



# Office of Chief and Council Government of Siksika Nation

March 2, 2021

**Via email**

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**Attn: The Honourable Jonathan Wilkinson**  
Minister of Environment and Climate Change  
Environment and Climate Change Canada: Pacific and Yukon  
Office  
401 Burrard Street, Vancouver, BC V6C 3R2

**Re: Request for federal review of Montem Resource's Tent Mountain Project**

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On behalf of Siksika Nation, I write to request that the Minister designate Montem Resources' Tent Mountain Project ("Tent Mountain" or the "Project") for an impact assessment under section 9(1) of the *Impact Assessment Act*, SC 2019, c 28, s 1 (the "**Act**").

The Eastern Slopes of the Rocky Mountain have long been an area critical to the practice of Siksika rights, including harvesting, trade and spiritual practices. The traditional practices conducted on the land and waters are integral to Siksika's physical and cultural wellbeing.

The cumulative impact of various activities including agricultural development, the development and expansion of municipalities, the transfer of lands to private landholders, conservation areas, tourism and recreation, and mining and other industrial activities have resulted in much of Siksika's traditional territory being taken up by activities that are inconsistent with the practice of Siksika's Treaty rights and culture.

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Siksika is becoming increasingly concerned with the level of proposed development, and particularly coal development, in and around the Eastern Slopes.

Siksika submits that Tent Mountain should be designated for federal review because the project:

- has a capacity near a threshold set out in the Project list – Tent Mountain is designed to release 4,925 raw tonnes per day, which is exceptionally close to the 5,000 tonnes per day threshold set out in s. 18(a) of the Physical Activities Regulations, SOR/2019-285;
- is located in an environmentally sensitive area - notably, it is located in the Livingstone Hills Land Management Zone protected by the Livingstone-Porcupine Hills Footprint Land Management Zone, which is part of the internationally significant “Crown of the Continent Ecosystem” an ecologically significant area that comprises the headwaters of North America’s three great watersheds;
- may contribute to pollution of drinking water for Siksika’s on-reserve population as well as Alberta’s general population;
- may adversely impact areas of federal jurisdiction including: Indigenous peoples, federal reserve lands, transboundary waters, and fish and fish habitat.
- may significantly and adversely affect Siksika’s ability to practice Aboriginal and Treaty rights; and
- will contribute to the cumulative impacts of coal and other development on both the BC and Alberta sides of the provincial border.

In addition, Siksika submits the proposed provincial review by the Alberta Energy Regulator is insufficient to appropriately identify the impacts to areas of federal jurisdiction, including on Siksika’s rights.

Details of the above concerns are set out below.

## The Project

Tent Mountain is a coal mine proposed by Montem Resources Alberta Operation Ltd., a subsidiary of the Australian company Montem Resources Limited. If approved, the 750 ha Tent Mountain project area will be located 26 km west of Coleman, Alberta, within the municipality of Crowsnest Pass. The Project will include a 14-year open-pit mining program at the site, a new coal handling and processing plant adjacent to mine operations, and a loading facility located primarily in BC. This site previously hosted an operating mine from 1948 to 1983, and as such, already has an applicable mine permit (C85-16G) and an Environmental Protection and Enhancement Act approval (No. 47679).

Due to these existing permits and an environmental assessment that occurred sometime in the 1970s, we understand that Montem Resources initially expected to commence project operations without an additional environmental assessment. However, on January 8, 2021, the Alberta Energy Regulator determined that given the substantial changes to the previously authorized activity that would be required, a new provincial Environmental Impact Assessment would be necessary.

### **Tent Mountain requires a federal review**

Following the guidance set out by the Impact Assessment Agency of Canada (the “**Agency**”) we provide the following information in support of the request to designate Tent Mountain for federal review.

***a. The project capacity is exceptionally close to the threshold for federal review***

Section 18(a) of the Physical Activities Regulations, SOR/2019-285 sets out that any coal mine with a coal production of 5,000 tonnes per day or more is subject to a federal review. Tent Mountain is designed to release 4,925 raw tonnes per day. Therefore, the Tent Mountain project is only 75 tonnes per day below the threshold.

By skirting just below the thresholds for federal designation, Tent Mountain is just narrowly avoiding a federal impact assessment.

Taken together with the other proposed projects in the area, most notably North Coal's Michel Coal Project proposed directly adjacent to Tent Mountain on the BC side, the coal production capacity in this area, and the related environmental impacts, are slated to increase significantly. The proximity to the threshold and the significant coal development in the area gives rise to the need for a federal review.

***b. The project is in an environmentally or otherwise sensitive location***

The Project is located within areas identified as environmentally significant and of significant importance to Indigenous peoples and Albertans.

The Project is located within the area managed by the Livingstone-Porcupine Hills Land Footprint Management Plan (the "Livingstone-Porcupine Hills Plan" or the "Plan") - a sub-regional plan (under the South Saskatchewan Regional Plan) that provides direction for the long-term cumulative effects of development or other activities on public lands in the area.<sup>1</sup> The Livingstone-Porcupine Hills Plan:

outlines a system to minimize the extent, duration and rate of cumulative footprint to achieve landscapes with health, functioning ecosystems that provide a range of benefits to communities and all Albertans.<sup>2</sup>

The Plan recognizes the impacts of the use of the area for forestry, mining, grazing, tourism, and recreational activities and identifies how these "uses transform the landscape from its natural condition and contributes to the overall disturbance and human footprint".<sup>3</sup> To manage the area, which includes the eastern slopes of the Rocky

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<sup>1</sup> Government of Alberta, "Livingstone-Porcupine Hills Land Footprint Management Plan" (2018), [Livingstone-Porcupine Hills Plan]; Note: Specifically, Tent Mountain is located within the Livingstone Public Land Use Zone.

<sup>2</sup> Livingstone-Porcupine Hills Plan, p 3.

<sup>3</sup> Livingstone-Porcupine Hills Plan, p 3.

Mountains, the Government of Alberta, in the South Saskatchewan Regional Plan, set out a management intent which states:

The management intent for public land in the Eastern Slopes is for integrated management that incorporates the objectives for biodiversity and healthy, functioning ecosystems, to achieve multiple objectives. Watershed management and headwaters protection is the highest priority. Forests will be managed with this as the highest priority (including water storage, recharge and release functions) ... Other values such as biodiversity, forest ecosystem resiliency (natural disturbance patterns) and timber supply will be key secondary management priorities [citations omitted].<sup>4</sup>

This complex landscape is “an integral part of the internationally significant Crown of the Continent Ecosystem” an ecologically important area that “comprises the headwaters of North America’s three great watersheds (the Saskatchewan, Missouri and Columbia River systems) and is recognized as critical to the protection of wildlife, landscapes and water”.<sup>5</sup>

In addition to recognizing the important ecological areas and environmental features of the area, the Livingstone-Porcupine Hills Plan also notes that the area includes the “hunting and gathering, and ceremonial places that lie within traditional territories of multiple First Nations” and notes that the “Livingstone and Porcupine Hills area provided sustenance, materials, medicines, and sacred places for First Nations since time immemorial and is expected to continue to do so for generations yet to come”.<sup>6</sup> Further strengthening the potential impact to Aboriginal and Treaty rights by development in the area, the Plan identifies the intimate connection amongst Indigenous peoples and the

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<sup>4</sup> Livingstone-Porcupine Hills Plan, p 4.

<sup>5</sup> Livingstone-Porcupine Hills Plan, p 5.

<sup>6</sup> Livingstone-Porcupine Hills Plan, p 25.

land and the risk for continued use due to “climate change, industrial development, and unmanaged recreational use”.<sup>7</sup>

The Livingstone-Porcupine Hills Plan is intended to be “consistent with First Nations ability to continually exercise their Treaty rights and to acknowledge and maintains the relationship that Indigenous Peoples have with the land and the importance of their activities on the land”.<sup>8</sup> Projects like Tent Mountain make this objective very difficult to achieve.

The Project Summary also notes that the Project area is at the headwaters of a drainage area that feeds the Crowsnest River and is part of the Oldman River Basin. The Proponent concedes that “[t]here are significant water quantity concerns in the Oldman River Basin for the use of water for industrial purposes” continuing that “[t]here are only limited amounts of groundwater available as the Project area is at higher elevations”.<sup>9</sup>

Issues with selenium and other metals associated with runoff water from mine operations elevate this concern.<sup>10</sup> The Proponent states that these water quality concerns may be mitigated, and even improved, by a modern water management regime that meets or exceeds the licensed requirements but this remains to be seen. Siksika’s experience is that modern water management regimes for coal projects have not been effective in improving water quality in the region. Water quality is of particular concern for Siksika.

The Project Summary also provides that the Project is located in management zones for Grizzly bear, Bighorn sheep, Mountain goat, Limba pine, and Whitebark pine. The

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<sup>7</sup> Livingstone-Porcupine Hills Plan, p 25.

<sup>8</sup> Livingstone-Porcupine Hills Plan, p 25.

<sup>9</sup> Project Summary, p 14, PDF p 16.

<sup>10</sup> Note: Recognition of the water issues associated with coal mining have been noted in recent news articles: Croteau, Jill. Environmental groups warn Alberta about Elk Valley coal mine contamination, *Global News* (2 February 2021), online: <<https://globalnews.ca/news/7611152/environmental-groups-alberta-elk-valley-coal-contamination/>>.

Grizzly bear is a species of special concern listed under Part 4 of the *Species at Risk Act* and Whitebark pine is listed as an Endangered Species under Part 2 of the *Species at Risk Act*.

These environmental impacts will also adversely affect Siksika's ability to exercise their Treaty rights and related cultural practices. For instance, Bighorn sheep are a species of cultural importance to Siksika. Impacts to the Bighorn sheep wintering range will likely have corresponding impacts on Siksika's ability to practice its treaty rights in relation to bighorn sheep. It is critical that these impacts be adequately considered and assessed.

***c. The project has the potential to cause adverse effects that are of concern to Siksika and fall within federal jurisdiction***

Tent Mountain may cause adverse effects to a number of resources that fall within the jurisdiction of the federal government, including fish and fish habitat, migratory birds, changes to the environment outside of Alberta, and importantly, adverse impacts on Siksika's Aboriginal and Treaty rights.

As Tent Mountain is in the early stages of exploration and environmental assessments have not yet been completed to determine the specific impact of this mine on the environment, we ask that you consider the precautionary principle noted as Principle 4 in the Sustainability Guide<sup>11</sup> and mandated in s. 6(1)(l) of the Act.

***i. The project has the potential to cause adverse impacts on Siksika section 35 rights***

Section 9(2) of the Act explicitly lists adverse impacts on the rights of Indigenous peoples as something that the Minister may consider when making a designation decision. Tent Mountain has the potential to cause adverse impacts to Siksika's ability to exercise their Aboriginal and Treaty rights.

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<sup>11</sup> Cite: <https://www.canada.ca/en/impact-assessment-agency/services/policy-guidance/practitioners-guide-impact-assessment-act/guidance.html>

Siksika are members of the Blackfoot Confederacy and made treaty with the British Crown in 1877 under the Blackfoot Treaty, also referred to as Treaty 7. Tent Mountain is within the traditional territory of Siksika.<sup>12</sup> The area in and around Tent Mountain was used extensively by Siksika for travel, trade, harvesting, and ceremonial purposes, and continues to be an area of importance for the exercise of Treaty rights and related cultural practices.<sup>13</sup>

The taking up of lands within Blackfoot traditional territory for coal mining, urban development, farming, and the loss of available crown land to oil and gas extraction and forestry has increased the importance of the foothills and front ranges of the Rocky Mountains for Siksika. The few remaining landscapes within Blackfoot territory where Siksika can still hunt, gather, trap, fish and camp include the Crowsnest Pass and Elk River valleys, which are at risk of destruction from large-scale coal projects like Tent Mountain.<sup>14</sup> Siksika continues to hunt for elk, mule deer, bighorn sheep, moose and occasionally bear in the foothills and front slopes of the Rocky Mountains.<sup>15</sup>

The adverse effects to wildlife habitat, migratory birds, and fish and fish habitat outlined above will further impede Siksika's ability to carry out their hunting and fishing rights.

In addition to hunting, the Crowsnest Pass and East Kootenays are currently used by Blackfoot people to harvest a variety of food and medicinal plants.<sup>16</sup> Blackfoot people continue to travel through the Crowsnest Pass, Sparwood, and Fernie areas to pick a variety of plants for food and medicinal purposes including roots, stems, leaves, and berries. Gathering plants for food, for medicines, and to use as fuel or for building materials brings Blackfoot people in touch with sacred sites.<sup>17</sup>

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<sup>12</sup> Dermot O'Connor, *Review of the Literature on Blackfoot Use and Occupancy of the Crowsnest Pass & East Kootenays*, Oak Road Concepts, (May 2020), p 2 [Oak Road Report].

<sup>13</sup> Oak Road Report, p 3.

<sup>14</sup> Please see enclosed cumulative impacts report produced by IEG for the Grassy Mountain Project, which identifies the diminishing lands available for Aboriginal and Treaty rights practice.

<sup>15</sup> Oak Road Report, p 22.

<sup>16</sup> Oak Road Report, p 23.

<sup>17</sup> Oak Road Report, p 23.



Tent Mountain may also interfere with Siksika's ability to carry out important religious, legal, and cultural practices.<sup>18</sup> Blackfoot spiritual leaders and harvesters continue to use Crowsnest Pass, Elk Valley and upper Old Man River valley to obtain materials for sacred materials such as ochre paint, pipestone, and rare plant species. Special locations for collection of these materials are still visited regularly by Blackfoot people, emphasizing the continued connection of these places to Blackfoot culture, spirituality, and material culture.<sup>19</sup> Seasonal pilgrimages and gathering expeditions to sacred sites in these areas demonstrate the ongoing centrality of the Crowsnest Pass in Blackfoot culture, spirituality, and traditional knowledge. Cultural transmission is integral to the ability of Siksika to pass down their ways of life.

More information about the Blackfoot's historic and continued use of this area can be found in the *Review of the Literature on Blackfoot Use and Occupancy of the Crowsnest Pass & East Kootenays* by Dermot O'Connor, to be considered in support of this request.

ii. *The project may adversely affect aquatic species, fish and fish habitat*

Siksika is concerned that Tent Mountain may have effects on aquatic species. Although the Proponent has not yet provided sufficient information to determine the extent of the impact on fish and fish habitat, similar proposed mines in the area have been determined to have detrimental effects on the high-value habitat of the Westslope Cutthroat trout, and other fish species of importance.

In BC, Teck's Fording River Operations have already had adverse effects on this species, with recent surveys showing a 93 percent decline in the Westslope Cutthroat trout population just downstream of its Fording River mine.<sup>20</sup>

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<sup>18</sup> Oak Road Report, pp 23-24.

<sup>19</sup> Oak Road Report, pp 23-24.

<sup>20</sup> Paul Fischer, "Teck proposal to expand B.C.'s largest coal mine raises alarm about pollution on both sides of border", *The Narwhal* (17 June 2020) online: <[thenarwhal.ca/teck-expand-castle-mountain-largest-coal-mine-selenium-pollution/](https://thenarwhal.ca/teck-expand-castle-mountain-largest-coal-mine-selenium-pollution/)>.

The Initial Project Description for the Fording River Extension Project, recently designated for federal review, highlighted potential effects on aquatic species as defined in subsection 2(1) of the *Species at Risk Act*, including the effects on the Westslope Cutthroat trout. Also noted in that project, recent monitoring of certain sensitive benthic invertebrate communities has shown that mine exposure results in adverse effects like reductions in the abundance of certain species (e.g. mayflies), and increased tissue selenium concentrations.<sup>21</sup>

*iii. The project will have impacts across provincial borders*

Although Tent Mountain is located along the provincial border on the Alberta side, its proximity to the BC Border means that it has the potential to cause environmental changes across the provincial border. For instance, Tent Mountain will impact the wildlife habitats of species such as bighorn sheep. Bighorn sheep habitat lies on both sides of the Rocky Mountains. Impacts to that habitat on the BC side of the border may have impacts on the viability of the species more generally.

In addition, Tent Mountain may also create interprovincial impact through the pollution of the Oldman River, which flows across Alberta into Saskatchewan.

Selenium pollution has been a major issue with coal mines in this area. Across the border in BC, the Elk Valley Water Quality Plan, established by Teck and the BC Government, monitors selenium and other pollution from the mines in an attempt to stabilize and then reduce selenium quantities in the rivers. A recent release of previously unreported Government of Alberta data found that water samples taken from 1998 through 2016 averaged six (6) times higher selenium downstream from the Cheviot Mine than in upstream samples. For Gregg River and Luscar Creek, the

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<sup>21</sup> Teck Coal Limited, "Initial Project Description: Castle Project" (March 2020), pp 60-61 <[link](#)>.

pollution was even starker with samples average nine (9) and eleven (11) times higher selenium content, respectively.<sup>22</sup>

Additionally, the US Environmental Protection Agency is currently calling for a review of Teck Coal Limited's contamination of the Kootenai watershed, which flows across Montana and Idaho. Moreover, the Tribal Councils of the Confederated Salish and Kootenai Tribes and the Kootenai Tribe of Idaho also requested that the Fording River Extension, the addition to the Fording River Operations, be designated for a federal impact assessment due to potential cross-border impacts including contamination of transboundary waters.<sup>23</sup>

Although the impacts of Tent Mountain appear to be on the Oldman River Basin, which does not flow directly into the United States, it flows across Alberta into Saskatchewan. Moreover, the Oldman River Basin is source water for drinking water systems and agriculture throughout Alberta. Environmental impacts beyond the jurisdiction where the project is taking place and affecting Indigenous people and reserve lands fall well within the federal government's jurisdiction and should be reviewed by the federal government.

In addition to cross border environmental concerns, it appears the Tent Mountain project itself spans the AB-BC provincial border. The Project Summary notes in the project description that a new coal handling and processing plant will be built "immediately adjacent to the mine operations" and a loading facility will be "located primarily within the Province of BC".<sup>24</sup>

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<sup>22</sup> Bob Weber, "Contaminant from coal mines already high in some Alberta rivers: unreported data", *Global News* (25 January 2021) online: <<https://globalnews.ca/news/7597303/alberta-rivers-coal-mines-contamination/>>.

<sup>23</sup> Letter from the Tribal Councils of the Confederated Salish and Kootenai Tribes and the Kootenai Tribe of Idaho to the Honourable Jonathan Wilkinson (12 May 2020) online (pdf): <[iaac-aeic.gc.ca/050/documents/p80702/134822E.pdf](http://iaac-aeic.gc.ca/050/documents/p80702/134822E.pdf)>.

<sup>24</sup> Montem Resources, "Resuming Activities – Tent Mountain Mine Coal Handling and Processing Plan Project Description, Project Summary Table (February 2021), p 1, PDF p 3.

**d. The Project will contribute to the already significant level of cumulative development in the area**

Given the significant level of historical, ongoing and future planned development, it is critical that the cumulative impacts of this development on both sides of the Alberta-British Columbia Border be adequately assessed. Please see Figure 2 below depicting the current total anthropogenic footprint from a cumulative effects assessment conducted for the Grassy Mountain Project in 2018.

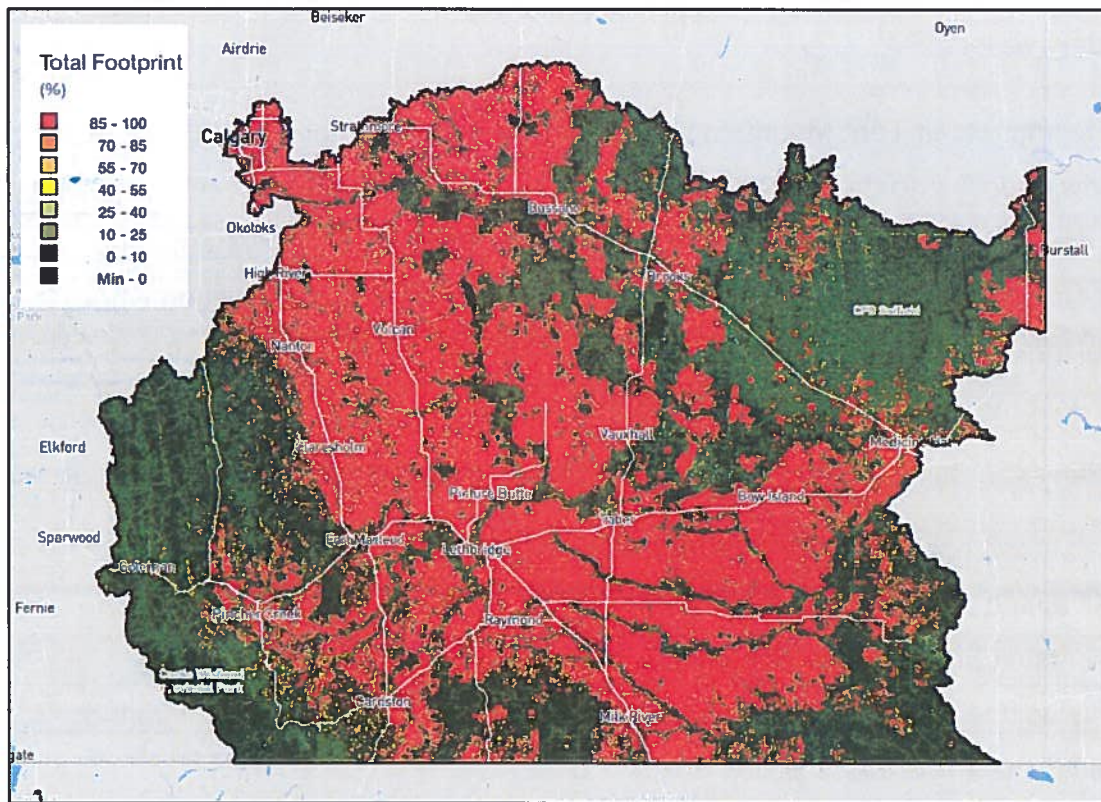


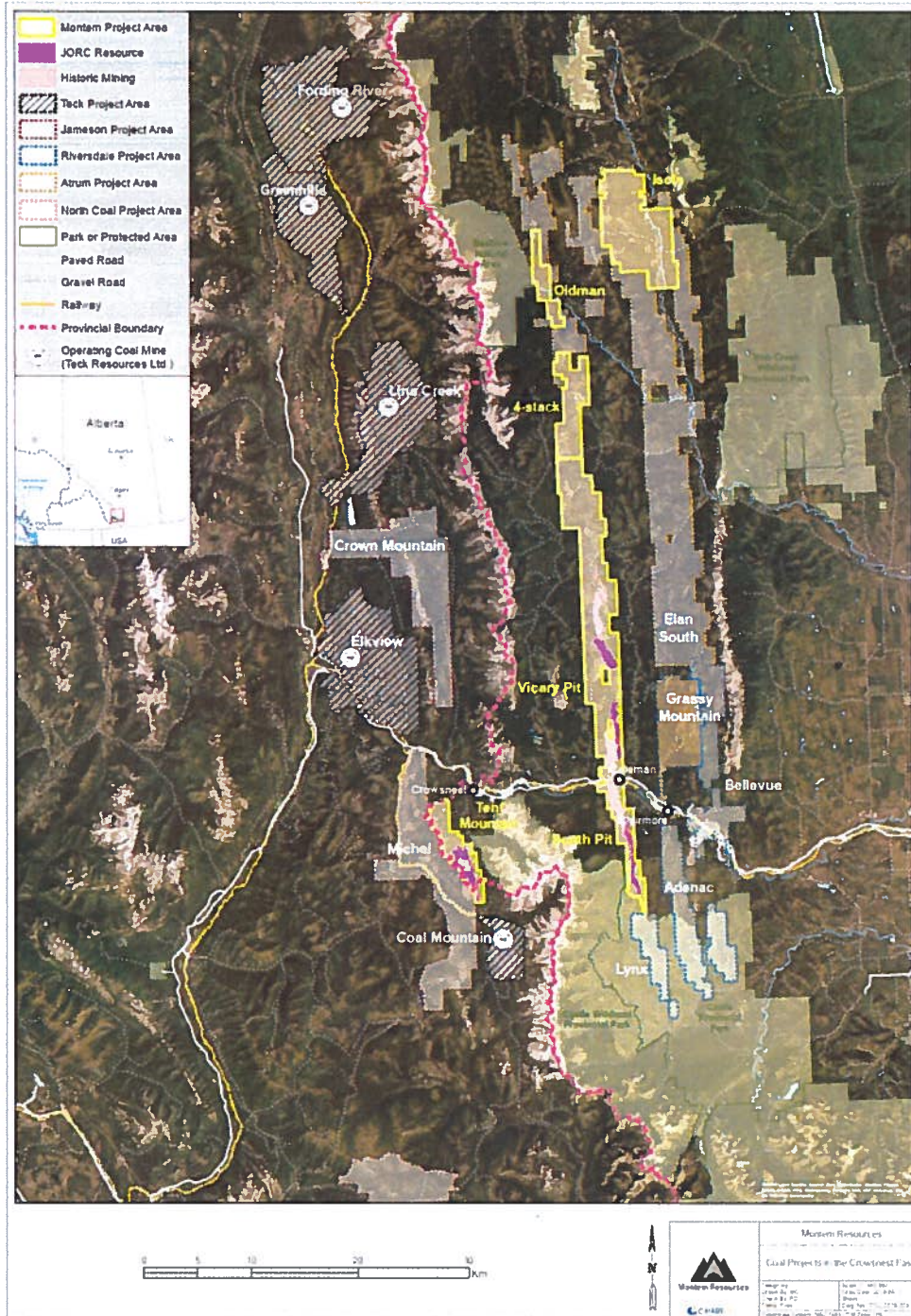
Figure 2 - Current total anthropogenic footprint in the regional study area. Red indicates high intensity footprint while green indicates low intensity footprint. The legend shows the proportion of each pixel occupied by footprint features.<sup>25</sup>

<sup>25</sup> IEG Consulting, "Cumulative effects assessment for Kainai First Nation" (9 November 2018) Figure 2, p 8, PDF p 17.

Coal has been mined in the Elk Valley since the late 1890s, with the Elk Valley coalfield being one of the major coal-producing areas in Canada. This specific site has already been mined for nearly 40 years.

Other projects planned in the vicinity of Tent Mountain include North Coal's Michel Coal Project, an expansion of Teck's Fording River Operations, Atrum's Isolation South Lease, NWP's Crown Mountain Mine, and Riversdale Resource Limited's Grassy Mountain Coal Mine. This is in addition to the already existing projects including Teck's Line Creek Mine, Greenhills Mine, Elkview Mine, and Coal Mountain Mine. As well as Montem Resource's 10,000 ha Chinook Project near Coleman, Alberta, which it is pushing to develop, and its exploration projects: Isola, 4-Stack, and Oldman located further north of Tent Mountain and Chinook.

Please see below for a regional overview of the coal projects in the area.



As noted, North Coal's Michel Coal Project is located directly adjacent to Tent Mountain on the BC side of the border. Please see the Michel Coal Project boundary outlined in green.

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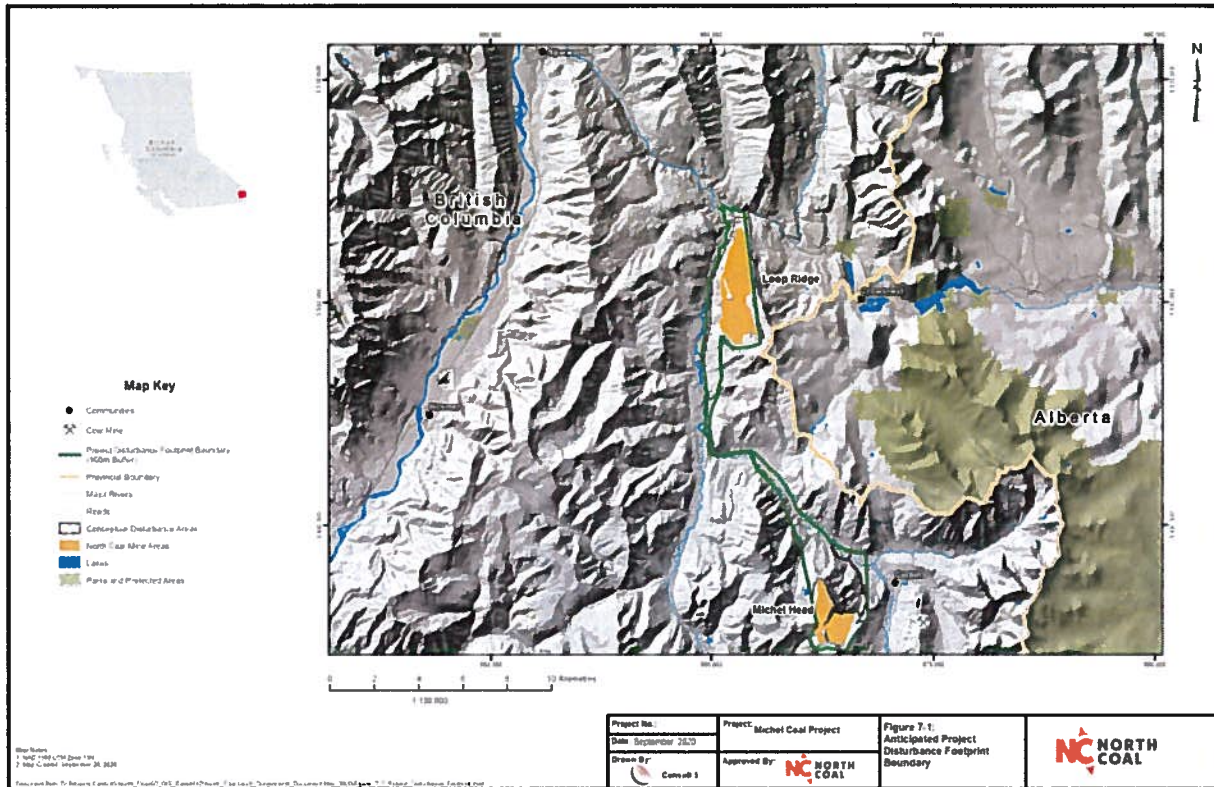


Figure 7-1: Anticipated Project Disturbance Footprint Boundary

Despite this extreme proximity, neither the Tent Mountain project Terms of Reference nor the Project summary expressly deal with the presence of the Michel Coal Project.

The cumulative impact of this activity has the potential to significantly and adversely impact the ecological integrity of the area, and Siksika’s ability to use this area for the practice of their Aboriginal and Treaty rights now and well into the future. The combination of cumulative effects from existing and potential projects and the international effects of these mining activities requires assessment by the federal government.

***e. Concern with regulatory approach***

***i. Insufficient Terms of Reference***

In addition to the concerns set out above, Siksika has significant concerns that the draft Terms of Reference document prepared by Montem is insufficient. We note several areas of concern, including:

- the lack of reference to impacts to Aboriginal or Treaty rights;
- insufficient reference to environmentally sensitive context in which the Project is located;
- insufficient discussion of transboundary impacts;
- insufficient discussion of the proximity to North Coal's Michel Coal Project; and
- insufficient weight given to specific concerns around drinking water and water quality.

Further to this designation request, we anticipate providing a supplemental report with a preliminary review of the Terms of Reference, providing further detail with respect to Siksika's concern in this regard.

***ii. Montem's view of the Project as restarting an existing mine is troubling***

It is apparent from Montem's Project Summary that they view the project as having little impact to new lands due to their plan to 'restart' a mine on previously disturbed sites. When contemplating impacts to vegetation and wetlands, Montem notes that "much of the Project area is previously disturbed lands, either by previous mining operations or by other activities in this historically active area, there is very limited areas of undisturbed vegetation".<sup>26</sup> They make the same assertion with regard to soils, finding

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<sup>26</sup> Project Summary, p 12, PDF p 14.



that “there are limited native soils present”.<sup>27</sup> They again make the same assertion with fish and other invertebrates.

Siksika takes issue with this approach. If the baseline data collected reflects a significantly disturbed mine area with no wildlife, plants, or fish that shows only the adverse impact the previous mining operation had on the environment. The baseline data should not reflect a previously disturbed mine that operated for decades, but the site before mining began. This will give an accurate picture of what the impacts of mining on the site have been, and what the impacts will continue to be if mining continues.

## **Closing**

There are strong indicators that Tent Mountain will have significant adverse effects that the Minister should consider in exercising their discretion to designate the Project under s. 9(1). Some of these effects include impacts on Siksika’s Aboriginal and Treaty rights, environmental impacts that cross provincial borders, harmful cumulative effects from multiple projects in the area (including the directly adjacent Michel Coal Project), and adverse effects on fish and fish habitat, adverse effects on species of special importance, and environmentally sensitive conservation lands.

In addition to the concerns raised above, there are significant concerns related to the significant coal development in the area. This includes several operating coal mines in BC, a series of proposed coal mines in BC, and a push for mining on the eastern slopes of the Rocky Mountains. A push that led the Alberta Government to, without appropriate consultation, rescind a decades old Coal Policy that protected these areas. Although that decision has since been temporarily revoked subject to improved consultation, the area remains under immense pressure from coal development.

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<sup>27</sup> Project Summary, p 12, PDF p 14.

We also note again that the production capacity is only 75 tonnes per day below the threshold for automatic federal review.

Given all of these factors and the potential impacts of this project on multiple areas of federal jurisdiction, Siksika request that Tent Mountain be designated by the Minister under the discretion provided in s 9(1) of the Act.

**Siksika Nation**

Per: <original signed by>

**Chief Ouray Crowfoot**

CC:

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Encl.

Government of Alberta, "Livingstone-Porcupine Hills Land Footprint Management Plan" (2018)

Dermot O'Connor, *Review of the Literature on Blackfoot Use and Occupancy of the Crowsnest Pass & East Kootenays*, Oak Road Concepts, (May 2020)

IEG Consulting, "Cumulative effects assessment for Siksika First Nation" (9 November 2018)

Montem Resources, "Resuming Activities – Tent Mountain Mine Coal Handling and Processing Plan Project Description, Project Summary Table" (February 2021)

Montem Resources, "Proposed Terms Of Reference Environmental Impact Assessment Report For Montem Resources Proposed Tent Mountain Project" (3 February 2021)

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