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Agency File No: 005723

May 27, 2020

ELECTRONIC MAIL

Chair Kathryn Teneese
Ktunaxa Nation Council
7825 Mission Road
Cranbrook BC V1C 7E5
EMAIL: <email address removed>

Dear Chair Teneese and Council:

Subject: Designation Request for the Proposed Castle Project

On May 21, 2020, the Minister of Environment and Climate Change received a request under section 9(1) of the *Impact Assessment Act* (the Act) to designate the Castle Project (the Project) proposed by Teck Coal Limited. The request was made by the Confederated Salish and Kootenai Tribal Council and the Kootenai Tribe of Idaho. The letter requesting designation and a description of the Project have been posted to the Canadian Impact Assessment Registry internet site, publicly available at canada.ca/iaac (Reference 80702).

The Proposed Project

As you are aware, the Project would be located near Elkford, in southeastern British Columbia, and the Impact Assessment Agency of Canada understands it falls within your traditional territory. The Project involves an expansion of an existing metallurgical coal mine, Fording River Operations. The Project would maintain the existing production capacity of 27 400 tonnes per day, and would increase area of mine operations by 35.7 percent. The Project as proposed is not described in the *Physical Activities Regulations* under the Act.

Designation Request

Under section 9(1) of the Act the Minister may, by order, designate a physical activity that is not described in the *Physical Activities Regulations*. The Minister can do this, if, in the Minister's opinion, the physical activity may cause adverse effects within federal jurisdiction or adverse direct or incidental effects (resulting from federal decisions, including funding), or public concerns related to those effects warrant the designation.

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To support the Minister in considering the request, the Agency will review:

- information about the Project;
- any concerns expressed by the Ktunaxa Nation Council;
- views of the requesters and the public;
- expert advice from federal authorities;
- input from provincial ministries; and
- input from other key stakeholders such as the State of Montana and the United States Environmental Protection Agency.

We anticipate that the Minister's determination on whether the Project is to be designated, with reasons, will be posted to the Registry by August 19, 2020.

If designated, Teck Coal Limited would be required to formally submit an Initial Project Description to the Agency, thereby commencing the planning phase of the Act. In that case, the planning phase would include the Agency determining whether a federal impact assessment is required. Should the Project be designated, the Agency will contact you to discuss the next steps.

Additional information regarding the process can be found on the Agency website at www.canada.ca/en/impact-assessment-agency/services/policy-guidance/designating-project-impact-assessment-act.html.

Seeking Your Views

The Agency is seeking your views and would appreciate your comments on the following questions. Please note that all comments received will be posted on the public Registry.

1. Describe whether and how the potential adverse effects of the Project could result in changes to Ktunaxa Nation's:
 - (a) physical and cultural heritage (e.g. ceremonial sites, burial sites, cultural landscapes);
 - (b) current use of lands and resources for traditional purposes (e.g. hunting, fishing, trapping); and
 - (c) structures, sites or things of historical, archaeological, paleontological or architectural significance (e.g. artifacts, important historic buildings or symbols).

2. Describe whether and how the Project may result in changes to Ktunaxa Nation's health, social or economic conditions (e.g. employment opportunities, access to goods and services, economic development, access to health-care services).
3. Describe whether and how the Project may impact Ktunaxa Aboriginal rights as protected under section 35 of the *Constitution Act, 1982*.

To facilitate decision making by the Minister under the Act, your response is requested by June 16, 2020. Please provide your submission to the Agency by email using the contact information provided below.

Important Note: All records produced, collected or received in relation to the designation request process – unless prohibited under the *Access to Information Act* or *Privacy Act* – are considered public and may be released. If you have provided any comments or documents that contain confidential or sensitive information that you believe should be protected from release to the public, please contact the Agency as soon as possible. The Agency does not accept information marked as confidential without prior contact.

Further questions regarding the Project and the contents of this letter can be directed to me at 604-364-9331 or at IAAC.Castle.AEIC@canada.ca.

In closing, I would also acknowledge that given the evolving circumstances concerning the novel coronavirus (COVID-19) pandemic, these may be very challenging times for the Ktunaxa Nation. We appreciate your consideration of our request, and it is our hope that your communities are healthy and safe.

Sincerely,

<Original signed by>

Janet Shaw
Senior Consultation Analyst, Pacific and Yukon Region

c.c.: Katherine Morris, Ktunaxa Nation Council