

The EAO's Analysis of a Substantially Started Determination Request

MURRAY RIVER COAL PROJECT

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Pursuant to Section 31(7) of the *Environmental Assessment Act*, S.B.C. 2018, c.51



EAO

Environmental
Assessment Office

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1.0 INTRODUCTION

On October 11, 2024, HD Mining International Ltd. (HD Mining) wrote to the Environmental Assessment Office (EAO) requesting a substantially started determination for the Murray River Coal Project (the Project). HD Mining's submission included a [report](#) that describes the physical works that have been completed, other permits and authorizations received as well as financial information to assist in validating the physical works started and completed.

Under [Section 31\(6\)](#) of the *Environmental Assessment Act* (2018) (the Act), the Certificate Holder must have substantially started the Project by the deadline specified in the Environmental Assessment Certificate (EAC), in the reasonable opinion of the Minister of Environment and Parks.¹ If the Project has been substantially started by the specified deadline, the Project's EAC remains in effect for the life of the project, subject only to suspension or cancellation for the reasons specified by Section 56 of the Act (i.e. may suspend or cancel the certificate if on the twentieth anniversary of the issuance of the certificate the project is not operational).

This report provides information to support the EAO's analysis as to whether the Project has been substantially started. This includes assessing the components of the Project that have been fully or partially constructed as of the date of the report, as reported by HD Mining and the Independent Environmental Monitor for the Project and observed during inspections undertaken by Inspectors from the Ministry of Mining and Critical Minerals and EAO's Compliance and Enforcement (C&E) Officers. The EAO C&E Officers conducted an administrative inspection of the Project on July 18, 2024, and an on-site inspection of the Project on November 5, 2024. Findings from these inspections can be found on the [EAO's Project Information Centre](#), and are referenced in this report where relevant.

1.1. Project Information

HD Mining received EAC #M15-03 under the *Environmental Assessment Act* (2002) (the Former Act) for the Murray River Coal Project on October 1, 2015. The Project also required a federal Environmental Assessment under the *Canadian Environmental Assessment Act*, 2012, and federal approval for the Project was granted on December 13, 2017.

The Project is a proposed underground metallurgical coal mine, located approximately 12.5 kilometres south of Tumbler Ridge. The proposed mine is expected to have an annual production capacity of up to six million tonnes of metallurgical coal, mined using a longwall mining method. Longwall mining is an underground coal mining method where a long wall of coal is mined in a single slice. The scope of the Project's environmental assessment (EA) included the underground coal mine and the supporting surface infrastructure including the coal processing and load out site ([see Figure 1](#)).

¹ The Minister's power to formulate the opinion referred to in Sections 31(1), 31(6) and 31(7) of the Act have been delegated to the Chief Executive Assessment Officer under Section 72 of the Act.

Project infrastructure is proposed in five areas: the underground mine, decline site, shaft site, coal processing site and secondary shaft site. The Project is anticipated to take five years to construct and operate for 25 years. Once operations have ceased, the plan is for decommissioning and reclamation to take three years. Reclamation activities and post-closure monitoring will continue during the post closure phase.

On July 14, 2020, a five-year extension was granted to extend the EAC expiration to October 1, 2025. In their extension request, HD Mining stated that the Project was not anticipated to be substantially started before the October 1, 2020, deadline primarily due to market and financing challenges. The extension application noted the following reasons for delay of construction after EAC issuance:

- Uncertainties stemming from the potential need for southern mountain caribou protection in the Project area;
- The inability to start construction until the federal approval was granted in December 2017, two years after the EAC issuance²; and,
- Labour force disruptions due to challenges in foreign worker permits caused by this delay and the limited trained underground coal workforce in Canada.

In their application, HD mining indicated that an extension to the EAC would allow for them to address marketing and financing challenges to allow for a substantial start by October 1, 2025.

Documentation relating to the provincial EA of the Project, the EAC, Certified Project Description (CPD), and Table of Conditions (TOC) are available on the [EAO's Project Information Centre \(EPIC\)](#).

2.0 GENERAL CONSIDERATIONS FOR SUBSTANTIALLY STARTED DETERMINATIONS

The Substantial Start Determination is intended to balance the time required to develop major industrial projects with the need to ensure that the assessment used to inform the Ministers' decision to issue an EAC remains appropriately current. The purpose of the substantial start requirement is to ensure that project approvals are not obtained speculatively without a genuine intention to proceed and to encourage proponents to begin their projects within a reasonable timeframe, ensuring that the information relied on in the environmental assessment remains relevant and reflects current conditions. The EAO's policy on substantial start determinations is available in the EAO's [Substantial Start Determination Policy](#), released June 15, 2021.

The term "substantially started" is not defined in the Act, although the courts have provided guidance on its meaning. Ultimately each determination is made by the decision-maker on a case-by-case basis considering all relevant facts related to whether the project is substantially started.

The EAO's analysis on whether a project is substantially started is informed by the information and views submitted, EAO policy, and relevant court decisions. Case law suggests that the decision maker focus on what has taken place physically on the site, although there is latitude to consider other factors along with physical work. The British Columbia (B.C.) Supreme Court decision in *Taku River Tlingit First Nation v. British Columbia (Minister of Environment)*, 2014 BCSC 1278, stated:

² The Federal Minister of Environment issued a Decision Statement for the Murray River Coal Project on December 13, 2017 stating that the significant adverse environmental effects that the Designated Project is likely to cause are justified in the circumstances and established conditions with which HD Mining was required to comply. The Federal Decision Statement does not include an expiry or requirement regarding the timing of construction or operation.

- Based on the definition of “project” in the Act, the substantial start determination should address “primarily physical activities affecting the land environmentally, as contrasted with bureaucratic activities, for example, which do not.”;³
- “The decision-maker should focus less on the permits which have been granted and the money expended, and more on what has taken place physically at the site.”;
- “Temporary structures at the site, if they will soon be removed followed by remediation, are less important to consider than structures which will be in place for the duration of the project.”;
- To have been substantially started, the project needs to be started “in its essentials in a real and tangible way.”; and,
- To be considered as part of the substantial start determination, activity must have occurred after the EAC was issued and before the expiry date in the EAC.

With regard to the last bullet, the EAO is of the view that it is reasonable for the decision maker to consider physical work completed before the issuance of the EAC if these works were required for both mine exploration and development of Project facilities and infrastructure described by the Certified Project Description. However, it is also reasonable to apply a lesser weight to physical works that support both mine exploration and the Project that were completed before EAC issuance. To support analysis of these factors, the EAO has described the physical works completed before and after EAC issuance.

Overall, the EAO considered the following questions in its analysis for a substantial start determination:

- What time, effort, and resources have been invested to physically develop one or more main project elements?;
- How have the activities undertaken to date contributed to the development of the overall project? For example, are the activities in relation to a significant or important step, or are they ancillary, secondary, or temporary?;
- Is the activity or component identified in the Certified Project Description (CPD; Schedule A of the Certificate) as part of the project?; and,
- Did the activity occur after the EAC was issued and before its expiry (i.e., between October 1, 2015, and October 1, 2025, for the Murray River Coal Project)?

3.0 ENGAGEMENT

3.1. First Nations Engagement

The Project is located in Treaty 8 territory in northeast B.C. and is within the traditional territories of West Moberly First Nations, Sauteau First Nations, McLeod Lake Indian Band, Horse Lake First Nation and Doig River First Nation.

In their submission, HD Mining reported that they have benefit agreements with West Moberly First Nations, signed in 2017, and Sauteau First Nations, signed in 2018. The agreements provide employment and contracting opportunities and set out engagement processes. HD Mining also reported they presented a draft agreement to McLeod Lake Indian Band. HD Mining’s application provided a letter of support for substantial start dated October 7, 2024, from West Moberly First Nations.

³ The *Environmental Assessment Act* (2018) defines “project” to mean any: (a) activity that has or may have adverse effects, or (b) construction, operation, modification, dismantling or abandonment of a physical work.

HD Mining's substantial start request also states they shared their draft Substantial Start Request report with West Moberly First Nations, Saulteau First Nations and McLeod Lake Indian Band on September 13, 2024, with a request for comments by October 3, 2024. No comments were received.

On November 4, 2024, the EAO notified West Moberly First Nations, Saulteau First Nations and McLeod Lake Indian Band that a request for a substantial start determination had been received from HD Mining and invited any comments with respect to the substantial start determination. Additionally, on December 18, 2024, the EAO notified Horse Lake First Nation, Doig River First Nation, Blueberry River First Nations and Halfway River First Nation. The EAO did not receive any comments in response; however, West Moberly Nations sent a letter of support for the Project. This letter did not provide any new evidence towards a substantial start determination but does outline that West Moberly First Nations is familiar with the Project, its potential impact on their Section 35 rights, and has a mutual benefits agreement in place with HD Mining.

On March 12, 2025, the EAO provided a draft of this report to West Moberly First Nations, Saulteau First Nations and McLeod Lake Indian Band for review and comment. The EAO did not receive any comments in response.

3.2. Local Government Engagement

The Project falls within the municipal boundaries of the District of Tumbler Ridge. HD Mining met with the District of Tumbler Ridge on April 15, 2024, to provide an update on the Project. The District of Tumbler Ridge provided a letter of support, dated October 1, 2024, for HD Mining's substantial start determination request. This is included in Appendix A of HD Mining's submission. Although the letter did not provide new evidence towards the substantial start determination, the letter emphasizes the Project's expected economic benefits, including job creation, business development, and long-term financial stability for Tumbler Ridge and its residents, and highlights that the substantial start determination for the Project is essential for its timely progress and the future prosperity of the district.

4.0 SUMMARY OF INFORMATION TO INFORM THE SUBSTANTIALLY STARTED DETERMINATION

4.1. Review of Physical Works

4.1.1. Overview of Certified Project Description Works

The Project's CPD identifies five main areas of development:

1. Underground Mine;
2. Decline Site;
3. Shaft Site;
4. Coal Processing Site; and,
5. Secondary Shaft Site.

Each area of development has several permanent physical components needed to construct and operate the Project, with 56 permanent project components listed in the CPD.

As of November 2024, HD Mining has commenced physical work in three of the five areas: the Underground Mine, Decline Site and Shaft Site. This is noted in Table 1.

HD Mining has initiated work on 19 of 56 (34 percent) physical project components authorized by the CPD, with two (four percent) of those components initiated after the EAC was issued. This is shown in Figure 2.

As of the date of HD Mining’s substantial start request, HD Mining was awaiting an Occupant License to Cut to begin construction at the Coal Processing Site. No construction has commenced at the Secondary Shaft Site, as this Project component is not required until Year 15 of Operations

Sections 4.1.2-4.1.7 of this report provide detailed information on the development status of the physical project components as well as EAO’s assessment of whether the work completed supports a substantial start determination.

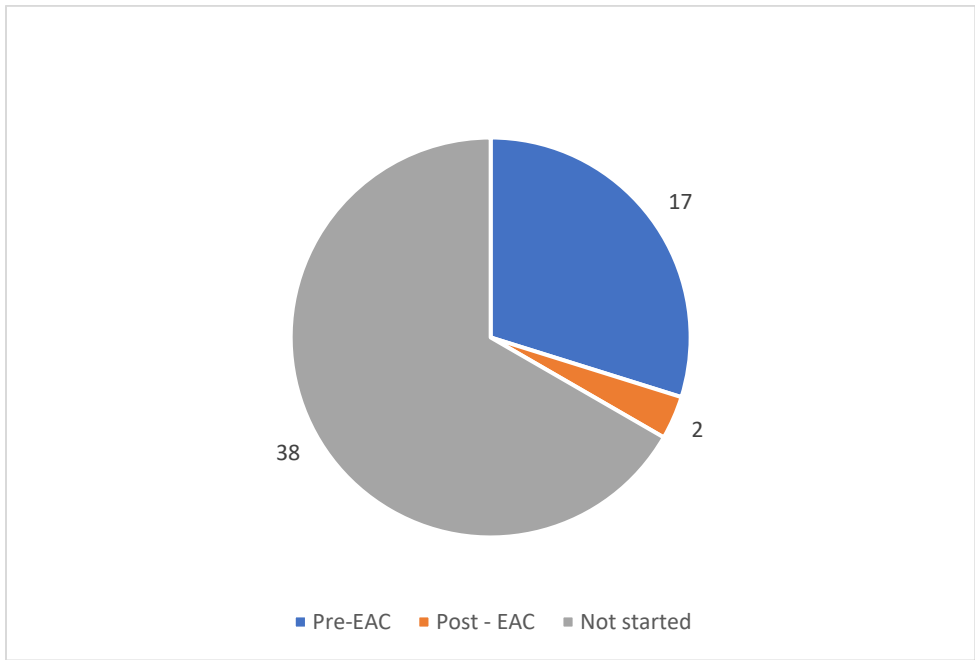


Figure 2. Overview of Construction Status of All CPD Components

Table 1. Five Main Areas of Development Work Overview

Area of Development	Bulk Sample Works	Work Carried Out Post-EAC	Construction Status
Underground Mine	1 component carried out pre-EAC	None	Started, 1/10 components in the CPD started
Decline Site	11 components carried out pre-EAC	2 components carried out post-EAC	Started, 13/17 components in the CPD started or complete
Shaft Site	5 components carried out pre-EAC	None	Started, 5/9 components in the CPD started or complete
Coal Processing Site	None	None	Not started, 0/14 components in the CPD started or completed
Secondary Shaft Site (Not needed until year 15 of operations)	N/A	N/A	Not started, 0/7 components in the CPD started or completed

4.1.2. Bulk Sample Program Works

The EAO acknowledges that the majority of physical work completed for the Project was in support of the bulk sample program, which HD Mining initiated at the Project site in 2012, prior to the issuance of the EAC (i.e. October 1, 2015). The purpose of the bulk sample program was to test the coal for use as a coking coal and to preform coal washability testing. In 2012 and into 2013, HD Mining completed surface preparations to mine the bulk sample and underground development of a decline began in January 2014. Permitted infrastructure associated with the Bulk Sample is divided between two areas: the North (shaft) area and the South (decline) area.

The bulk sample program concluded in December 2015 (about two months post certificate), after the extraction of five to six tonnes of raw coal. In January 2016, HD Mining placed the Project into care and maintenance following the completion of the Bulk Sample program⁴. It remained in care and maintenance until May 2024, with construction formally restarting on June 17, 2024.

As noted, case law suggests that for activity to be considered as part of the substantial start determination, the activity must have occurred after the EAC was issued and before the expiry date in the EAC. However, the EAO acknowledges that the work of the bulk sample involved substantial time, effort, and resources that led to permanent physical development of components identified in the Certified Project Description (e.g., underground development of a service decline that was used for access to the bulk sample). In the EAO's view, these activities should be considered as part of its substantial start analysis because if not considered it would effectively penalize the company for conducting the exploration work that was critical for mine development. This is not the intent of the substantial start requirement.

4.1.3. Independent Environmental Monitoring of Works

Condition #1 of EAC #M15-03 requires HD mining to retain an Independent Environmental Monitor (IEM) prior to commencing construction, and to employ the IEM for the duration of the construction and operations phases of the Project. The IEM began conducting site visits in June of 2024, and has since then submitted monthly reports to the EAO. These reports have helped the EAO understand the activity completed on site. All four IEM reports that the EAO reviewed to inform our analysis of the substantial start determination request, dating from June to September 2024, state that there is minimal activity on site. Activities undertaken from June to September 2024, observed by the IEM included:

- Moving stockpiled material at the decline site, in preparation for relocation to the waste rock storage site;
- Preparing to move a tent to expand the on-site water collection area for capture of contact water;
- Equipment maintenance;
- Relocating central topsoil pile;
- Managing water quality and discharge at the decline and waste rock storage sites;
- Setting up modular office facilities and record management (Figure 3);
- One new tent constructed, and one tent moved;
- The temporary stockpile was moved and has silt fence installed along the bottom;
- Perimeter ditch cleaned up to keep non-contact water off-site;
- Amphibian fence installed around primary and secondary settling ponds at the decline site;
- Laying forms at the decline site for construction of underground rail line;
- Moving topsoil at the west end of the site;
- Excavator was levelling the pad for the diesel storage tank;

⁴ The *Mines Act* does not include care and maintenance as a project phase. Care and maintenance is a term used in the mining industry to describe processes and conditions on a closed mine site at which there is the potential to recommence operations at a later date. During the care and maintenance phase, production is stopped but the site managed to ensure it remains in a safe and stable condition.

- Pouring concrete at the decline site for construction of underground rail line; and,
- Third party contractor performing renovations on shower trailer.

The EAO is of the view that these activities, while necessary for advancing the Project, are predominantly secondary, ancillary or temporary, and carry less weight in the substantial start determination.

4.1.4. Underground Mine

The CPD outlines that there are 10 components to support the underground mine. As noted in Table 2, no physical infrastructure has been constructed on the underground mine after issuance of the EAC. Only one component, the Service Decline, has been started. Because this component is identified in the CPD, the EAO considered this work as part of its substantial start analysis.

According to HD Mining, work on the underground mine site began in January 2014, as part of the bulk sample. Over two years, 1375 metres(m) of a 1500 m service decline was advanced to extract coal for metallurgical testing. For the Project, the Service Decline will serve as the main entry for personnel and materials, as well as a fresh air intake. In January 2016, the Service Decline was flooded with water and remained in that state as HD Mining placed the Project into care and maintenance⁵.

In 2024, HD Mining engaged Thyssen Engineering to undertake work to restart activity at the underground mine site. HD Mining's effort and resources have focused on developing engineering designs and plans to advance construction at this site. During the November 5, 2024, on-site inspection of the Project site carried out by the EAO C&E, staff confirmed that dewatering of the Service Decline had not yet commenced. No other project component listed in the CPD for the underground mine has been constructed, including the production decline, which is the primary means of hauling coal to the surface for processing, as well as an evacuation exit in emergency⁶.

The EAO notes that works to support the underground mine are limited to the incomplete and flooded service decline, which was constructed as part of the bulk sample program. Construction of other infrastructure essential to the operation of the underground mine has not been initiated, including construction of the production decline, which will be the primary means of hauling coal to the surface for processing, according to HD Mining's Application for an Environmental Assessment Certificate.⁷ The EAO acknowledges that the dewatering of the service decline is needed before further work can be done on the underground mine, but that time, effort, and resources have been invested to physically start a key CPD component.

Table 2. Underground Mine Components Work Overview

CPD Component	Work Carried Out Pre- or Post-EAC	Construction Status
Service decline	Pre-EAC	Started; 1375 m of 1500 m decline completed
Underground mine panels	N/A	Not started
Longwall exclusion zones	N/A	Not started
Shaft	N/A	Not started
Production decline	N/A	Not started

⁵ Care and maintenance refers to the state of a mine site where active construction or production has stopped but the project site is managed and monitored to ensure it remains in a safe and stable condition to meet regulatory requirements and enable resumption of construction or production in the future.

⁶ EAC Application

⁷ EAC Application

Two ventilation shafts	N/A	Not started
Underground operations hub	N/A	Not started
Mainline tunnel system	N/A	Not started
Underground water management system	N/A	Not started
Coalbed methane drainage system	N/A	Not started



Figure 3. Modular Offices on site November 5, 2024

4.1.5. Decline Site

The CPD outlines there are 17 components to support the Decline Site. As noted in Table 3, 11 of the 17 components that support the Decline Site were started pre-EAC and two were started post-EAC issuance. Because all 13 components were identified in the CPD, the EAO considered these works in its substantial start analysis.

According to HD Mining, site preparation work on the Decline Site began in 2012, as part of the bulk sample, when HD Mining developed:

- Warehouse tents/equipment storage;
- Decline portal and heapstead;
- Truck loading area;
- Topsoil storage;
- Water management facilities, including an above ground water line, water treatment plant, sedimentation ponds and a discharge exfiltration gallery; and,
- Sewage treatment plan and septic field of the Mine.

These facilities were operated until January 2016, after which the site was placed into care and maintenance ([see Figure 4](#)).

In 2024, HD Mining engaged Thyssen Engineering to undertake work to re-start activity at the Decline Site ([see Figure 5](#)). Between May and September 2024, HD Mining's effort and resources focused on rehabilitation of the Decline Site, including rehabilitation and repair of building and storage areas, water and septic systems, electrical systems and water treatment facilities. There are temporary office trailers on site, but the permanent office/administration buildings complex has not yet been constructed.

A hoist house has been constructed on the site, which will house a monorail and serve as the base and covered maintenance area for the haulage system. Between May and September 2024, a permanent electrical substation was also established to support underground activities. The decline site footprint is currently 13.7 hectares (ha), which is 67 percent of its anticipated full buildout for operations.

The EAO notes that 75 percent of the works to support the Decline site have been completed. This work has contributed to the development of the overall project.

Table 3. Decline Site Work Overview

CPD Component	Work Carried Out Pre- or Post-EAC	Construction Status
Service decline portal	Pre-EAC	Complete
Hoist house	Post-EAC	Complete
Equipment assembly and maintenance shops	Pre-EAC	Complete
Diesel storage tanks and fuel station	Pre-EAC	Complete
Emergency diesel generators	Pre-EAC	Complete
Electrical substation	Post-EAC	Complete
Truck load-out	Pre-EAC	Complete
Water treatment facilities, including a sedimentation pond and discharge exfiltration galleries	Pre-EAC	Complete
Contact water collection ditches, sedimentation pond(s), and water management structures	Pre-EAC	Complete
Non-contact water diversion ditch network and water management structures	Pre-EAC	Complete
Sewage treatment and disposal facilities	Pre-EAC	Complete
Water supply facilities	Pre-EAC	Complete
Overburden and soil storage areas	Pre-EAC	Complete
Natural gas storage tank	N/A	Not started
230kV transmission line from BC Hydro grid	N/A	Not started

Office/administration buildings complex and mine dry	N/A	Not started
Decline conveyor	N/A	Not started

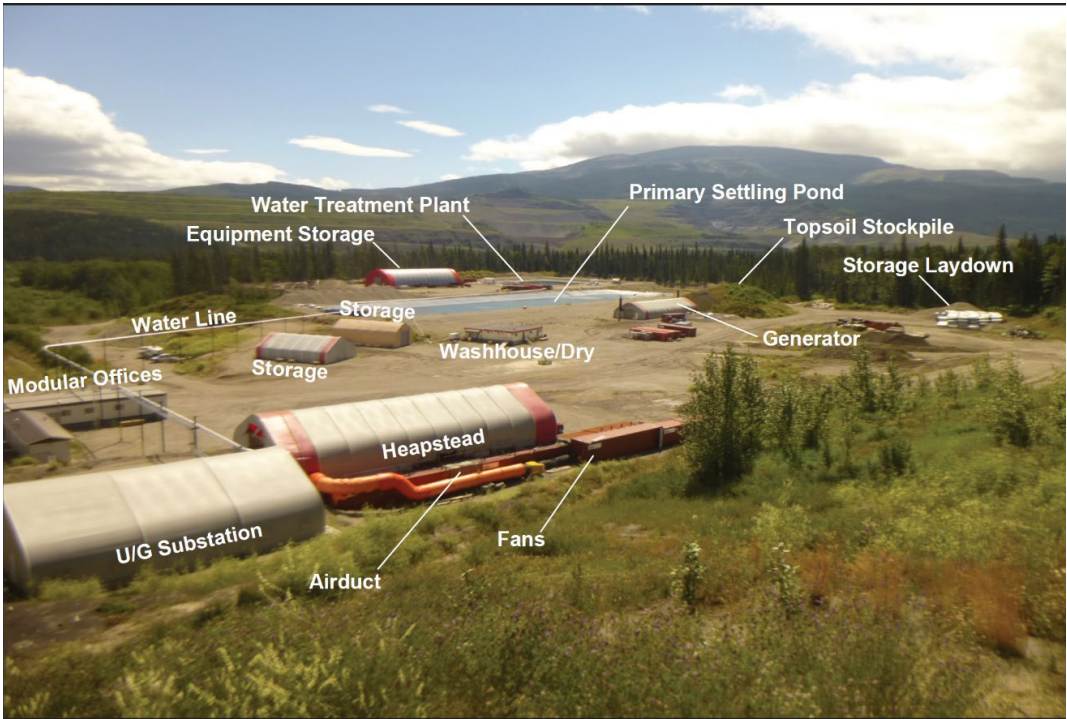


Figure 4. Picture supplied by HD mining of the Decline Site in summer of 2016 in care and maintenance



Figure 5. Decline Overview on November 5, 2024

4.1.6. Shaft Site

The CPD outlines nine components to support the shaft site. As noted in Table 4, five of the nine shaft components were started pre-EAC. Because they are part of the CPD, the EAO considered them as part of its substantial start analysis. A picture of the site taken during the November 5, 2024, inspection by C&E staff is included for reference below ([Figure 6](#)).

The main component, the shaft, was authorized by *Mines Act* permit CX 9 44 as part of the bulk sample program but was not constructed. Site preparation work began at the shaft site in 2012, as part of the bulk sample, when HD Mining developed:

- Access roads (not listed in the CPD);
- Topsoil storage (listed in the CPD);
- Waste rock pile with geomembrane liner and capacity of 200,000m³ (listed in the CPD); and,
- Water management facilities, including a sedimentation pond and discharge structure to M20 Creek (listed in the CPD).

These facilities were operated from January 2014 until January 2016, after which the site was placed into care and maintenance.

In 2024, HD Mining engaged Thyssen Engineering to undertake work to re-start activity at the Shaft site, and HD Mining has advanced site investigations, including establishing two geotechnical drill holes and engineering for the preparation of Issued for construction drawings for surface works at the site. Clearing and foundation excavation will begin once HD Mining receives their Occupant License to Cut (under review at the time of HD Mining's submission). HD Mining indicates that they have disturbed 18.3 ha of the 25.9 ha surface footprint for the shaft site which is 71 percent of its anticipated full disturbance.

The EAO notes that works to support the shaft site that have been started or completed include surface preparation activities such as waste rock piles, contact water collection, water diversion and overburden and soil storage areas. These works were carried out to support the bulk sample program. The physical sinking of the shaft has not occurred, nor has infrastructure, as indicated in the CPD, to support the shaft site such as transmission lines, ventilation fans and coalbed methane drainage systems set in place. The shaft, once constructed, will serve as the return air shaft for ventilation within the underground mine.

The EAO acknowledges that limited work has been completed at the shaft site since the site was placed into care and maintenance and that a key component, the shaft has not been structured. However, over half of the nine shaft components have been completed, which requires substantial time and resources. In addition, HD Mining is authorized to construct the shaft and has completed preparation work. This work contributes to the overall project development.



Figure 6. Shaft site on November 5, 2024

Table 4. Shaft Site Work Overview

CPD Component	Work Carried Out Pre- or Post-EAC	Construction Status
A waste rock pile on a lined waste rock storage pad	Pre-EAC	Complete
Contact water collection ditches, sedimentation pond(s), and water management structures	Pre-EAC	Complete
Non-contact water diversion ditch network and water management structures	Pre-EAC	Complete
Overburden and soil storage areas	Pre-EAC	Complete

Exfiltration gallery to M20 Creek	Pre-EAC	Complete
Shaft	N/A	Not started
Main ventilation fans	N/A	Not started
10 kV transmission line	N/A	Not started
Coalbed methane drainage pumping system	N/A	Not started

4.1.7. Coal Processing Site

The CPD outlines that there are 14 components to support the Coal Processing Site, including a Coal Preparation Plant, coarse coal reject piles, clean coal stockpiles, natural gas pipeline and a rail load out. HD Mining's Application for an EAC states:

"HD Mining has developed infrastructure at the Decline Site and Shaft Site to support the bulk sample. While some minor modifications will be required within the existing sites, these sites are already established, and little site preparation is expected to allow these sites to continue to be used during Construction of the full mine development. Therefore, site preparation work during Construction will largely focus on the Coal Processing Site."

At the time of writing, HD Mining was awaiting an Occupant License to Cut to begin work on this site and no construction had occurred (as shown in Table 5). A picture of the site taken during the November 5, 2024, inspection by C&E staff is included for reference below ([Figure 7](#)). The EAO did not consider any work related to the coal processing site in its substantial start determination.



Figure 7. Future Coal Processing Plant Site on November 5, 2024

Table 5. Coal Processing Work Overview

CPD Component	Work Carried Out Pre- or Post-EAC	Construction Status
Raw coal stockpile	N/A	Not started
CPP	N/A	Not started
Coarse Coal Reject (CCR) piles	N/A	Not started
Clean coal stockpile	N/A	Not started
Covered conveyor transport system	N/A	Not started
Electrical substation	N/A	Not started
Buried flotation reagent tanks	N/A	Not started
Natural gas pipeline	N/A	Not started
Rail loadout	N/A	Not started
Contact water collection ditches, sedimentation pond(s), and water management structures	N/A	Not started
Non-contact water diversion ditch network and water management structures	N/A	Not started
Sewage treatment and disposal facilities	N/A	Not started
Water supply facilities	N/A	Not started
Overburden and soil storage areas	N/A	Not started

4.1.8. Secondary Shaft Site

HD Mining reports that there has been no construction commenced at the Secondary Shaft Site, as infrastructure at this site is not required until Year 15 of Operations. Due to lack of activity at this site, the EAO did not consider any work related to the secondary shaft site. Table 6 provides an overview of the CPD components required at the Secondary Shaft Site that have not been started.

Table 6. Secondary Shaft Site Work Overview

CPD Component	Work Carried Out Pre- or Post-EAC	Construction Status
Intake air shaft	N/A	Not started
Return air shaft	N/A	Not started
Ventilation fans and electrical equipment	N/A	Not started
Coalbed methane drainage pumping system	N/A	Not started

Contact water collection ditches, sedimentation pond(s), and water management structures	N/A	Not started
Non-contact water diversion ditch network and water management structures	N/A	Not started
Overburden and soil storage areas	N/A	Not started

4.2. Expenditures

In its substantial start application, HD Mining indicates that the works completed to date represent a total investment of 294 million dollars, including exploration, engineering, equipment, construction, financial and management costs. In the EAO's assessment report for the Application for a Certificate Extension, issued July 14, 2020, the economic impacts section states: *"HD Mining has spent over 200 million dollars on the Project; including on the EA, permitting, exploration work, the bulk sample program and the decline construction."* No further breakdown of expenditures, including what was spent pre versus post EAC issuance or extension, was provided with the substantial start determination request.

Reclamation security for the Project held by the Minister of Finance is currently 6,963,700 dollars, with an additional 5,060,700 dollars to be deposited every 12 months from the start of construction until the sum amounts to the total reclamation security of 17,085,100 dollars, as required by *Mines Act* Permit #C-244. The sum currently held by the Minister of Finance amounts to 41 percent of the total security.

The EAO recognizes that this investment is substantial and an important factor to weigh in its substantial start analysis.

4.3. Status of Permits and Other Approvals

In addition to the Certificate, HD Mining has received six permits and authorizations pursuant to the *Mines Act*, *Environmental Management Act*, *Water Sustainability Act*, and *Forest Act*. Exact issuance of the permits is indicated in the Table 7 below, with most permits were issued either in 2013 or 2018.

In their submission, HD mining indicates that the three outstanding authorizations under review by the Ministry of Forests:

- Two Occupant Licences to Cut that are needed to advance site clearing in the coal processing and shaft sites; and,
- One Special Use Permit that is needed to access HD Mining's production decline and topsoil storage sites

The EAO acknowledges that permits and authorizations are weighed less in substantial start determination; however, they are required to enable physical development. The EAO understands that HD Mining has obtained or is in the process of obtaining all authorizations required to support the project, suggesting tangible efforts have been made to develop the overall project.

Table 7. Status of Authorizations

Statute	Status	Comment
<i>Mines Act</i>	Permit #C-244, Approving Mine Plan and Reclamation Program (issued on April 5, 2018, and amended on May 10, 2024)	Authorizes mine development including surface disturbance and works, and the buffer area required to manage and monitor potential subsidence associated with

Statute	Status	Comment
		underground mining within a Permitted Mine Area of approximately 2,656 ha.
<i>Environmental Management Act</i>	Permit #106666 (issued on October 7, 2013, and amended in 2018 and 2019)	Authorizes discharges of effluent from the Decline Site, Shaft Site and Coal Preparation Plant, and air contaminants from the Coal Drying Plant, Coal Preparation Plant and Decline Site.
<i>Coal Act</i>	Lease (issued on April 12, 2018)	Exclusive right to explore, develop and produce coal on the lease location
<i>Water Sustainability Act</i>	Water licences 500270, 500409 (issued on April 12, 2018)	To construct works and use water.
<i>Forest Practices Code of British Columbia Act</i>	Special Use Permit S25604 (issued July 5, 2013)	For site access at the Coal Processing Site
	Special Use Permit (Submitted and under review)	To access HD Mining's production decline and topsoil storage sites.
<i>Forest Act</i>	Occupant Licences to Cut (OLTC) (Status on October 10, 2024: Submitted and under review)	Clear trees in the Shaft and the Coal Processing Sites

5.0 CONCLUSIONS

The EAO's analysis has considered the EAO's Substantial Start Determination Policy, the information contained in HD Mining's request for a substantial start determination, supplemental information provided by the EAO's C&E staff, HD Mining's engagement with First Nations and the EAO's engagement with First Nations. The EAO evaluated the activities undertaken to date against the full project that was assessed and issued the EAC.

The EAO recognizes that without the Occupant Licence to Cut and a Special Use Permits, HD Mining has been unable to advance site clearing operations for the coal processing and shaft sites, which is needed to access HD Mining's production decline and topsoil storage sites. However, the EAO acknowledges that HD Mining has invested substantial time, effort, and resources that has led to permanent physical development of components identified in the CPD.

In summary, the EAO concludes that:

- HD Mining has started and/or completed work on 19 of 56 (34 percent) physical project components authorized by the CPD, with two (four percent) of those components initiated after the EA;
- HD Mining has obtained *Mines Act* and *Environmental Management Act* permits that authorize construction on mine site project components and is in the process of obtaining all outstanding authorizations required to physically develop the site;

- The reported 294 million Canadian dollars of project spending on the development of physical works can be considered as evidence of HD Mining's stated intention to advance the project;
- HD Mining has signed benefit agreements with some First Nations and is negotiating additional agreements with others;
- HD Mining has partnered with local communities and the Project is expected to provide economic opportunities;
- Opportunities for First Nations to submit information and views were adequately provided by the EAO; and,
- The provincial Crown has fulfilled its statutory and constitutional obligations owed to First Nations relating to this substantial start determination.