource applications on the existing rights of Indigenous peoples as recognized and affirmed under Part II of the <i>Constitution Act, 1982</i> within its statutory authority under the <i>Responsible Energy Development Act</i>.</p> <p>Authorization under <i>Fisheries Act</i> may be required if the project is likely to cause the harmful alteration, disruption, or destruction to fish habitat or is likely to result in the death of fish.</p> <p>Deposit of deleterious substances into waters frequented by fish, unless authorized by regulations or other federal legislation, is prohibited under the <i>Fisheries Act</i>.</p> <p>DFO reviews Applications for Authorizations including fish and fish habitat assessments, detailed information on impacts and the proposed plans to offset losses, conduct consultation with potentially affected Indigenous groups in relation to the Application and issue an authorization if deemed appropriate. DFO must be satisfied that the activities will not jeopardize the survival or recovery of aquatic species at risk prior to issuing a <i>Species at Risk Act</i> permit and <i>Fisheries Act</i> authorization, among other required considerations.</p> |

| Adverse Effect or Public Concern in Relation to Subsection 9(1) of the <i>Impact Assessment Act</i> | Effects and Mitigation Proposed by the Proponent and Advice from Federal and Provincial Experts | Relevant Legislative Mechanisms |
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| | <p>Louis Bull Tribe raised concerns regarding speculative mitigation measures to address the numerous potential adverse effects identified including reclamation.</p> <p>Stoney Nakoda Nations and Louis Bull Tribe raised concern regarding the taking-up of crown land within their traditional territory.</p> | |
| <p>With respect to the Indigenous peoples of Canada, an impact - occurring in Canada and resulting from any change to the environment - on any structure, site, or thing that is of historical, archaeological, paleontological or architectural significance.</p> | <p>See also section on: change to the environment - on current use of lands and resources for traditional purposes.</p> <p>Proponent The provincial Terms of Reference for the Phase I Environmental Impact Assessment (EIA) approved in 2014 required the proponent to assess historical resources, identify impacts on Indigenous land use, describe and discuss traditional land use areas, incorporate Traditional Ecological Knowledge and Traditional Land Use information and determine impacts on traditional, medicinal and cultural purposes and identify possible mitigation strategies. The baseline studies completed as part of the Phase I cover the proposed footprint for the Project.</p> <p>The proponent indicated that Traditional Land Use Knowledge and Traditional Ecological Knowledge collected for the Phase I EIA covers the footprint for the Project.</p> <p>Phase I was subject to a provincial Historical Resources Impact Assessment in 2011. The assessment recorded 38 Precontact and Historic Period archaeological sites in the Phase I Project area, six in areas of possible mine expansion area and one outside the development zone. The proponent does not anticipate impacts to historical resources as a result of the proposed Project. As part of the Historical Resources Impact Assessment approval received for Phase I, the proponent</p> | <p>At the time of this analysis, the Alberta Energy Regulator is reviewing the Statements of Concerns received on the VUM to determine whether the application will require a public hearing. The Alberta Energy Regulator has a responsibility to consider the potential adverse impacts of energy resource applications on the existing rights of Indigenous peoples as recognized and affirmed under Part II of the <i>Constitution Act, 1982</i> within its statutory authority under the <i>Responsible Energy Development Act</i>.</p> |

| Adverse Effect or Public Concern in Relation to Subsection 9(1) of the <i>Impact Assessment Act</i> | Effects and Mitigation Proposed by the Proponent and Advice from Federal and Provincial Experts | Relevant Legislative Mechanisms |
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| | <p>will continue to conduct an annual paleontological monitoring program.</p> <p>Indigenous Groups' and Requester Concerns</p> <p>Indigenous groups identified the Project's potential adverse effects from any change to the environment on any structure, site or thing that is of historical, archaeological, paleontological or architectural significance.</p> <p>They raised concerns that the proponent relies on speculative mitigation measures to address the numerous potential adverse effects identified, including reclamation.</p> | |
| <p>Any change occurring in Canada to the health, social or economic conditions of the Indigenous peoples of Canada.</p> | <p>Proponent</p> <p>Information indicating Project effects on any change occurring in Canada to the health, social or economic conditions of the Indigenous peoples of Canada was not included.</p> <p>The proponent indicated that they do not anticipate any additional adverse effects to Indigenous peoples because the Project is located within the existing Phase I footprint.</p> <p>Federal Authorities</p> <p>ECCC indicated that the Project may increase emissions of air contaminants such as nitrogen dioxide, fine particulate matter, dust, and other Criteria Air Contaminants. ECCC indicated that the Project may result in adverse environmental effects on water quality related to increased migration of contaminants, total suspended solids and turbidity and nitrogen levels, changes in flow of surface and/or groundwater discharge and effects of extreme weather events on seepage and runoff and corresponding management of waste and wastewater.</p> | <p>At the time of this analysis, the Alberta Energy Regulator is reviewing the Statements of Concerns received on the VUM to determine whether the application will require a public hearing. The Alberta Energy Regulator has a responsibility to consider the potential adverse impacts of energy resource applications on the existing rights of Indigenous peoples as recognized and affirmed under Part II of the <i>Constitution Act, 1982</i> within its statutory authority under the <i>Responsible Energy Development Act</i>.</p> <p>Deposit of deleterious substances into waters frequented by fish, unless authorized by regulations or other federal legislation, is prohibited under the <i>Fisheries Act</i>.</p> |



| Adverse Effect or Public Concern in Relation to Subsection 9(1) of the <i>Impact Assessment Act</i> | Effects and Mitigation Proposed by the Proponent and Advice from Federal and Provincial Experts | Relevant Legislative Mechanisms |
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| | <p>Health Canada indicated that potentially affected receptors were not identified and information on what country foods may be consumed or affected by the Project was not provided.</p> <p>Indigenous Groups' and Requester Concerns</p> <p>Indigenous groups' concerns identified include: the potential for spills and contamination into the surrounding area, including the river, from mining activities and possible resulting effects on the health of Indigenous people, the reduction in access and ability to obtain and use traditional or country foods from the traditional lands will have economic, social and health impacts, and the disruption of intergenerational knowledge transfer and cultural learning, contributing to longer-term cultural impacts to Indigenous culture.</p> | |
| Adverse direct or incidental effects. | <p>Authorizations pursuant to the <i>Fisheries Act</i> and the <i>Species at Risk Act</i> issued by DFO, as required.</p> <p>Natural Resources Canada has issued an amendment to a Phase I factory licence for the relocation of the explosives facilities.</p> <p>Transport Canada does not anticipate exercising any power, duty, or function related to the Project.</p> <p>ECCC does not expect to exercise a power or perform a duty or function related to the Project. However, depending on the scope of the Project, ECCC may need to issue permits related to the <i>Migratory Birds Convention Act, 1994</i> and the <i>Species at Risk Act</i>.</p> | <p>The <i>Fisheries Act</i> applies.</p> <p>The <i>Species at Risk Act</i> applies.</p> |
| Effects on species at risk and their habitats. | See also sections on: fish and fish habitat, migratory birds. | A <i>Species at Risk Act</i> authorization is required if there are impacts to an aquatic |



| Adverse Effect or Public Concern in Relation to Subsection 9(1) of the <i>Impact Assessment Act</i> | Effects and Mitigation Proposed by the Proponent and Advice from Federal and Provincial Experts | Relevant Legislative Mechanisms |
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| | <p>Proponent</p> <p>The proponent does not anticipate impacts to endangered or threatened wildlife species or their habitats. The proponent will submit a Wildlife Mitigation and Monitoring plan as required for their <i>Environmental Protection and Enhancement Act</i> approval that will provide details on monitoring the success of reclamation. There are no proposed changes to Coalspur's current wildlife monitoring plan.</p> <p>Federal Authorities</p> <p>ECCC identified the potential for adverse environmental effects to species at risk. ECCC indicated that the information is insufficient to understand the potential effects of the Project on species at risk that exist at and near the Project location. For example, ECCC notes that there is inadequate information provided regarding surveys and mitigation for Little Brown Myotis, an endangered species commonly found in the Project area.</p> <p>ECCC identified fifteen species at risk including migratory birds, whose ranges overlap with the Project area.</p> <p>Effects from the Project on species at risk, including species listed under Schedule 1 of the <i>Species at Risk Act</i> and by the Committee on the Status of Endangered Wildlife in Canada listed species, may result from effects to: key habitat and critical habitat for species at risk, health or mortality through exposure to deleterious substances, air emissions, or collisions, habitat due to sensory disturbance (e.g., blasting), local and regional populations through combined effects of the Project on habitat, mortality,</p> | <p>species at risk, any part of their critical habitat or the residences of their individuals.</p> <p>Authorization under the <i>Migratory Birds Convention Act, 1994</i> may be required if the project is likely to disturb migratory birds, their nests and eggs. The <i>Migratory Birds Convention Act, 1994</i> prohibits the dumping of substances harmful to birds in waters or areas frequented by them.</p> |



| Adverse Effect or Public Concern in Relation to Subsection 9(1) of the <i>Impact Assessment Act</i> | Effects and Mitigation Proposed by the Proponent and Advice from Federal and Provincial Experts | Relevant Legislative Mechanisms |
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| | <p>movement and health traditional use of wildlife species by Indigenous people.</p> <p>Indigenous Groups' and Requester Concerns</p> <p>Indigenous concerns included fragmentation of woodland caribou habitat, changes to wildlife habitat and behaviour and increases in toxicity to air, soil and water and resulting effects to wildlife.</p> | |



ANNEX II

Annex II: Potential Federal and Provincial Authorizations Relevant to the Project

| Authorization | Description |
|---|--|
| <i>Species at Risk Act</i> | Authorization may be required if there are impacts to a species at risk, any part of their critical habitat or the residences of their individuals in a manner which is prohibited under sections 32, 33 and subsection 58(1) of the <i>Species at Risk Act</i> . Prior to authorization, the Competent Minister under this Act must be satisfied that the activities will not jeopardize survival or recovery of the species at risk. |
| <i>Fisheries Act</i> | <p>Authorization under paragraph 35(2)(b) of the <i>Fisheries Act</i> is required when any activity that is not fishing results in the death of fish. Authorization under paragraph 34.4(2)(b) of the <i>Fisheries Act</i> is required when any activity that is not fishing results in the harmful alteration, disruption, or destruction to fish habitat. Prior to issuing such authorizations, consultations with potentially impacted Indigenous groups would be undertaken and potential accommodation for adverse impacts could be considered as appropriate.</p> <p>The <i>Fisheries Act</i> prohibits the deposit of deleterious substances into waters frequented by fish, unless authorized by regulations or other federal legislation.</p> |
| <i>Migratory Birds Convention Act, 1994</i> | A permit is required for all activities affecting migratory birds, with some exceptions detailed in the Regulations. The <i>Migratory Birds Convention Act, 1994</i> prohibits killing, harming, or collecting adults, young and eggs of migratory birds and screens and provides regulatory responses for effects to migratory birds. |
| Factory and Magazine Licences under Section 7(1) of the <i>Explosives Act</i> | Natural Resources Canada issued a Factory Licence under 7(1) of the <i>Explosives Act</i> on August 31, 2018, for the operation of a bulk |



| Authorization | Description |
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| | <p>explosives plant at the Phase I site. Natural Resources Canada consulted with four Indigenous groups prior to the issuance of the Factory Licence.</p> <p>Natural Resources Canada granted an amendment to the Factory Licence in April 2020, to allow the relocation of the emulsion plant. Natural Resources Canada does not expect any further modifications to explosives licences under the <i>Explosives Act</i> for the Project.</p> |
| <i>Canadian Environmental Protection Act, 1999</i> | May require greenhouse gas emissions reporting, if 10 kilotonnes or more of greenhouse gas emissions are emitted in carbon dioxide equivalent units per year. |
| <i>Environmental Protection and Enhancement Act (EPEA)</i> | <p>EPEA supports and promotes the protection, enhancement and wise use of the environment. The Alberta Energy Regulator reviews applications under EPEA to assess the potential environmental impacts of a proposed project</p> <p>The proponent has submitted two applications for amendments to the Phase I EPEA approvals. The Alberta Energy Regulator is reviewing these applications.</p> |
| <i>Coal Conservation Act</i> | To regulate the exploration of coal, the site development for coal extraction and the commercial operation of a coal extraction site. |
| <i>Water Act</i> | Provincial legislation that supports and promotes the conservation and management of water in Alberta. |