

Coalspur Vista Coal Mine Phase II: Frustration Served by the Alberta Energy Regulator

On March 10, 2020, AWA submitted a Statement of Concern to the Alberta Energy Regulator (AER) regarding an application from Coalspur Mines Ltd to divert water for operations from the McLeod River. As a major tributary of the Athabasca River, McLeod River is an area of regional significance. It serves as an important wildlife corridor and produces many ecological goods and services by means of sustaining nearby wetlands. This watershed basin is also integral to the traditional knowledge and oral history of local Indigenous Peoples.

AWA cited specific concerns about how Coalspur's water withdrawals could negatively impact aquatic life and species at risk such as endangered Athabasca Rainbow Trout and threatened Bull Trout. Significant water diversions have the potential to reduce instream flows, which ultimately could degrade critical fish habitat and further contribute to population declines in both species. AWA also pointed to the fact the watershed will be subjected to compounding effects from coal mining operations in the area. Deleterious substances such as heavy metals and selenium will be deposited into the river. Science tells us that both bioaccumulate, causing premature death and/or deformities within fry and redds. This has the potential to further reduce fish population sizes. These inputs into the area's waters also reduce the quality of water for downstream aquatic ecosystems and the drinking water for communities.

AER wrote to AWA on August 13, 2020 to inform us that our submission had been reviewed and deemed insufficient to warrant further action. AWA had "not demonstrated that it may be directly and adversely affected by the application." In reviewing AWA's concerns, AER used the following to reject our statement of concern:

- 1) AWA is located approximately 343km from the project, and does not own land in or near the project area. AWA didn't indicate how the organization or

its members make use of the project area or how the project could impact such activities. "Accordingly," the AER wrote, "the AWA does not identify in sufficient detail how the Application may directly and adversely affect the AWA and its members."

- 2) AWA's concerns regarding potential negative impacts regarding "water and food security for Indigenous and non-Indigenous communities are vague."
- 3) Concerns regarding the potential impacts to the ecological health of the McLeod River are insufficient as the majority of the project is located on an existing right-of-way and the temporary diversion licence (TDL) is valid only for one year. The TDL also contains a Diversion Schedule that incrementally restricts Coalspur's diversion flow rates ensuring ecological conditions are met for aquatic habitats and surface water conditions, while requiring Coalspur to monitor the rate of flow during diversion and reporting these values monthly to the AER.
- 4) The TDL requires Coalspur to design and install fish screens in accordance with the Department of Fisheries and Oceans Canada's "Interim Code of Practice" to protect resident fisheries.
- 5) Coalspur's application does not seek authorization for any releases into the McLeod River, therefore AWA's concerns regarding deleterious substances inputs are "outside the scope of the Application."

This is another example of how difficult it is for organizations like AWA to satisfy the "directly and adversely affected" test of Alberta's energy regulators and participate in these important decision-making processes. We will continue to regularly monitor upcoming applications for coal mining operations as they become available publicly and redouble our commitment to ensuring that Alberta's wilderness is protected from intensive and potentially harmful land-use activities.

- Nissa Petterson