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SENT VIA EMAIL

Natasha Essar
Manager
Teck Coal Limited
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Dear Natasha Essar:

Thank you for the submission of the Fording River Extension Project (the Project) Detailed Project Description (DPD) on July 29, 2021, proposed by Teck Coal Limited (Teck). The Environmental Assessment Office (EAO) engaged with the Ktunaxa Nation Council (KNC) on behalf of Ktunaxa Nation¹ in a dispute resolution process initiated upon the EAO issuing the readiness decision recommendation report on March 23, 2022. The purpose of the facilitated dispute resolution process that the EAO, KNC and Yaq'it ?a·knuq'it engaged in was to inform a readiness decision, including whether or not the DPD was sufficient to proceed to an environmental assessment (EA). The EAO has sought consensus with participating Indigenous nations prior to exercising a decision under Section 16(2) of the *Environmental Assessment Act* (2018) (the Act).

...2

¹ The EAO acknowledges that Yaq'it ?a·knuq'it submitted a request on November 11, 2022 to the Minister that the province engage directly with the Indigenous government of Yaq'it ?a·knuq'it and not with representatives of Ktunaxa Nation Council Society (KNCS) on its behalf for any projects reviewable under the Environmental Assessment Act with the exception of the FRX Dispute Resolution process in which Yaq'it ?a·knuq'it continued to participate as a member of KNCS. In addition, on January 20, 2023 Yaq'it ?a·knuq'it asserted exclusive rights and title within ?akanuxunik ?amakis via correspondence to the EAO. The EAO continues to engage with Yaq'it ?a·knuq'it to understand the requested change to engagement methods. For the purposes of this document, references to Ktunaxa are inclusive of all Ktunaxa First Nations including ?akisqnuq' First Nation, ?aqam, Yaqan nu?kiy and Yaq'it ?a·knuq'it. Forward looking engagement requirements include reference to Yaq'it ?a·knuq'it as a result of the First Nation's request for engagement independent of Ktunaxa Nation Council Society.

The Chief Executive Assessment Officer (CEAO) has issued a decision under Section 16(2)(a) of the Act requiring Teck to submit a revised Detailed Project Description.

The following options are available to Teck:

- Submit a revised Detailed Project Description for the Project;
- Submit an Initial Project Description for a different project after withdrawal of the Project from the EA process; or,
- Withdraw the Project from the EA process without submission of an Initial Project Description for an alternative project.

The following deficiencies have been identified that need to be addressed should Teck decide to submit a Revised Detailed Project Description:

- Clearer identification of alternatives to the Project, with transparent weighting and criteria for assessment of their feasibility including how alternatives are evaluated against the project purpose. The alternatives considered should at least include those identified in Table 3.1-1. of the DPD, and if available information allows identification of new resource areas or new mines, further definition of these alternatives;
- Clearer identification of alternative means of carrying out the Project, with transparent weighting and criteria for assessment of their feasibility. Alternative means of carrying the Project should consider options such as changes to siting, staging, timing and technologies;
- Ensure that the Detailed Project Description lists all the potential impacts, including cumulative impacts, of the Project on bio-physical components and to Ktunaxa rights, that have been identified as part of the dispute resolution process, and identify plausible mitigations to impacts on Ktunaxa and Ktunaxa rights;
- Ensure the Detailed Project Description includes all plausible measures that mitigate the effects of the Project *and* cumulative effects in the project area that the Project would contribute to;
- Confirm if Ktunaxa and Yaqit ʔa·knuq̓i't agree that proposed mitigation measures for effects on Ktunaxa rights are plausible;
- Identify and describe mitigation measures necessary to resolve Ktunaxa and Yaqit ʔa·knuq̓i't assertions of extraordinarily adverse effects; and,
- Apply the British Columbia (B.C.) Policy for Mitigating Impacts on Environmental Values when identifying plausible mitigation measures with attention to the mitigation hierarchy in order of priority.

The EAO recognizes that Teck's ability to identify appropriate mitigations for impacts on Ktunaxa rights will require engagement with Ktunaxa and Yaqit ʔa·knuqʔi't.

The above requirements for revisions to the Detailed Project Description are premised on Teck, Ktunaxa and Yaqit ʔa·knuqʔi't engaging in good faith and in a timely manner when providing the required information. The parameters for engagement are best developed by Teck, Ktunaxa, and Yaqit ʔa·knuqʔi't collaboratively. The EAO requests that Teck and Ktunaxa consider the options described in Section 7.0 of the Readiness Decision Report regarding engagement.

Should Teck decide to submit an Initial Project Description for a different project, then the project would be required to re-enter the EA process beginning at the Early Engagement phase. If the EAO determines that revisions to the Detailed Project Description are substantial, the Project may also be required to repeat steps in the Early Engagement phase.

Teck should also refer to the EAO's [Early Engagement Policy](#) when revising the Detailed Project Description and ensure that all requirements are met before re-submitting. Teck will need to engage with Participating Indigenous nations and technical advisors when relevant sections of the Detailed Project Description are updated or changed. Upon submitting a revised Detailed Project Description, the EAO will seek consensus with Participating Indigenous nations prior to making another Readiness Decision.

If you have any questions or would like to discuss the Readiness Decision process, please do not hesitate to contact me directly.

Sincerely,



Elenore Arend
Chief Executive Assessment Officer and Associate Deputy Minister
Environmental Assessment Office

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