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November 5, 2025

VIA EMAIL

The Honourable Julie Dabrusin
Minister of Environment and Climate Change
House of Commons, Ottawa, ON K1A 0A6
Email: ministre-minister@ec.gc.ca

Dear Minister Dabrusin:

Re: Designation of proposed Record Ridge mine project under s. 9 of the IAA
(Rossland, British Columbia)

We write as legal counsel for the Save Record Ridge Action Committee Society (“SRRAC”) to request that you exercise your powers pursuant to Section 9(1) of the *Impact Assessment Act*, SC 2019, c. 28, s. 1 (“IAA”) by designating the proposed Record Ridge magnesium mine project southeast of Rossland, British Columbia (the “Project”) for impact assessment.

The proponent of the Project is West High Yield Resources Ltd. (“WHY Resources”), an Alberta-based company whose contact information can be found in Exhibit “13” in the attached Book of Evidence (“BOE”). A description of the Project, including all project components and activities, can be found in the proponent’s application materials at Exhibits “14” through “16” of the BOE. SRRAC learned about the project as a result of public consultation in the local community, pursuant to British Columbia’s *Mines Act*, RSBC 1996, c. 293 (“*Mines Act*”).

Regarding the timeline for commencement of construction and operations, a permit has been issued for the Project under s. 10 of the *Mines Act* (permit number Q-100000563, Exhibit “17” of the BOE), authorizing construction and mining operations between April 1 and November 15 for the next three years. However, authorizations are still pending from the British Columbia ministries of Transportation, Forests, Environment & Parks, and Water, Land & Resource Stewardship, pursuant to British Columbia’s *Transportation Act*, SBC 2004, c. 44, *Forest Act*, RSBC 1996, c. 157, *Environmental Management Act*, SBC 2003, c. 53 and *Water Sustainability Act*, SBC 2014, c. 15. While the timeline for these authorizations is uncertain, our understanding is that construction could begin as early as April 1, 2026.

Regarding provincial environmental assessment, British Columbia’s Environmental Assessment Office concluded on August 13, 2024 that the Project was automatically reviewable under s. 9 of British Columbia’s *Environmental Assessment Act*, SBC 2018, c. 51 (“EAA”) and the associated *Reviewable Projects Regulation*, BC Reg 243/2019. After the proponent reduced its stated production rate to below the reviewability threshold while leaving the mine design largely unchanged, the provincial Minister of Environment and Parks declined to designate the Project for environmental assessment under s. 11 of the EAA, in reasons issued on August 19, 2025 (see Exhibits “18” and “19” of the BOE).

To SRRAC's knowledge, the Project is not located on or near federal lands or federally designated lands, nor does it involve new technology or a new type of activity not included in the Project List.

Regarding thresholds set out in the *Physical Activities Regulations*, SOR/2019-285 (the "Regulations") and the preliminary issue of whether the Project is on the Project List / automatically designated, we provide information and submissions on that issue below.

Adverse effects of the Project within federal jurisdiction include:

1. Non-negligible adverse changes to fish, fish habitat and aquatic species in Sophia Creek, East Corral Creek, Big Sheep Creek, Little Sheep Creek and the Columbia River, as defined under the *Fisheries Act*, RSC 1985, c. F-14 and the *Species at Risk Act*, SC 2002, c. 29 ("SARA"). These impacts are currently difficult to quantify with precision, due to deficiencies in the proponent's description of the Project's baseline environmental conditions (thereby preventing proper assessment, mitigation and management of adverse changes to the environment), as described in the following attached materials:

Ex. "7" – Expert report of Dr. Rina Freed, PhD, PEng, May 23, 2024

Ex. "8" – Expert report of Gary Hamilton, PGeo, CSAP, March 10, 2025

Ex. "9" – Expert report of Dr. Farzad Mohamm, PhD, PEng, July 23, 2025

Ex. "10" – Expert report of Dr. Kenneth Froese, PhD, PChem, May 24, 2024

Ex. "11" – Expert report of Dr. Douw Steyn, PhD, October 2, 2025

Ex. "12" – *Record Ridge Grasslands Protected Area Proposal*, May 2025

2. Non-negligible adverse changes caused by pollution to boundary waters, including Big Sheep Creek, Little Sheep Creek and the Columbia River, as defined in the *Canada Water Act*, RSC 1985, c. C-11 and as described in the following attached materials:

Ex. "1" – United States Environmental Protection Agency letter, June 5, 2024

Ex. "2" – Washington State Department of Ecology letter, June 11, 2024

Ex. "3" – Sinixt Confederacy letter, May 7, 2025

3. Non-negligible adverse impacts on (a) current use of lands and resources for traditional purposes by Indigenous peoples of Canada, and (b) the health, social and economic conditions of Indigenous peoples of Canada, including Indigenous women, occurring in British Columbia and resulting from changes to the environment, as described in the attached materials:

Ex. "3" – Sinixt Confederacy letter, May 7, 2025

Ex. "4" – Ktunaxa Nation Council letter, May 5, 2025

Ex. "5" – Shuswap Band letter, May 7, 2024

Ex. "6" – Splotsin letter, May 6, 2024

SRRAC also wishes to draw the Minister's attention to considerable public concerns related to these adverse effects within federal jurisdiction, as indicated in the attached petitions bearing 1,473 signatures (at Exhibits "20" and "21" of the BOE), with 81% of the petition signatories residing in the local area, and therefore having close knowledge of these adverse effects.

SRRAC further notes that other means are not available to address the adverse effects within federal jurisdiction, as (a) British Columbia's Minister of Environment and Parks has declined to designate the Project as a reviewable project for environmental assessment under British Columbia's *Environmental Assessment Act*, SBC 2018, c. 51, and (b) the delegate of British Columbia's Chief Permitting Officer has issued a *Mines Act* permit for the Project, notwithstanding the proponent's substandard description of baseline environmental conditions, which (as stated above) prevents proper assessment, mitigation and management of adverse effects within federal jurisdiction.

Finally, SRRAC notes that:

- a. the adverse effects within federal jurisdiction would not be localized to previously developed lands, but rather would occur within (i) old-growth forest identified by British Columbia as an Old Growth Management Area, (ii) a red-listed grassland ecosystem, and (c) in the habitat of the Mountain Holly Fern, which is recognized as threatened under the SARA; and
- b. the Project would contribute to existing cumulative effects within federal jurisdiction, including cumulative effects on (i) Sinixt and other Indigenous peoples of Canada and (ii) cumulative effects on fish, fish habitat, aquatic species, and boundary waters.

Based on the above, SRRAC requests that the Minister exercise her powers under s. 9(1) of the *IAA* by designating the Record Ridge Project for impact assessment. Assessment is necessary to properly assess, mitigate and manage adverse effects of the Project within federal jurisdiction, including adverse effects on fish, fish habitat, aquatic species, transboundary waters, and Indigenous peoples.

Additional submissions regarding thresholds set out in the Regulations

Regarding thresholds set out in the Regulations and the preliminary issue of whether the Project is on the Project List / automatically designated, SRRAC notes the following:

1. The Regulations establish a threshold of 5,000 tonnes of ore production capacity per day for metal mines (Section 18 (c));
2. The proponent's 2023 Mine Plan self-reports a mining rate of 2,500 tonnes per day and total ore production of 200,000 tonnes per year. Operating on a single 8-hour shift, this rate equates to an ore production capacity of 7,500 tonnes per day if operated continuously, which substantially exceeds the threshold set out in the Regulations (Ex. 15, p. 13);
3. The proponent has since revised their mine plan to self-report a mining rate of 2,200 tonnes per day and 63,500 tonnes per year (Ex. 16, p. 39). However, as the British Columbia Ministry of Mining and Critical Minerals and Dr. Farzad Mohamm confirm¹, the Project's design including the mine layout, pit geometry, haul roads, equipment fleet,

¹ BOE Ex. 3, Sinixt Confederacy letter to Minister of Environment and Parks, May 7, 2025, Page 2, Footnote 3; BOE Ex. 9, expert report of Dr. Farzad Mohamm, PhD, PEng, July 23, 2025.

and waste-rock volumes remain materially unchanged from the 200,000-tonne-per-year configuration. Given this, it is reasonable to conclude that the Record Ridge Project retains a design capacity of approximately 7,500 tonnes per day, which exceeds the threshold for automatic designation under the Regulations;

4. Further, the proponent's 2024 Mine Plan self-reports a "production rate" for drilling of 3,500 tonnes / day, based on an 8-hour shift, which can be reasonably extrapolated to an ore production capacity of 10,500 tonnes drilled per day (Ex. 16, p. 48);
5. The proponent's 2024 Mine Plan self-reports a production capacity for blasting of 12,000 tonnes / blast, which it says will "generally be carried out on a bi-weekly basis", but there are no physical restrictions preventing more frequent blasting (Ex. 16, p. 51);
6. The proponent's 2024 Mine Plan self-reports a maximum "mining rate" and production capacity of the excavators loading the blasted muck of 2,200 tonnes / day, based on an 8-hour shift, which can be reasonably extrapolated to an ore production capacity of 6,600 tonnes per day (Ex. 16, p. 48);
7. The tonnage of daily ore production capacity for rock breaking, which the proponent describes as its preferred method of extraction, is not reported in the proponent's 2024 Mine Plan. However, based on (i) the reported maximum capacity of 1500 m³ per day for each articulated rock break, and (ii) the proponent's stated intention to commence operations with 2 units, (iii) multiplied by the average density of serpentinite (2.6 tonnes / m³), the ore production capacity for rock breaking appears to be 7,800 tonnes per day (Ex. 16, p. 47); and
8. IAAC guidance materials for proponents state that: "Capacity refers to the maximum capacity based on the project's design and operating conditions, not the planned capacity of a project."

SRRAC submits that based on the above, the IAAC and the Minister could reasonably conclude that the Project exceeds the threshold set out in the Regulations, and that the Project is therefore automatically designated based on the definitions in the *IAA* and Regulations. If the IAAC and the Minister agree with this interpretation, then discretionary designation by the Minister under s. 9 of the *IAA* is unnecessary.

We would welcome the opportunity to tender further information and evidence to assist the Minister with her deliberations.

Sincerely,

<original signed by>

Benjamin Isitt, BA, MA, LLB, PhD (Law), PhD (Hist.)
Barrister and Solicitor
Counsel for the Save Record Ridge Action Committee Society

cc. Impact Assessment Agency of Canada, < information@iaac-aeic.gc.ca >

Attachments:

1. Exhibit "1" – United States Environmental Protection Agency letter, June 5, 2024
2. Exhibit "2" – Washington State Department of Ecology letter, June 11, 2024
3. Exhibit "3" – Sinixt Confederacy letter, May 7, 2025
4. Exhibit "4" – Ktunaxa Nation Council letter, May 5, 2025
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12. Exhibit "12" – *Record Ridge Grasslands Protected Area Proposal*, May 2025
13. Exhibit "13" – WHY Resources Extraprovincial Company Summary
14. Exhibit "14" – WHY Resources Joint *Mines Act / Environmental Management Act* Application, October 2023
15. Exhibit "15" – WHY Resources Mine Plan, October 2023
16. Exhibit "16" – WHY Resources Application Amendment, September 17, 2024
17. Exhibit "17" – Permit no. Q-100000563, issued October 21, 2025
18. Exhibit "18" – BC Environmental Assessment Office designation report, Aug. 13, 2024
19. Exhibit "19" – BC Minister of Environment & Parks designation decision, Aug. 19, 2025
20. Exhibit "20" – Petition signatories (up to February 2024)
21. Exhibit "21" – New petition signatories (up to April 2025)