

March 21, 2021

To: The Honourable Jonathan Wilkinson Minister of Environment and Climate Change
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Cc: Tent Mountain Mine Redevelopment Project, Impact Assessment Agency of Canada
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From: Dr. Andrea Hull

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RE: Federal Review of Montem Resources' Tent Mountain Project

The Canadian Association of Physicians for the Environment (CAPE) Alberta Regional Committee requests that the Minister of Environment and Climate Change designate Montem Resources' Tent Mountain Project for an impact assessment under section 9(1) of the Impact Assessment Act, SC 2019, c28, s1. Representing over 90 health care professionals concerned about the environment and the socio-ecological health of regional populations, CAPE submits that Tent Mountain should be subject to federal impact assessment for the reason that it poses potentially significant effects and impacts in areas of federal jurisdiction outlined by the governing legislation, further detailed below.

For over thirty years, CAPE has advocated for healthy public policy, recognizing that our ecosystem is the foundation of our health care system. In Alberta, CAPE has been at the forefront of efforts to phase out coal-powered electricity, and to support community mitigation and adaptation to climate change. Over the past year, we have become increasingly invested in efforts to address the socio-ecological effects and impacts of major natural resource developments proposed in this province.

We became aware of the Tent Mountain Project through a broad-based coalition of stakeholders and rights-holders concerned about the effects and impacts of coal mining in the Eastern Slopes of the Rocky Mountains. Between June 2020 and February 2021, the Government of Alberta rescinded, and later reinstated its 1976 Coal Policy, resulting in 194 000 hectares of coal mining leases being granted in the interim. CAPE's work with this coalition of concerned Canadians began with a submission to the Grassy Mountain Joint Review Panel, currently completing a full federal review for that proposal, a project that is very similar to Tent Mountain.

As per the Canadian Impact Assessment Registry: "Montem Resources Alberta Operations Ltd. is proposing to restart and expand mining operations at the Tent Mountain Mine, an open-pit coal mine located 16 kilometres west of Coleman, Alberta that stopped operating in 1983. As proposed, the Tent Mountain Mine Redevelopment Project would expand the original mine pits

to allow for the production of 4925 tonnes per day of raw coal used for steelmaking, over a 14-year mine life. The project would also include a coal handling and processing plant near the mining area and a rail loading facility located next to Provincial Highway #3 (Crowsnest Highway).”

As representatives of CAPE, we recognize that the Tent Mountain project as currently outlined does not fall under the specifications of the Physical Activities Regulations: SOR/2019-285, however we submit that this project poses significant risks under federal jurisdiction and thus needs to be designated.

With respect to effects within federal jurisdiction set out by the *Impact Assessment Act* (s2), Tent Mountain first presents potential for significant negative effects as “(a) a change to the following components of the environment that are within the legislative authority of Parliament: (i) fish and fish habitat, as defined in subsection 2(1) of the *Fisheries Act*, (ii) aquatic species, as defined in subsection 2(1) of the *Species at Risk Act*, (iii) migratory birds, as defined in [subsection 2\(1\)](#) of the *Migratory Birds Convention Act, 1994*.” Secondly, it presents the potential for negative transboundary environmental effects between British Columbia and Alberta, as “(b) a change to the environment that would occur (ii) in a province other than the one where the physical activity or the designated project is being carried out.” Third, Tent Mountain presents the potential for impacts “(c) with respect to the Indigenous peoples of Canada ... on (i) physical and cultural heritage, (ii) the current use of lands and resources for traditional purposes, or (iii) any structure, site or thing that is of historical, archaeological, paleontological or architectural significance;” as well as “(d) any change occurring in Canada to the health, social or economic conditions of the Indigenous peoples of Canada.”

Below, we outline the potential for significantly negative effects and impacts of Tent Mountain falling under federal jurisdictions, according to the format of relevant factors indicated by the Impact Assessment Agency of Canada in developing a recommendation for the Minister regarding the power to designate a project under the Act

1. Is the project near a threshold set in the Project List?

Yes. The designed production rate for Tent Mountain is 4,925 raw tonnes per day, which is only 1.5% short of the 5,000 tonnes per day threshold set out in s.18(a) of the Physical Activities Regulations, SOR/2019-285. This is a doubling of the production rate compared to the previous operator in 1983. Given how marginal the difference is from the threshold set in the Project List, we believe this project should absolutely be viewed as near the threshold set out under the Physical Activities Regulations.

2. Is the project near or in an environmentally or otherwise sensitive location?

Yes. CAPE recognizes the intrinsic value of our mountain wilderness - its importance as a wildlife habitat and clean water source, and its benefits for recreation, physical activity, and mental health. As such, we maintain that any development posing threats to these

valued ecosystem components in the Eastern Slopes of the Rocky Mountains must be stopped.

The Crowsnest Pass region where Tent Mountain has been proposed already has extensive development and is under cumulative long-term pressure from industry, making it even more sensitive from a socio-ecological perspective. This area represents the headwaters for many downstream regions, settlements, and populations, and it is paramount that this vital ecological service be protected.

It is crucial that Tent Mountain and other mountaintop removal coal leases issued in this region be subject to federal review, considering the cumulative effects of multiple projects proposals in the Eastern Slopes of the Rocky Mountains, including ecological, social and economic. The province currently lacks the mechanism to perform such cumulative risk assessments (with significant gaps in the regulatory fabric of the Alberta Energy Regulator, ministerial capacity within Alberta Environment, and implementation of Alberta's Land Use Frameworks). Given the significant, cumulative, transboundary risk to headwaters, we are calling on the Impact Assessment Agency of Canada to ensure this oversight is performed with due diligence to protect the ecological services of this region for generations to come.

3. Does the project involve new technology or a new type of activity?

No, not to our knowledge at this time.

4. Does the project have the potential to cause adverse effects that are of concern to you and fall within federal jurisdiction?

Yes. There is a clear potential impact of Tent Mountain on species at risk, including the Westslope Cutthroat Trout, which is designated as Threatened in Schedule 1 of the federal *Species at Risk Act*. The grizzly bear is a species of special concern under Part 4 of the *Species at Risk Act*; and the Whitebark pine is listed as an Endangered Species under Part 2 of the *Species at Risk Act*. This project may adversely impact these species and others in this ecologically important region, which as the Crown of the Continent bridges British Columbia and southern Alberta, posing transboundary impacts of federal concern.

Indigenous communities in the affected areas, such as the Siksika and Kainai, have already requested a designated review due to their significant concerns about the effects this project will have on their waters and traditional lands, impacts on their ways of life that depend on intact ecosystems in the area and lack of adequate consultation. This is one more example of Indigenous Land and Treaty Rights being over-looked at a provincial level.

From a human health risk assessment perspective, we are extremely concerned that large-scale open pit mining disturbance will open atmospheric, surface water, vegetation, and wildlife pathways for contamination by chemicals of potential concern in unanticipated ways. In coming decades, climate change in the Crowsnest Pass will shift weather and

rainfall patterns to modify these pathways, as well as increasing the threat of intense wildfires. Morally, in terms of the public interest, Canada needs to consider how this extractive fossil fuel project will contribute to global greenhouse gas emissions.

The potential for leaching of selenium from Tent Mountain waste rock piles poses a risk of environmental disaster for fish, wildlife, and human health. Selenium poisoning causes deformities, nerve damage, and reproductive failure in fish and birds — even long after the coal mines are gone. In British Columbia's Elk Valley, home to four coal mines, selenium levels have reached 50 times the safe limit for aquatic health. No viable technological solution has yet been found to remove this toxin from the water. This impact will have profound impacts on the well-being of human populations in British Columbia, Albertans, and Saskatchewanians, who rely on this water.

Furthermore, the downstream effects of the mining effluent, leached pollution into important water tributaries, and increased water requirements for mining activities all present significant threats to the Master Agreement on Apportionment between Alberta, Saskatchewan and Manitoba. Thus, Tent Mountain has additional potential for major inter-provincial implications that need to be considered through a federal impact assessment process.

5. **Does the project have the potential to cause adverse effects that are directly related or incidental to a federal authority either (i) making a decision that would permit the carrying out, in whole or in part, of the project or (ii) providing financial assistance for the purpose of enabling the project to be carried out, in whole or in part?**

No. This project is not being proposed or funded by the federal government, but by a private sector proponent, Montem Resources.

6. **Does the project have the potential to cause adverse impacts on the section 35 rights of the Indigenous peoples of Canada?**

Yes. The Constitution Act of 1982 and decisions by the Supreme Court of Canada have directed that there is a 'Duty to Consult' First Nations on projects that adversely affect their ability to practice Aboriginal and Treaty rights in a region, as an impact which is under federal jurisdiction. As demonstrated by the submitted requests for designation from Siksika and Kainai Nations, there are clearly major concerns about infringements on First Nations rights and lack of thorough consultation. Moreover, federal engagement with Indigenous rights-holder in the region, and facilitating rights-holders' engagement with provincial governments, is necessary to ensuring Free, Prior, and Informed Consent for major projects, as part of Government of Canada's commitment to implementing the *United Nations Declaration on the Rights of Indigenous Peoples through the Impact Assessment Act*.

In summary, CAPE and its membership are gravely concerned that the Tent Mountain project will not be subject to sufficient regulatory oversight if it is not designated for federal impact assessment. The federal government has clear jurisdiction in this matter, owing to impacts on

fish and fish habitat, aquatic species, migratory birds, and species at risk; inter-provincial transboundary effects between British Columbia and Alberta, and Alberta, Saskatchewan, and Manitoba; and potential impacts on Indigenous rights-holders as well as their health, social, and economic conditions.

It is time that Alberta and Canada put coal-mining firmly in the past, and step into the future of low-carbon, social, and ecological bottom-lines.

Given the preceding, the CAPE Alberta Regional Committee urges Minister Wilkinson to designate Montem Resources' Tent Mountain Project for federal impact assessment without delay.

Sincerely,

<original signed by>

Dr. Andrea Hull, on behalf of the Alberta Regional Committee CAPE

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