

# Appendix 4-C

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First Nations Consultation Report  
(October 2016)

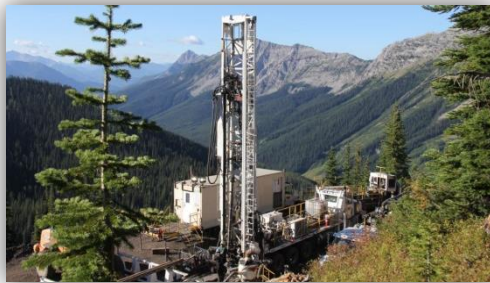


# NWP Coal Canada Ltd



## Crown Mountain Coking Coal Project

FIRST NATIONS CONSULTATION REPORT



October 2016



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## 1.0 INTRODUCTION

The Crown Mountain Coking Coal Project (the Project) is a proposed open pit metallurgical coal mine in the Elk Valley coal field in the East Kootenay Region of south eastern British Columbia. The Project proponent is NWP Coal Canada Ltd. (NWP Coal), a wholly owned subsidiary of Jameson Resources Limited (Jameson). The proposed Project is subject to an environmental assessment (EA) under both the *Canadian Environmental Assessment Act (CEAA) 2012* and the British Columbia *Environmental Assessment Act 2002*. Provincially, the Project is considered a Reviewable Project given that the production capacity of the mine will be greater than 250,000 tonnes per year of clean coal and will result in a disturbance greater than 750 hectares (ha) that was not previously permitted for disturbance. Federally, the Project is considered a Designated Project under the CEAA 2012 *Regulations Designating Physical Projects* as the mine will have a production capacity of more than 3,000 tonnes per day. Details on the Project are provided in the Project Description on the BC Environmental Assessment Office (EAO) [Project Information Centre \(e-PIC\)](#) and the [Canadian Environmental Assessment Agency Registry](#).

As part of the Pre-Application phase of the BC provincial environmental assessment process, NWP Coal has undertaken a range of consultation and engagement to effectively communicate information about the proposed Project and involve those who may be potentially affected by, or have an interest in, the Project. The Ktunaxa Nation has the potential to be impacted by the Project, and as such, NWP Coal is required under the section 11 Order to carry out consultation with the Ktunaxa Nation. The section 11 Order issued for the Project details procedural aspects of engagement with First Nations over the course of the Project by the proponent. Procedural aspects and activities required under the section 11 Order include development of a draft and final First Nations Consultation Plan, engagement with First Nations identified in the section 11 Order on the draft Plan, identification of potentially impacted First Nations rights, title and interests, and measures to avoid or mitigate impacts, provide responses to comments received from First Nations, report to the EAO as necessary, and implement additional engagement and accommodation over the course of the Project, as necessary.

This First Nations Consultation Report outlines consultation and engagement activities with First Nations completed to date as part of the Pre-Application phase. During this phase, NWP Coal has developed the Valued Components for Environmental Assessment document and the draft Application Information Requirements and sought input from First Nations, specifically the KNC, on these documents prior to finalization. A variety of other engagement activities are also summarized in this report.

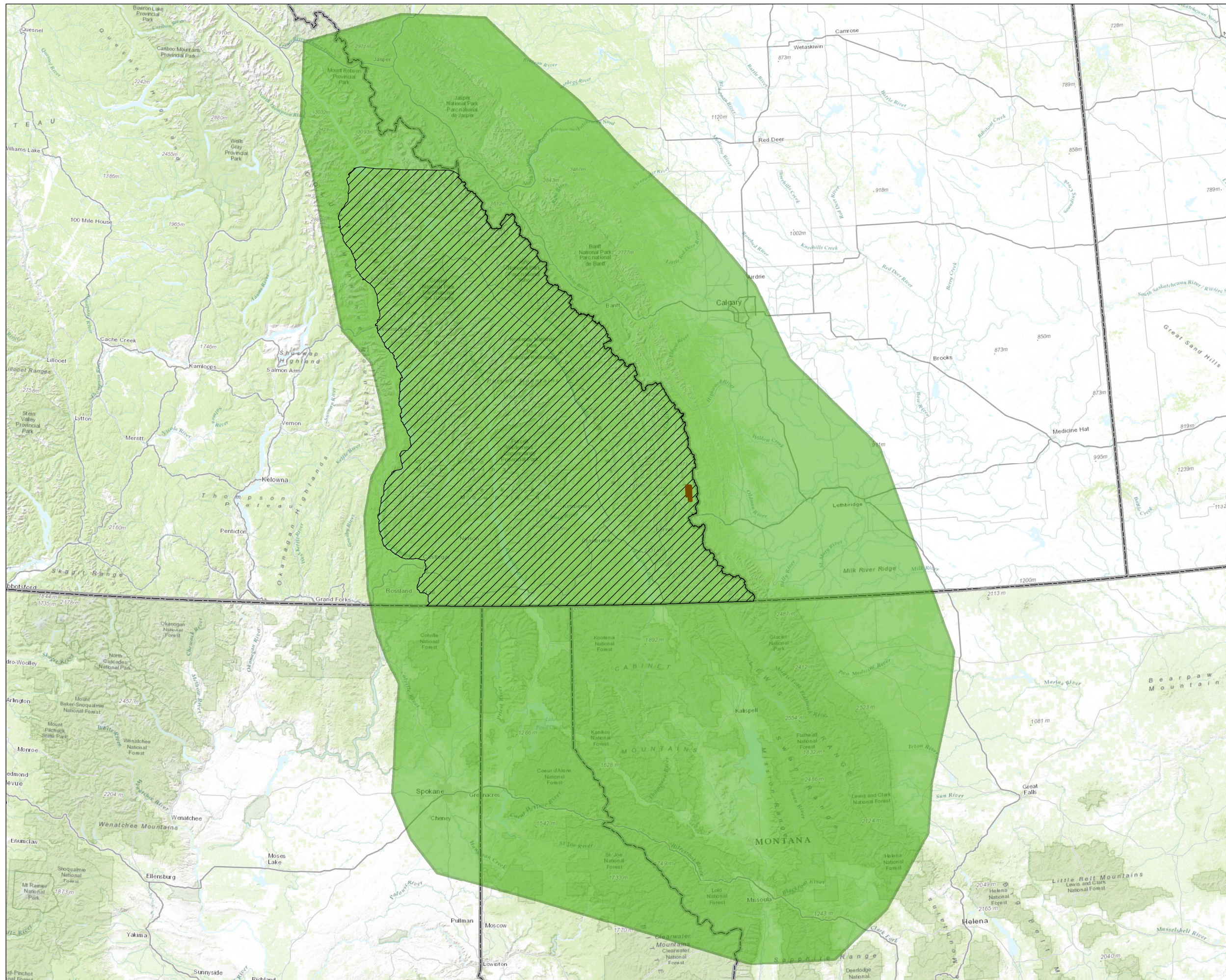
## 2.0 FIRST NATIONS POTENTIALLY AFFECTED BY THE PROJECT

The Project is located within the asserted traditional territory of the Ktunaxa Nation and the Ktunaxa Kinbasket Statement of Intent Boundary (**Figure 1**), indicating the extent of asserted traditional territory used by the Ktunaxa Nation. The Ktunaxa Nation currently consists of four member Bands in BC and two Bands in the United States, covering approximately 70,000 km<sup>2</sup> of Ktunaxa historical traditional territory (Ktunaxa Nation, 2015). The Ktunaxa member groups in BC are:

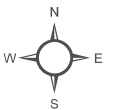
Crown Mountain Coking Coal Project

**Figure 1**  
 Asserted Traditional Territory and  
 Statement of Intent Boundary

- Ktunaxa Nation Asserted Traditional Territory
- Ktunaxa Kinbasket Statement of Intent Boundary in BC
- Coal Tenure Licenses and Application
- Federal, Provincial, and State Borders



SCALE 1:2,953,082  
 0 15 30 60 km



Data Sources: Jameson Resources, Dillon Consulting Limited, ESRI Base Layers, GeoBase, First Peoples' Cultural Council (2013), Province of British Columbia (2015).

Map Created By: ECH  
 Map Checked By: LKD  
 Map Projection: NAD 1983 UTM Zone 11N

PROJECT: 12-6231  
 STATUS: FINAL  
 DATE: 5/13/2015

- The ʔAkisqʔnuk First Nation (formally the Columbia Lake Band - Windermere);
- The ʔaqʔam – St. Mary’s First Nation (Cranbrook);
- The yaqan nukiy – Lower Kootenay Band (Creston); and
- The Tobacco Plains Indian Band (Grasmere).

To guide social and political development of the Ktunaxa Nation, the Ktunaxa Nation Council (KNC) was established in 1970 (Ktunaxa Nation, 2015). The KNC represents the Ktunaxa Nation, serves as an umbrella organization for societies, committees, and corporations that provide services and programs to members of the Nation (Ktunaxa Nation, 2015).

The section 11 Order issued for the Project identifies the four member bands of the Ktunaxa Nation (i.e., Tobacco Plains Band, St. Mary’s Band, Lower Kootenay Band, and the ʔAkisqʔnuk First Nation) and the Shuswap Indian Band as First Nations that may be affected by the Project and require consultation and engagement by the EAO and/or NWP Coal. As per the section 11 Order, consultation with Shuswap Indian Band will be limited to consultation by the EAO, including notification of Project milestones (e.g., issuance of section 11 Order, public comment period draft Valued Components document) and the opportunity to provide comments to the EAO during the public comment periods. As such, the focus of this First Nations Consultation Report is on engagement with the Ktunaxa Nation.

## **2.1 Potential Impacts to First Nations Rights, Title and Interests**

The Project has the potential of impacting Ktunaxa Nation interests, including but not limited to:

- Potential changes to, and potential reduction of, available habitat, habitat connectivity, and habitat corridors for terrestrial wildlife species that are of importance to the Ktunaxa Nation;
- Reduction in the quality and quantity of fish habitat as a result of potential water contamination (e.g., release of selenium to local watercourses), which may impact fish species harvested by the Ktunaxa Nation;
- Potential human health impacts associated with changes in water quality due to the potential release of mine contaminants such as selenium and cadmium, air quality associated with dust accumulation, and terrestrial vegetation consumed by the Nation as a result of dust accumulation and impacted water quality;
- Reduction in harvesting areas or limited access to harvesting areas as a result of the Project;
- Direct impacts to archaeological resources as a result of ground disturbance; and

- Potential cumulative effects of mining operations in the Elk Valley and impact on future generations.

NWP Coal is committed to work with the KNC to ensure that First Nations rights, title, and interests are considered in the preparation of Pre-Application regulatory documents (such as the EA Application), as well as appropriate mitigation measures to reduce the potential for impacts on rights, title, and interests. The EA Application will include detailed mitigation measures which will be developed and discussed with the KNC, as well as provincial and federal regulators and other interested parties.

### **3.0 PRE-APPLICATION CONSULTATION ACTIVITIES**

The Pre-Application phase of consultation includes engagement undertaken up to the submission of the Environmental Assessment Certificate (EAC) Application. Pre-Application phase consultation occurs following issuance of the Section 11 Order by the EAO.

Currently, the Project is in the Pre-Application Phase. NWP Coal has completed a variety of activities to fulfil mandated consultation requirements of the section 11 Order, and also carry out additional activities to ensure open dialogue with the KNC over the Project. Pre-Application Review Phase activities completed to date, or that are on-going, include:

- Review and comment on the First Nations Consultation Plan;
- Participation in the Valued Components Working Group and comment on the draft Valued Components Document;
- Review and comment on the draft Application Information Requirements;
- In-person meetings
- Conference/telephone calls;
- Site tour; and
- Engagement and issues tracking.

The following provides a summary of consultation and engagement efforts with the KNC completed by NWP Coal as part of the Pre-Application phase.

#### **3.1 First Nations Consultation Plan**

A First Nations Consultation Plan was prepared for the Project and is available online through the [EAO e-PIC site](#). The First Nations Consultation Plan, which was reviewed by the KNC, was designed to meet the requirements outlined in the Province of BC Public Consultation Policy Regulation (BC Reg. 373/2002)

and the consultation provisions described in the BC Environmental Assessment Office (EAO) environmental assessment review procedures ordered under section 11 of the BC *Environmental Assessment Act*. Specific to these requirements, the First Nations Consultation Plan was developed to achieve the following:

- Disseminate information on, as well as build awareness of, the Project as well as potential Project effects and proposed mitigation measures;
- Inform First Nations of engagement opportunities that arise over the course of the Project and facilitate methods for providing feedback to allow for input to the Project; and
- Take into consideration input and feedback received on the Project and how it will be considered as the Project progresses.

The KNC reviewed the First Nations Consultation Plan and provided comments to the EAO in April 2016. These comments were incorporated into the final version of the plan by NWP Coal. The final First Nations Consultation Plan is posted on the [EAO e-PIC site](#).

### **3.2 Valued Components for Environmental Assessment**

Valued Components serve as the foundation for the environmental assessment. The VCs selected for a project depend on the type of project (e.g., mining, transportation, oil and gas), the geographic region the project is located in, as well as the potential effects on any of the five (5) 'pillars' noted by the EAO: environment, economic, social, heritage, and health. The purpose of the draft VC document is to:

- Identify candidate VCs and describe the methods for selecting potential VCs that may be part of the environmental assessment;
- Outline the selected VCs and describe the rationale for VC selection;
- Describe intermediate components and measurement indicators that will be used to understand potential impacts to selected VCs; and
- Describe the spatial and temporal assessment boundaries that will be used for conducting baseline studies related to each VC.

A Working Group meeting on the draft Valued Components (VC) for Environmental Assessment document was held in October 2015 to facilitate discussion and feedback on the draft Valued Components (VC) document, and to gather feedback from the Working Group on completed and proposed baseline studies. The Working Group meeting was led by the EAO and was attended by provincial and federal government representatives, the KNC, and NWP Coal. As part of the province's duty to consult, the EAO invited the KNC to participate in the Working Group and/or subcommittee



meetings. Section 2.2.1 details the general themes commented on by the KNC in relation to the VC Document.

First Nations input and engagement is a key step in the development of the VC document and the associated selection of VCs to be carried forward for environmental assessment. The draft VC Document was updated to reflect comments from the KNC as well as other Working Group members. General themes of comments received and how the VC Document was updated to reflect these comments is presented in **Section 3.2.1**.

### 3.2.1 Comments on the Valued Components Document

General themes of comments received from the KNC on the draft Valued Components document included are detailed in **Table 1**. Note not all comments from the KNC are detailed in **Table 1**, as this is meant to be a summary and note specific changes to the VC document based on feedback received from the KNC.

**Table 1: General Comments from the Ktunaxa Nation Council on the Draft Valued Components Document**

General Comments	Changes to VC Document
Engagement and consultation with the KNC and stakeholders	Document modified to note KNC is not a stakeholder, but a government body representing Ktunaxa citizens
Community impacts as a result of economic changes associated with the Project	Ktunaxa Nation included as a potential party that may be impacted as a result of economic changes
Inclusion of First Nations perspective to the economic discipline	Economics, socio-economics, community health, land-use/tenure and visual aesthetics will all be addressed from both the Ktunaxa Nation and non-First Nations perspective.
Archaeological Resources	<ul style="list-style-type: none"> <li>- Clarification on term “heritage resources”. For the purposes of this document the selected VC refers to archaeological resources/sites</li> <li>- The use of “heritage and archaeology” was revised throughout the document</li> <li>- Site significance added as a measurement indicator</li> <li>- Figure of the Archaeological Regional Study Area was added</li> </ul>
Comments on the Landscape and Ecosystems discipline	<ul style="list-style-type: none"> <li>- Patch size added as a measurement indicator</li> <li>- Structural change and relative abundance to ecosystems added as measurement indicator</li> <li>- Old Growth/Mature Forests changed to Old Growth and Mature Forests</li> <li>- Addition of coarse woody debris as measurement indicator</li> </ul>
Comments on the Vegetation discipline	- VC updated to “Listed and Sensitive Plant

General Comments	Changes to VC Document
	Communities and Species” - Patch size added as a measurement indicator to various vegetation VCs - Noted added on the assessment of limber pine health
Comments on Wildlife discipline	- Inclusion of habitat quality measurements as measurement indicators - Connectivity added as a measurement indicator for bighorn sheep - Additional information added to note importance of aquatic mustalids and pathway for selenium uptake

### 3.3 Draft Application Information Requirements

The Application Information Requirements (AIR) outlines the information that NWP Coal will provide in the Application for an Environmental Assessment Certificate (Application). The document is also used to determine if the Application submitted by a proponent contains the necessary information required to fully assess a project and progress to the review stage of the environmental assessment. Initially, a draft AIR (dAIR) is prepared by a proponent and submitted to the Working Group for review and comment. For the Crown Mountain Project, a dAIR was prepared in spring of 2016 and submitted to the Working Group for comment July 4, 2016. The EAO provided the KNC with the opportunity to review and comment on the dAIR as part of their involvement in the Working Group. The EAO will provide NWP Coal with the KNC’s comments on the dAIR, when received, and at that time NWP Coal will develop responses to each of the comments. Comments from the KNC and changes to the dAIR will be summarized in a future First Nations Consultation Report for the Project.

### 3.4 Meetings and Telephone Calls

**Table 2** summarizes the in-person meetings and calls held between the KNC and NWP Coal to date over the Pre-Application Phase. The summary includes meetings associated with the Elk Valley Cumulative Effects Management Framework (CEMF). Both NWP Coal and the KNC are members of the CEMF. In addition to the in-person meetings and calls there has also various communications from NWP Coal via email providing project updates and information.

**Table 2: Meetings with the Ktunaxa Nation Council**

Attendees	Date	Topics
Dora Gunn, Manager, Lands Stewardship	May 14, 2012	The NWP team met with the KNC in Cranbrook to introduce project plans for 2012. Discussion topics included: - The status of Licenses and exploration permit and 2012 exploration plans

Attendees	Date	Topics
		<ul style="list-style-type: none"> <li>- NWP's strategy toward environmental issues</li> <li>- An overview of scope of preliminary environmental activities</li> <li>- An overview of archaeological work completed in 2011 in support of the exploration program</li> <li>- An overview of expected drilling activities (note small footprint of drill proposed)</li> <li>- Proposed tree clearing and road work</li> <li>- A review of clauses contained in the approved Licenses</li> <li>- The potential for additional (supplemental) field work in 2012</li> <li>- A review of potential work/cooperation opportunities with Ktunaxa</li> <li>- Proposed communications strategy going forward</li> </ul>
Kerri Garner, Manager, Lands Stewardship Nicole Kapell, Environment and Archaeological Coordinator Ray Warden, Director of Lands Bill Green, Director, Canadian Columbia River Inter-tribal Fisheries Commission (CCRIFC)	November 17, 2014	An overview of the project and baseline/EA process to date was provided by NWP at a meeting in Cranbrook. The KNC provided an overview of interests and concerns which included: <ul style="list-style-type: none"> <li>- Potential cumulative effects</li> <li>- Water quality and quantity</li> <li>- Fisheries (specifically related to cutthroat trout)</li> <li>- Archaeological (specifically the Grave Prairie area)</li> <li>- Un-resolved issue of title</li> <li>- Impact management benefits agreement</li> <li>- Potential overlap of some project components with Teck "Conservation Lands"</li> </ul> A hand-out illustrating the KNC third party engagement process was provided to the NWP team.
Bill Green, Director, Canadian Columbia River Inter-tribal Fisheries Commission (CCRIFC)	March 15, 2015	Telephone call from B. Green to A. Palm to convey recent decisions from the Ktunaxa's Land & Resources Council and the Economic Development Council regarding their position on Crown Mountain and any other new mines in the Elk Valley. Conditions/concerns were related to a requirement to prevent additional contamination to watercourses (selenium or other substances) and the need to negotiate funding to support the KNC's involvement in the EA process.
Nicole Kapell, Environment and Archaeological Coordinator Bill Green, Director, CCRIFC John Bisset, Senior Biologist, CCRIFC Katrina Caley, Project	May 20, 2015	NWP Coal met with the KNC in Cranbrook. Discussion topics included: <ul style="list-style-type: none"> <li>- Project components on Teck "conservation lands"</li> <li>- Status of EA process to date</li> <li>- Water quality compliance plans</li> <li>- Financial assistance to KNC</li> </ul>

Attendees	Date	Topics
Biologist, CCRIFC		
Nicole Kapell, Environment and Archaeological Coordinator Alison Burton	October 15, 2015	NWP met with KNC representatives following the completion of the Project Working Group Meeting. It was indicated that the KNC would be engaging a geochemical consultant to provide assistance regarding the project.
Nicole Kapell, Environment and Archaeological Coordinator	May 24, 2016	Meeting at the KNC offices in Cranbrook to discuss water quality concerns and the proposed load-out location.
Heather McMahon, Liaison	September 13, 2016	NWP hosted a conference call to provide an overview of the proposed waste rock management concept for the Crown Mountain Project. In addition to the KNC, participants included representatives from MOE, MEM, FLNRO, and the EAO. The call included a question and answer session.
Elk Valley Cumulative Effects Management Framework	January 21, 2016 February 25, 2016 March 30, 2016 June 21, 2016 October 25, 2016 (scheduled)	Various CEMF meetings in Cranbrook. The purpose of CEMF is to develop a practical approach to supporting decisions about the cumulative effects of human actions on valued components within the Elk Valley.

### 3.5 Site Tour

NWP Coal facilitated a site tour of the proposed Project area for the Working Group in October 2015, which included attendance by several representatives from the KNC. As the Project progress, NWP Coal will accommodate additional site tours for the KNC and others involved in the Working Group, if requested.

### 3.6 Engagement and Issues Tracking

NWP Coal continues to maintain a log of all communications with the KNC, which can be reviewed by the EAO and the KNC, if requested. NWP Coal also maintains a tracking document for issues brought forward by the KNC during engagement activities. Responses will be prepared by NWP Coal for all issues or comments received during engagement. All issues and responses will be formally tracked, and where appropriate, NWP will discuss with the KNC any follow-up required or outstanding issues.

General topics of issues and concerns that have been brought forward by the KNC during engagement and consultation activities thus far have related to:

- Potential impacts to existing archaeological resources, such as those in the Grave Prairie area;

- Waste rock management procedures proposed for the Project and their ability to prevent and/or control the mobilization and movement of metals such as selenium;
- Potential placement of project components on Teck “conservation” lands;
- Concerns of increased selenium (and other potential contaminants) levels in local watercourses and potential impacts to water quality and associated fisheries resources (e.g., cutthroat trout); and
- Cumulative effects of the Project and associated cumulative effects assessments.

### **3.7 Future Engagement and Next Steps**

NWP Coal intends to continue frequent, open, and honest communication to build a strong relationship with the KNC as well as provide opportunities to the KNC to be involved throughout the environmental assessment process, including determination of potential impacts to First Nations rights, title, and interests (e.g., archaeology sites, access to land and resources, cultural practices, water resources) and the development of mitigation measures to reduce potential impacts. In addition, NWP Coal will engage with the KNC to discuss appropriate financial support for the Nation’s involvement and assistance in fulfilling the engagement activities and objectives outlined in this First Nations Consultation Plan.

### **4.0 SUMMARY**

A variety of engagement and consultation activities have been undertaken by NWP Coal to date to engage with the KNC during the Pre-Application phase for the Crown Mountain Coking Coal Project. During this period, many of the activities focused on discussing the draft Valued Components for Environmental Assessment document and meeting in-person or via conference call through the Working Group to discuss the project.

NWP Coal has received helpful feedback from the KNC on the Project and associated regulatory documents and will continue to use information gathered through future engagement to inform the Project and potential impacts to KNC rights, title, and interest. NWP Coal is committed to creating and maintaining constructive dialogue and relationships with the KNC to support the environmental, social, and economic sustainability of the Project.