

**IN THE MATTER OF THE ENVIRONMENTAL ASSESSMENT ACT S.B.C. 2002, c.43
(ACT)
AND
AN ENVIRONMENTAL ASSESSMENT OF THE PROPOSED
BALDY RIDGE EXTENSION PROJECT
ORDER UNDER SECTION 11**

WHEREAS:

- A. Teck Coal Limited proposes to develop the Baldy Ridge Extension Project near Sparwood, BC (proposed Project);
- B. The proposed Project constitutes a reviewable project, pursuant to Part 3 of the Reviewable Projects Regulation (B.C. Reg. 370/02), because the proposed Project which is a modification of an existing coal mine would result in the disturbance of at least 750 ha of land not previously permitted for disturbance and has a proposed production capacity that exceeds 250,000 tonnes/year of coal;
- C. The Executive Director has delegated to the undersigned, certain powers and functions under the Act, including the power to issue Orders under section 11 of the Act; and
- D. On June 5, 2014, Gerry Hamblin issued an Order under section 10(1)(c) of the Act, stating that the proposed Project requires an environmental assessment certificate and that the Proponent may not proceed with the proposed Project without an assessment.

NOW THEREFORE:

Pursuant to section 11 of the Act, I order that the environmental assessment of the proposed Project be conducted according to the scope, procedures and methods set out in Schedules A, B and C to this Order.



Kate Haines
A/Project Assessment Manager

Dated November 19, 2014

Enclosure: Schedule A
 Schedule B
 Schedule C

**SCHEDULE A TO ORDER UNDER SECTION 11 OF THE BC ENVIRONMENTAL
ASSESSMENT ACT**

**SCOPE, PROCEDURES AND METHODS FOR THE ENVIRONMENTAL
ASSESSMENT OF THE PROPOSED BALDY RIDGE EXTENSION PROJECT**

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PART A - GENERAL PROVISIONS

1. DEFINITIONS

“Aboriginal Consultation Plan” means a plan developed by the Proponent in consultation with the Aboriginal Groups listed on Schedule B and determined to be adequate by the Project Assessment Lead, which outlines how the Proponent will undertake procedural aspects of consultation with Aboriginal Groups listed on Schedule B on behalf of the Crown during the environmental assessment.

“Aboriginal Consultation Report” means the Proponent’s periodic reporting at times specified in section 13 of this Order, or at the request of the Project Assessment Lead, on the results of the consultation activities specified in the Aboriginal Consultation Plan.

“Aboriginal Interests” means asserted or determined aboriginal rights, including title, and treaty rights.

“Aboriginal Groups” means those aboriginal entities identified on Schedules B and C of this Order.

“Act” has the same meaning as on page 1 of the Order.

“Application” means the Proponent’s application for an environmental assessment certificate for the proposed Project, made under section 16 of the Act.

“Application Information Requirements” means the information that must be included in the Application, pursuant to sections 11(2) and 16(2) of the Act and section [6](#) of this Order.

“Application Review Stage” means that part of the environmental assessment that occurs after the Application has been accepted for review.

“Assessment Report” means the report, as defined in section 1 of the Act, and referred to in section [10](#) of this Order.

“Cumulative Effects” means the residual effects of the proposed Project that have the potential to interact with the effects of other past, present or reasonably foreseeable projects or activities.

“Environmental Assessment Office” means the office continued under section 2 of the Act.

“Executive Director” has the same meaning as Executive Director in section 1 of the Act.

“Electronic Project Information Centre” means the project information centre continued under section 25 of the Act, and operated as a website maintained by the Environmental Assessment Office.

“Ministers” has the same meaning as Ministers in section 1 of the Act.

“Order” means this Order, which is issued under section 11 of the Act, including all schedules.

“Pre-Application Stage” means that part of the environmental assessment that occurs after an Order under section 10 of the Act has been issued and before an Application has been accepted for review.

“Project Assessment Lead” means an employee of the Environmental Assessment Office who has been delegated certain authorities to conduct the environmental assessment of the proposed Project by the Executive Director under the Act.

“Proponent” has the same meaning as on page 1 of the Order.

“proposed Project” has the same meaning as on page 1 of the Order.

“Public Consultation Plan” means a plan, developed by the Proponent and approved by the Project Assessment Lead, which outlines how the Proponent will undertake consultation with the public during the environmental assessment.

“Public Consultation Report” means the report required under section [16](#) of this Order.

“Valued Components” means specific environmental, economic, social, heritage, and health attributes that may be potentially impacted by the proposed Project and that will be assessed during the environmental assessment.

“Working Group” means an advisory group established under section [4](#) of this Order, including representatives of Aboriginal Groups identified on Schedule B, and federal, provincial and local government agencies.

PART B - SCOPE OF THE PROPOSED PROJECT

2. ON-SITE AND OFF-SITE COMPONENTS

- 2.1** Pursuant to section 11(2)(a) of the Act, the main facilities and components of the proposed Project are (as shown on Figure 1):
- Extensions to existing open pit mining areas on Baldy, Adit and Natal Ridges that are bounded by Elk River and Michel Creek to the west and Harmer and Erickson Creeks to the east, and associated facilities including:
 1. waste rock spoils;
 2. mine pit excavations;
 3. surface water management including conveyance, drainage and impoundment structures;
 4. water treatment infrastructure;
 5. transportation and electrical transmission infrastructure for coal and waste hauls, pit access and transmission line right-of-ways;
 6. coal conveyance corridor, breaker station and coal stockpiles;
 7. soil stockpiles;
 8. storage and management of coal rejects from the proposed Project;
 9. storage and management of tailings from the proposed Project;
 10. administrative offices, maintenance buildings, warehouse, equipment laydown and associated infrastructure;
 11. sewage treatment; and
 12. access roads and utilities corridor.
- 2.2** Exploration activities or activities required to prepare the Application are not part of the reviewable project for the purposes of the assessment.

PART C – SCOPE OF THE ASSESSMENT

3. SCOPE OF THE ASSESSMENT

- 3.1** Pursuant to section 11(2)(b) of the Act, the scope of the assessment for the proposed Project will include consideration of:
- 3.1.1 potential adverse environmental, economic, social, heritage, and health effects of the proposed Project, including Cumulative Effects, and practicable means to mitigate such potential adverse effects; and
 - 3.1.2 potential adverse effects of the proposed Project on an Aboriginal Group's Aboriginal Interests, and, to the extent appropriate, ways to mitigate or otherwise accommodate such potential adverse effects.

PART D – THE WORKING GROUP AND AGENCY CONSULTATION

4. THE WORKING GROUP

- 4.1** The Environmental Assessment Office will establish a Working Group comprised of those Aboriginal Groups identified on Schedule B and government bodies identified by the Project Assessment Lead. The Working Group will provide input as requested by the Project Assessment Lead on aspects of the environmental assessment, including:
- 4.1.1 the information required for the environmental assessment, including valued components and assessment methodologies;
 - 4.1.2 the conformity of the Application with the Application Information Requirements;
 - 4.1.3 the information and conclusions in the Application;
 - 4.1.4 potential mitigation measures, including those which may be included in certificate conditions;
 - 4.1.5 potential impacts on Aboriginal Interests and measures to avoid, address or mitigate such potential adverse effects; and
 - 4.1.6 the draft Assessment Report.
- 4.2** The Project Assessment Lead may form sub-committees of the Working Group to discuss specific issues in the environmental assessment.
- 4.3** When required by the Project Assessment Lead, the Proponent must participate in meetings of the Working Group or any sub-committees.
- 4.4** The Proponent must consult with federal, provincial and local government agencies through the Working Group, as required by the Project Assessment Lead.
- 4.5** The Proponent must prepare and submit to the Project Assessment Lead and Working Group members, within any set time limits, responses to comments received from any Working Group members, as required by the Project Assessment Lead.

PART E – ASSESSMENT PROCEDURES – PRE-APPLICATION STAGE

5. VALUED COMPONENTS

- 5.1** Within a timeframe established and in accordance with any guidance provided by the Project Assessment Lead, the Proponent must prepare a document that sets out the Valued Components it proposes to be considered in the preparation of the draft Application Information Requirements, having regard to the requirement to assess the potential of the proposed Project to result in adverse environmental, economic, social, heritage, and health effects.

- 5.2 The Proponent must submit the draft Valued Components proposal to the Project Assessment Lead, who will make it available to the Working Group and public for review and comment.
- 5.3 The Project Assessment Lead will review the draft Valued Components proposal and the Proponent must amend the draft Valued Components proposal as requested by the Project Assessment Lead. This may include incorporation of any comments from the Working Group, Aboriginal Groups, and the public that the Project Assessment Lead determines are relevant.
- 5.4 The draft Valued Components and the methods for how the effects on Valued Components will be defined and assessed must be included in the draft Application Information Requirements prepared pursuant to section [6](#) of this Order.

6. APPLICATION INFORMATION REQUIREMENTS

- 6.1 In accordance with this Order and any additional guidance provided by the Project Assessment Lead, the Proponent must prepare draft Application Information Requirements.
- 6.2 The Proponent must submit the draft Application Information Requirements to the Project Assessment Lead, who will make it available to the Working Group for review and comment.
- 6.3 The Proponent must respond to comments received from the Aboriginal Groups listed on Schedule B, and Working Group members on the draft Application Information Requirements in the form specified by, and to the satisfaction of, the Project Assessment Lead.
- 6.4 Upon approval of the revised draft Application Information Requirements, the Project Assessment Lead will issue the final Application Information Requirements to the Proponent.

7. PREPARING AND SUBMITTING THE APPLICATION

- 7.1 The Proponent must prepare the Application in accordance with the Application Information Requirements, and must submit it to the Project Assessment Lead for evaluation and decision on whether to accept the Application for review.
- 7.2 Prior to submitting the Application to the Project Assessment Lead under section 7.1 of this Order, the Proponent must ensure that copies of the Application in the required formats have been delivered to the members of the Working Group and Aboriginal Groups listed on Schedule B, as specified by the Project Assessment Lead.

8. APPLICATION EVALUATION

- 8.1 The Project Assessment Lead will evaluate and decide whether the Application contains the information required in the Application Information Requirements.

- 8.2** If, in the opinion of the Project Assessment Lead, the Application does not include the information required by the Application Information Requirements, the Project Assessment Lead will identify the deficiencies in writing to the Proponent and the Proponent may revise the Application to address the deficiencies and re-submit the revised Application.
- 8.3** If the Application is accepted for review, the Project Assessment Lead will advise the Proponent, and the Proponent must supply copies and quantities of the Application to the Project Assessment Lead.

9. APPLYING FOR CONCURRENT PERMITTING

- 9.1** The Proponent, if applying for concurrent review of one or more applications for approval under other enactments, pursuant to section 4 of the Concurrent Approval Regulation (B.C. Reg. 371/2002), must submit the request to the Project Assessment Lead in accordance with section 5(b) of the Concurrent Approval Regulation.

PART F – ASSESSMENT PROCEDURES – APPLICATION REVIEW STAGE

10. PREPARING THE ASSESSMENT REPORT

- 10.1** The Project Assessment Lead will prepare an Assessment Report, taking into consideration the Proponent's Application and input provided by the Working Group and the public.
- 10.2** Members of the Working Group and the Proponent will have an opportunity to provide to the Project Assessment Lead their comments on a draft of the Assessment Report within timelines established by the Project Assessment Lead.

11. MINISTERIAL REFERRAL AND DECISION

- 11.1** The Project Assessment Lead will advise the Proponent, Aboriginal Groups and the Working Group of the date that the final Assessment Report is referred to the Ministers.
- 11.2** The Assessment Report will be made available to the public by the Environmental Assessment Office after a decision has been made by the Ministers under section 17(3)(c) of the Act.
- 11.3** In accordance with section 17(4) of the Act, the Project Assessment Lead will deliver to the Proponent the decision of the Ministers and the Environmental Assessment Certificate, if granted. The Project Assessment Lead will inform Aboriginal Groups and other members of the Working Group of the Ministers' decision.

PART G – CONSULTATION WITH ABORIGINAL GROUPS

12. CONSULTATION WITH ABORIGINAL GROUPS

12.1 Following the issuance of this Order, Aboriginal Groups on **Schedule C** will be consulted as follows:

12.1.1 The Environmental Assessment Office will provide notification at the following milestones, so that such Aboriginal Groups can be informed of the progress of the environmental assessment and have the opportunity to raise any issues to the Environmental Assessment Office for discussion:

12.1.1.1 Issuance of the section 11 Order and any section 13 Orders;

12.1.1.2 Public comment period for the draft Valued Components proposal;

12.1.1.3 Approval of the final Application Information Requirements document;

12.1.1.4 When the Application has been accepted and the start of the review of the Application has commenced;

12.1.1.5 Public comment period for the Application; and

12.1.1.6 Decision on the Application.

12.2 Following the issuance of this Order, the Environmental Assessment Office will consult with the Aboriginal Groups listed on **Schedule B** as follows:

12.2.1 Provide notification at the following milestones:

12.2.1.1 Issuance of the section 11 Order and any section 13 Orders;

12.2.1.2 Public comment period for the draft Valued Components proposal;

12.2.1.3 Approval of the final Application Information Requirements document;

12.2.1.4 When the Application has been accepted and the start of the review of the Application has commenced;

12.2.1.5 Public comment period for the Application; and

12.2.1.6 Decision on the Application.

12.2.2 Invite such Aboriginal Groups to be members of the Working Group and to attend Working Group meetings or relevant Working Group subcommittee meetings;

12.2.3 Ensure that such Aboriginal Groups have the opportunity to provide comments on the draft Application Information Requirements and draft Valued Components and will consider any such comments;

12.2.4 Ensure that such Aboriginal Groups receive a copy of the Application and invite comments from Aboriginal Groups during the applicable legislated time

period in regard to the conformity of the Application with the Application Information Requirements;

- 12.2.5 Provide such Aboriginal Groups the opportunity to submit comments on the Application;
- 12.2.6 Determine the adequacy of the Proponent's responses to the comments received from such Aboriginal Groups;
- 12.2.7 At the request of any of these Aboriginal Groups, meet to discuss its Aboriginal Interests in relation to the proposed Project and measures to avoid, mitigate, or otherwise address or accommodate potential adverse impacts on Aboriginal Interests, as appropriate;
- 12.2.8 Provide such Aboriginal Groups with an opportunity to comment on the draft Assessment Report and the Environmental Assessment Office's consultation report within established timelines;
- 12.2.9 Provide the opportunity for Aboriginal Groups to provide to the Environmental Assessment Office a submission regarding their views on the Assessment Report. Any such submission must be provided within the timeline established by the Project Assessment Lead and will be included in the package of materials sent to Ministers when the proposed Project is referred to Ministers for decision; and
- 12.2.10 Direct the Proponent to conduct the following activities:
 - 12.2.10.1 within specified timelines, provide to the Project Assessment Lead an Aboriginal Consultation Plan that will guide consultation activities with such Aboriginal Groups during the Pre-Application and Application Review Stages of the assessment. Prior to submitting the Aboriginal Consultation Plan to the Project Assessment Lead, the Proponent must provide the draft Plan to the Aboriginal Groups listed on Schedule B and must advise the Project Assessment Lead how such groups were consulted and what feedback was provided when submitting the Aboriginal Consultation Plan to the Project Assessment Lead. The Project Assessment Lead will assess the Aboriginal Consultation Plan and determine whether the proposed activities are adequate. The Project Assessment Lead may order additional consultation activities within prescribed time limits;
 - 12.2.10.2 in the Application, identify potentially affected Aboriginal Interests raised by such Aboriginal Groups and identify measures to avoid or mitigate such potential adverse effects and/or to otherwise address or accommodate the concerns of such Aboriginal Groups, as appropriate;
 - 12.2.10.3 as directed by the Project Assessment Lead, provide a response to comments received from such Aboriginal Groups, to the satisfaction of and within the timeframe specified by the Project Assessment Lead; and

12.2.10.4 implement additional measures for consultation and accommodation of such Aboriginal Groups and revise the Aboriginal Consultation Plan, where required by the Project Assessment Lead.

12.3 The Project Assessment Lead may at any time, notify the Proponent that one or more Aboriginal Groups may be added to this Order, and in doing so may identify any modifications to any of the procedures and obligations contained in this Order, having regard to the status of existing procedures and obligations at the time the additions are made.

12.4 The Project Assessment Lead may direct the Proponent to conduct the following activities:

12.4.1 provide a response to comments received from any Aboriginal Group, to the satisfaction and within the timeframe specified by the Project Assessment Lead; and

12.4.2 implement additional measures for consultation and accommodation of any Aboriginal Groups.

13. PROPONENT REPORTING

13.1 The Proponent must provide the Project Assessment Lead with Aboriginal Consultation Reports, consistent with the approved Aboriginal Consultation Plan, at the following times:

13.1.1 60 days after the deadline for Working Group comments on the Application Information Requirements,

13.1.2 At the time of submission of the Application as per section 7.1 of this Order;

13.1.3 No later than 120 days from the commencement of the Application Review Stage; and

13.1.4 At any other time specified by the Project Assessment Lead.

13.2 The Proponent must submit their Aboriginal Consultation Reports to the Aboriginal Groups listed on Schedule B for review and comment prior to submitting the reports to the Project Assessment Lead and must advise the Project Assessment Lead how such groups were consulted and what feedback was provided when submitting the Aboriginal Consultation Report to the Project Assessment Lead.

13.3 Aboriginal Consultation Reports must:

13.3.1 summarize the efforts undertaken by the Proponent to consult with Aboriginal Groups on Schedule B in accordance with the approved Aboriginal Consultation Plan, and also summarize the efforts undertaken by the Proponent to consult with any other Aboriginal Groups, if directed to do so by the Project Assessment Lead pursuant to section [12.3](#) of this Order;

13.3.2 identify the feedback and information received during consultation;

- 13.3.3 identify the potential adverse impacts of the proposed Project on Aboriginal Interests;
- 13.3.4 identify how the potential adverse impacts of the proposed Project on Aboriginal Interests will be avoided, mitigated, addressed or otherwise accommodated, as appropriate; and
- 13.3.5 outline next steps or future consultation activities, other than those outlined in the approved Aboriginal Consultation Plan.

PART H – PUBLIC CONSULTATION

14. PRE-APPLICATION STAGE

- 14.1** The Proponent must, within timelines established by the Project Assessment Lead, provide the Project Assessment Lead with a Public Consultation Plan.
- 14.2** The Project Assessment Lead will assess the Proponent's Public Consultation Plan and determine if the proposed activities are adequate. The Project Assessment Lead may order that additional consultation activities be undertaken within time limits set by the Project Assessment Lead.
- 14.3** During the Pre-Application Stage of the assessment, the Project Assessment Lead will provide a public comment period of at least 30 days on the draft Valued Components proposal referred to in section 5 of this Order.
- 14.4** The Project Assessment Lead may require an open house(s) to provide the public with an opportunity to review the draft Valued Components proposal. At the direction of the Project Assessment Lead, the Proponent may be required to attend one or more of these open houses.
- 14.5** The Proponent must make the draft Valued Components proposal available at accessible public locations as specified by the Project Assessment Lead, and the Project Assessment Lead will make the draft Application Information Requirements available on the Electronic Project Information Centre.
- 14.6** During a public comment period, the public may comment on the draft Valued Components proposal by providing comments through the Environmental Assessment Office's website.
- 14.7** The Proponent must respond to public comments received pursuant to section [14.6](#) of this Order, unless the Project Assessment Lead informs the Proponent that a comment:
 - (a) is not within the scope of the assessment, or
 - (b) contravenes the Environmental Assessment Office's Public Consultation Policy.
- 14.8** All public comments, received pursuant to section [14.6](#) of this Order, will be posted to the Electronic Project Information Centre within seven days of being

received, unless a comment falls within the conditions referred to in section [14.7\(a\)](#) or [14.7\(b\)](#) of this Order.

15. APPLICATION REVIEW STAGE

- 15.1** During the Application Review Stage, the Project Assessment Lead will provide for a public comment period of at least 30 days on the Application.
- 15.2** The Project Assessment Lead may require an open house(s) to provide the public with an opportunity to review the Application. At the direction of the Project Assessment Lead, the Proponent may be required to attend one or more open houses.
- 15.3** The Proponent must make the Application available at accessible public locations as specified by the Project Assessment Lead, and the Project Assessment Lead will make the Application available on the Electronic Project Information Centre.
- 15.4** During a public comment period, the public may comment on the Application by providing comments through the Electronic Project Information Centre.
- 15.5** The Proponent must respond to public comments received pursuant to section [15.4](#) of this Order, unless the Project Assessment Lead informs the Proponent that a comment:
 - (a) is not within the scope of the assessment, or
 - (b) contravenes the Environmental Assessment Office's Public Consultation Policy.
- 15.6** All public comments, received pursuant to section [15.4](#) of this Order, will be posted to the Electronic Project Information Centre within seven days of being received, unless a comment falls within the conditions referred to in section [15.5\(a\)](#) or [15.5\(b\)](#) of this Order.

16. PROPONENT REPORTING

- 16.1** The Proponent must provide the Project Assessment Lead with Public Consultation Reports, at the following times:
 - 16.1.1 60 days after the close of a public comment period
 - 16.1.2 at the time of submission of the Application as per section 7.1 of this Order;
and
 - 16.1.3 any other time specified by the Project Assessment Lead.
- 16.2** The Public Consultation Reports must include:
 - 16.2.1 a description of the results of the activities outlined in the Public Consultation Plan;
 - 16.2.2 a summary of: consultations with the public that the Proponent has already carried out in relation to the proposed Project; information, comments,

concerns, and questions received from the public within the scope of the environmental assessment, and; how the concerns were addressed; and

16.2.3 proposed next steps for public consultation activities.

- 16.3** The Proponent may be required to undertake additional public consultation activities as required and within a time limit set by the Project Assessment Lead.

17. PUBLIC NOTIFICATION OF PUBLIC COMMENT PERIODS

- 17.1** Prior to the start of any formal public comment period, the Proponent, by means acceptable to the Project Assessment Lead, must provide public notice of:

17.1.1 the availability of the draft Valued Components proposal or Application for public review and comment and the time limits for the formal public comment period provided for in this Order; and

17.1.2 the date, time and location of any open house(s) held.

- 17.2** The Proponent must obtain approval from the Project Assessment Lead for the content, format and publication schedule for newspaper advertisements required under section [17.1](#) of this Order.

- 17.3** When one or more notices of an event are to be given, then, in accordance with section 5 of the Public Consultation Policy Regulation (B.C. Reg. 373/02), the first notice must appear:

17.3.1 in the case of a formal public comment period, at least seven days prior to the date on which the formal public comment period commences; or

17.3.2 in the case of an open house, at least seven days prior to the date on which an open house is scheduled.

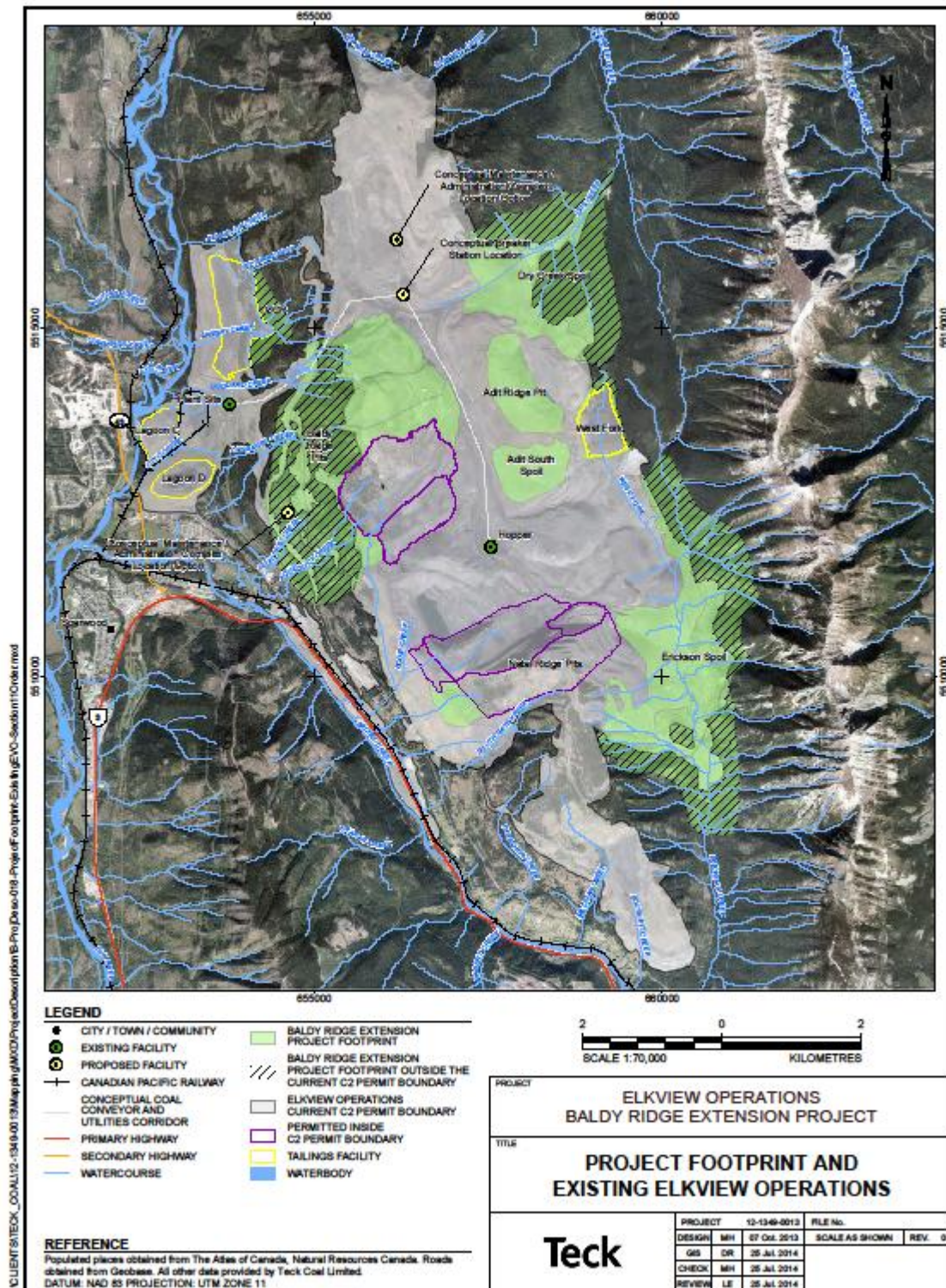
- 17.4** Information and records listed in section 6 of the Public Consultation Policy Regulation (B.C. Reg. 373/02) that pertain to the assessment of the proposed Project will be made available to the public through the electronic Project Information Centre.

PART I – PROVIDING ADDITIONAL INFORMATION

18. ADDITIONAL INFORMATION

- 18.1** Without limiting any of the requirements in this Order, the Proponent must, at the request of the Project Assessment Lead, provide the Project Assessment Lead with any information or address any issues that the Project Assessment Lead considers necessary in order to complete the environmental assessment of the proposed Project.

Figure 1. Location Map



SCHEDULE B

Tobacco Plains Band
St. Mary's Band
Lower Kootenay Band
?Akisq'nuk First Nation

(The above four First Nations are represented by the Ktunaxa Nation Council)

SCHEDULE C

Shuswap Indian Band