



June 16, 2021

Heather McPherson, M.P.
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Dear Heather McPherson:

Thank you for your March 22, 2021 submission of a "Petition to the Minister of Environment and Climate Change" (No. 432-00681) that calls upon me to instruct the Impact Assessment Agency of Canada (the Agency) to conduct a regional assessment of the impacts of all proposed coal developments and exploratory activity in Southwest Alberta on Treaty and Aboriginal rights, water quality, species at risk, and the environment.

As noted in my April 16, 2021 letter to you acknowledging this request, I instructed the Agency to consider your petition as a formal request for a regional assessment under subsection 97(1) of the *Impact Assessment Act* (the IAA). I also directed the Agency to undertake a review of your request, with consideration of applicable guidance related to requesting regional assessments, to inform my decision.

Following careful consideration and analysis of your request, I have determined not to conduct a regional assessment of all proposed coal developments and exploratory activity in Southwest Alberta at this time, for the reasons described below.

While the importance of considering and addressing the environmental, health, social, and economic effects of coal-related activities and associated public interest in these matters, is certainly recognized, I am of the view that existing regulatory frameworks and ongoing planning and policy initiatives are well placed to achieve this. I have outlined a number of these frameworks and policy initiatives below.

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Last week, as G7 Leaders met to discuss and increase global climate action, Canada took further action at home to curb harmful coal emissions by announcing that the continued mining and use of thermal coal for energy production is not environmentally sustainable and does not align with the environmental goals and economic ambitions of Canadians. Early global phase-out of coal-fired electricity generation is the first, and most important, step that must be taken—and that Canada is taking—to avoid the worst impacts of climate change.

This new policy announcement provides clarity for industry, investors and Canadians. It makes clear that new thermal coal mining and expansion projects are likely to cause unacceptable environmental effects and will inform my decisions on these types of projects under the IAA going forward, both with respect to designation of new thermal mine projects that fall below the threshold in the *Physical Activities Regulations* to trigger a federal assessment, and with respect to the determination of whether the project's effects are in the public interest. It is another critical step in our shared path to a cleaner and more prosperous future, and places Canada among the first G7 countries to adopt such a policy.

In addition, the federal government has made commitments through the Pan-Canadian Framework on Clean Growth and Climate Change, where Canada amended the 2012 coal-fired electricity greenhouse gas regulations to accelerate the phase-out of all conventional coal-fired electricity in Canada by 2030.

Canada is also co-leading the Powering Past Coal Alliance (PPCA), alongside the United Kingdom. With over 120 members, the PPCA is the world's leading coalition of public and private sector partners seeking to accelerate clean growth and climate protection through the rapid phase-out of unabated coal power. By joining the PPCA, members make a voluntary commitment to accelerate the phase-out of emissions from coal power.

Beyond thermal coal's climate-related impacts, you will be aware that the IAA provides that coal mining projects (thermal and metallurgical) that are of sufficient size (the *Physical Activities Regulations*), must automatically enter the planning process under the IAA. In addition, the Minister of Environment and Climate Change may choose to designate other such projects that may have adverse effects in areas of federal jurisdiction. Project-specific impact assessments are an important and effective process for identifying and addressing the potential effects of proposed coal development activities in this region, including potential impacts on Treaty and Aboriginal rights, and effects to water quality, species at risk, and other aspects of the environment identified in your regional assessment request.

I should note that the potential impacts of selenium to fish and fish habitat from metallurgical and thermal coal mining activities are certainly of concern for me. For any new proposed metallurgical coal mine or the expansion of an existing coal mine that is not already described in the *Physical Activities Regulations* and that has the potential to release selenium into water bodies, it is my intention to designate such projects for entry into the impact assessment process using my authority under the IAA. In the context of such a review, it will be important to assess potential impacts of selenium discharge in particular on the specific receiving environment in question.

Concurrently, Environment and Climate Change Canada (ECCC) is continuing with development of *Coal Mining Effluent Regulations* (CMER) under the *Fisheries Act*. ECCC is currently updating a proposed approach for the CMER based on feedback received during recent consultations.

ECCC plans to release a paper outlining this proposed approach for consultation this fall. The proposed approach will include the establishment of effluent quality standards for deleterious substances of concern, including selenium, nitrate and suspended solids. In addition to an effluent standard, ECCC will consult on a proposal to include in the regulations a requirement to provide a status report on the selenium effluent quality standard five years after promulgation, and a requirement for a review of the Regulations as a whole 10 years after promulgation that will take into account the results provided by environmental effects monitoring and will also consider advances in selenium removal technologies. The goal will be to consider the results of those reviews and then propose amendments to the Regulations as needed.

The proposed approach will also ensure that, when new or expanded coal mining projects are subject to a federal environmental or impact assessment, the assessment will include consideration of the site-specific receiving environment in order to consider the environmental impacts that might be associated with the proposed mine; assuming it adheres to the proposed selenium effluent quality standard.

In addition to relevant federal processes and policy initiatives, I am aware that the Government of Alberta has reinstated its Coal Policy; initiated a moratorium on exploration on Category 2 Lands (which include parts of the Rocky Mountains and foothills), and has established an independent committee to lead a public engagement process to inform the development of a new Coal Policy, the report from which is expected in fall 2021. Additionally, existing provincial land use planning initiatives provide further mechanisms for identifying and considering the effects (including cumulative effects) of coal exploration, development, and other activities in this region.

In summary, I have decided not to proceed with the requested regional assessment of coal developments and exploratory activity in Southwest Alberta, as I am satisfied that existing regulatory frameworks and ongoing planning and policy initiatives will be effective means of addressing the potential effects of these activities. As outlined above, these include the Government of Canada's new policy announcement on thermal coal, commitments through the Pan-Canadian Framework on Clean Growth and Climate Change and the Powering Past Coal Alliance, designating coal projects to enter the IAA if selenium is a concern, the development of Coal Mining Effluent Regulations, and initiatives by the Government of Alberta. I am therefore of the view that existing and planned initiatives can adequately address the issues raised in your request, and that such a regional assessment would, therefore, have limited ability to further inform future federal impact assessment decisions.

Thank you again for taking the time to prepare and submit this regional assessment request through the aforementioned Parliamentary Petition, and in advance for your participation in and input to the ongoing regulatory, planning, and policy initiatives referenced above.

Sincerely,

<Original signed by>

The Honourable Jonathan Wilkinson, P.C., M.P.