



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

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Office of
International and
Tribal Affairs

Lucie Desforges
Director General, Multilateral and Bilateral Affairs
Environment and Climate Change Canada
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Gatineau, Quebec K1A 0H3
Canada

Mark Zacharias
Deputy Minister of Environment
Ministry of Environment
and Climate Change Strategy
PO Box 9339 Stn Prov Govt
Victoria, BC V8W 9M2 Canada

Dear Ms. Desforges and Mr. Zacharias:

During our bilateral conversations with Global Affairs Canada and Environment & Climate Change Canada in October, Sylvain Fabi of GAC informed the U.S. Environmental Protection Agency of Teck Coal's proposed shutdown of its West Line Creek water treatment plant at the Line Creek mine in British Columbia. The EPA appreciates being made aware of this proposal, which would result in the discharge of untreated seepage and runoff from coal mining operations into the Elk River, and subsequently into the transboundary Lake Koochanusa and Kootenai River. I am writing to express the EPA's concerns regarding the impacts that this proposed action could have on U.S. waters and resources, as well as the sufficiency of information provided to support the shutdown and any approval decision. The EPA requests that British Columbia not approve any actions that would result in increased selenium and nitrate loading to Lake Koochanusa and the Kootenai River until there is a full understanding of changes to water quality and potential transboundary impacts.

The EPA has long been concerned about the effects of mining-related pollution in the Elk River Valley and its cumulative transboundary impacts to U.S. resources. In particular, we are concerned about increasing selenium concentrations in the watershed, which can bioaccumulate in aquatic species and birds and impair egg and embryo development. The EPA has been actively engaged in bilateral processes to address these concerns, including the past Technical Advisory Committee for the Elk Valley Water Quality Plan and the current Lake Koochanusa Monitoring and Research Working Group.

The Elk Valley Water Quality Plan states that four active water treatment plants will be installed in the Elk River Valley to stabilize and reduce selenium and nitrate concentrations in the watershed. However, the first treatment plant at West Line Creek has had numerous problems, including a fish kill in 2014, operational delays, and more recently, problems with discharging a more bioavailable form of selenium. The second treatment plant at Fording River, originally scheduled for operation in 2018, is now delayed. These setbacks are of concern to the EPA, as the treatment plants are the primary proposed mechanism to reduce selenium and nitrate loading to the Elk River watershed and Lake Koochanusa. As a result of these ongoing setbacks, the

Water Quality Plan's goal of reducing selenium and nitrate concentrations in waters downstream of mining operations is not being fully met.

On November 19, 2017, Teck submitted an application to British Columbia's Ministry of Environment and Climate Change Strategy (MECCS) for approval to take the West Line Creek plant offline until at least August 2018. Granting Teck's request would likely increase selenium loads to U.S. waters in Lake Kootenai and the Kootenai River, resulting in more bioaccumulation of selenium in aquatic species and birds. The EPA notes that some fish samples in Lake Kootenai already exceed British Columbia's fish selenium guideline for egg/ovaries (11 µg/L) and selenium fish tissue concentrations appear to be increasing. We therefore have serious concerns about additional selenium loading to the system that could occur if the treatment plant is taken offline. In addition, we have concerns and questions about the impacts of the current partial bypass that is occurring. We understand that Teck is already bypassing a portion of the mine water (approximately one-third) without treatment.

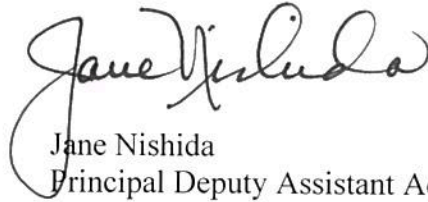
In addition, the Confederated Salish and Kootenai Tribes and the Kootenai Tribe of Idaho have both expressed concern to the EPA about potential impacts of the proposed bypass on fishery resources in Lake Kootenai and the Kootenai River, which are integral to the Tribes' respective economies and cultures, and on U.S. tribal treaty rights. The EPA will continue to keep the Tribes updated on the status of this matter.

The EPA appreciates that the MECCS has shared certain information about the proposed West Line Creek shutdown and has continued to update the Montana Department of Environmental Quality and the EPA regional offices in Denver and Seattle about the status of Teck's request. The EPA has been provided with only limited sections of Teck's application, however, and has not been given the opportunity to review critical monitoring data and water quality modeling results. The limited information that we have received to date appears insufficient to support a finding that the proposed shutdown is warranted. Until complete information is provided regarding predicted changes to Lake Kootenai water quality and aquatic resources, the EPA has serious questions about the possibility of allowing the West Line Creek treatment plant to remain offline for as much as a full year.

The 2010 Memorandum of Understanding and Cooperation on Environmental Protection, Climate Action and Energy between British Columbia and Montana articulates the expectation that information will be shared proactively on approvals and permits that have potential cross-border water quality impacts. Consistent with that expectation, the EPA urges the Canadian federal and provincial agencies to: (1) ensure that Teck provides sufficient technical information to support its shutdown request; (2) provide information regarding potential impacts to U.S. waters from the current bypass and reduced water treatment rate; (3) provide the complete application package to the EPA so that we can adequately assess potential impacts to U.S. waters and resources; and, (4) discuss with the EPA the information provided and clarify how downstream impacts will be considered in the Canadian process for making a decision on the shutdown. We further urge the agencies to consider alternative treatment strategies to stabilize and reverse the increasing selenium and nitrate trends in the Elk River system and to ensure that such strategies are implemented in a timely manner.

Thank you for your consideration of the EPA's concerns. Please feel free to contact me at 202-564-1531, or have your staff contact Pam Teel at 202-564-6424 should you have questions or wish to discuss this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Jane Nishida". The signature is fluid and cursive, with the first name "Jane" being particularly prominent.

Jane Nishida
Principal Deputy Assistant Administrator
Office of International and Tribal Affairs

cc: Sylvain Fabi, Global Affairs Canada
Cynthia Kierscht, U.S. Department of State
Ryan Close, U.S. Department of the Interior
Tom Livers, Director, Montana Department of Environmental Quality
Chairman Ron Trahan, Confederated Salish and Kootenai Tribes
Chairman Gerry Aitken, Jr., Kootenai Tribe of Idaho
Felicia Wright, U.S. EPA/OITA/AIEO