

To: The Honourable Julie Dabrusin Minister of Environment and Climate Change c/o Impact Assessment Agency of Canada (IAAC) 160 Elgin Street, 22nd Floor Ottawa, ON K1A 0H3

Sent via Email on March 23, 2026: [fording@iaac-aeic.gc.ca](mailto:fording@iaac-aeic.gc.ca), [ministre-minister@ec.gc.ca](mailto:ministre-minister@ec.gc.ca)

**RE: Request for Referral to an Independent Review Panel – Fording River Extension Project (Reference No. 80702)**

Dear Minister Dabrusin,

Following the Notice of Commencement issued on March 9, 2026, I am writing on behalf of Wildsight to formally request that you exercise your discretion under Section 36(1) of the *Impact Assessment Act* (IAA) to refer the Fording River Extension (FRX) Project to an Independent Review Panel. According to the Impact Assessment Agency of Canada's 2020 Analysis report, EVR's proposal to expand into Castle Mt is exceptional in scale and complexity. Given the high level of public concern and the documented potential for significant adverse transboundary effects, we believe a referral to a review panel is firmly in the public interest.

On October 6th 2025, the Ktunaxa Nation Council (KNC) submitted a letter to the Environmental Assessment Office in which they state their opposition to the advancement of FRX into the EA process, citing continued non-compliances with water quality objectives and unsatisfactory reclamation outcomes. Despite this clear opposition, FRX has made its way into the joint assessment process. We are hopeful that an independent review panel that includes representatives from affected nations could better ensure an assessment that respects the rights of all affected Indigenous peoples.

Public concern is deeply rooted in the documented failure of existing mitigation strategies. While the proponent highlights the progress of the Elk Valley Water Quality Plan, selenium levels in the Fording River still peaked at 61 µg/l last year: breaching permitted discharge concentrations and reaching over 30 times B.C.'s aquatic health safety standard. To date, B.C. has failed to compel EVR to bring pollution to reasonably protective levels, and the public rightly remains skeptical of an expansion being permitted while current operations continue to breach water quality guidelines and discharge permits. It is worth noting that the Elk River downstream of the mines has not tested below this aquatic health safety standard since 2009.

High selenium levels have forced communities such as Fernie and Sparwood to relocate municipal water supply wells due to human health risk, leading to widespread concerns on the state and quality of groundwater reserves. Again, B.C. has allowed the

mines to continue despite ongoing pollution largely because of the economic benefits these mines provide, and to the detriment of everyone and everything downstream. There is a growing consensus that "compliance before expansion" must be the standard, a debate that requires the transparency of a public hearing.

The project threatens boundary waters as defined in the *Canada Water Act*. Selenium levels in Lake Koocanusa already frequently exceed Montana's site-specific standards of 0.8 µg/L, and the FRX Project will increase the total selenium load in a watershed. Selenium bioaccumulation at even relatively low concentrations has been shown to have impacts on fish and insect populations, and these impacts extend past the Elk River watershed.

The referral to an independent review panel is further necessitated by the ongoing and unprecedented referral of the International Joint Commission (IJC) to study water pollution impacts and mitigation methods in the Elk-Kootenay/ai rivers. In 2024, the governments of Canada and the United States, in partnership with the Transboundary Ktunaxa Nation, established an IJC reference, which is the first of its kind in scope and indigenous inclusion. This reflects a global recognition that the current regulatory oversight in British Columbia has been insufficient to protect international waters. Because the IJC's mandate is to provide a neutral, science-based roadmap for the entire basin, it is legally and diplomatically essential that the FRX impact assessment be flexible enough to integrate the IJC's forthcoming findings. Proper evaluation of whether a major mining expansion actively undermines Canada's commitments under the Boundary Waters Treaty would be best performed by an Independent Review Panel, and would also benefit from the longer timeline allotted to review panels, given the IJC final report is still being written.

FRX promises to permanently destroy more than 200 hectares of high-elevation grasslands on Castle Mountain. These grasslands are critical winter forage for the Rocky Mountain Bighorn Sheep, a species already under immense pressure. Public concern is amplified by the proponent's admission that restoration of these unique alpine ecosystems is conceptual and uncertain, as EVR's current reclamation outcomes have been flagged as unsatisfactory by KNC. The public deserves a rigorous, independent cross-examination of these reclamation claims and of water quality promises, both of which are relevant to wildlife, local communities, and everyone and everything downstream.

While the *Impact Assessment Cooperation Agreement* encourages coordination with British Columbia, it is important to note that the provincial process has so far struggled to achieve compliance with water quality standards in the Elk Valley. A Joint Review Panel would allow for increased federal-provincial cooperation while adding additional tools to reduce bias, improve transparency, and counter the conflicts of interest inherent in a proponent-led provincial process. B.C. has a track record of small fines for poor water quality and slow progress, while giving overly-generous discharge permits that are harmful to aquatic populations. This has been noticed by our international neighbours, who have developed site-specific selenium standards at the border that put ours to shame.

As discussed, the scale of public opposition to this project is substantial, touching on ecological, transboundary, and human health issues that cannot be adequately resolved through a standard review. The Fording River Extension promises to expand what is already Canada's largest metallurgical coal mine, and promises to impact an already heavily impaired watershed even further. Given the exceptional nature of this project, importance to the public, and the high likelihood of adverse impacts on federal jurisdiction, we urge you to refer this matter to an Independent Review Panel under Section 36(2) of the Act, as the above concerns constitute a clear mandate for a Review Panel.

Sincerely,

Simon Wiebe

Mining Policy and Impacts Lead, Wildsight



**wildsight**