



Environmental Law Centre

April 19, 2021

Our File:

Coal Policy Committee
via Email: energy.coalpolicy@gov.ab.ca

RE: Coal Policy Engagement

The Environmental Law Centre (ELC) is Alberta's oldest public interest environmental law organization and believes that law is a powerful tool to protect the environment. Since it was founded in 1982, the ELC has been dedicated to providing credible, comprehensive and objective legal information regarding natural resources, energy and environmental law and policy in the Province of Alberta. The ELC's mission is to educate and champion for strong laws and rights so all Albertans can enjoy clean water, clean air and a healthy environment.

In June 2020, the ELC was concerned to learn that the *Coal Development Policy for Alberta* (Coal Policy) had been rescinded without public consultation and without sufficient regulatory structures in place to reflect the policy's objective and purpose. At the time of rescission, the only portion of the Coal Policy remaining in effect was the public land use categories pertaining to coal exploration and development. We note that these land use categories were reinstated in February 2021 as a result of public concern and that public consultation is now to be undertaken. The ELC welcomes the opportunity to participate in this consultation.

It is our view that the land use categories and accompanying restrictions under the Coal Policy ought to remain in place until such time as regional planning under the *Alberta Land Stewardship Act* (ALSA) is completed. While the South Saskatchewan Regional Plan (SSRP) is complete, it does not encompass all lands that fall under the land use categories of the Coal Policy. Furthermore, the SSRP states with respect to the Coal Policy (page 61):

As part of reviewing and incorporating the Integrated Resource Plans, the government will integrate a review of the coal categories, established by the 1976 A Coal Development Policy for Alberta to confirm whether these land classifications specific to coal exploration and development should remain in place or be adjusted. The review of the coal categories will only be for the South Saskatchewan planning region. The intent is for the SSRP and implementation strategies of the regional plan or future associated subregional or issue-specific plans within the region to supersede the coal categories for the purposes of land use



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decisions about where coal exploration and development can and cannot occur in the planning region.

This indicates that the SSRP was developed with knowledge of the existing Coal Policy land use categories and with recognition that a substantive review of same was necessary. A substantive review should reflect and incorporate core principles of public participation and precaution, and should encompass all lands covered by the Coal Policy. Environmental challenges related to coal development, particularly for aquatic species, as well as the recreational and cultural impacts on Alberta communities requires a full and transparent discourse with Albertans, should be based in science and should be precautionary in its approach as the threat of irreparable harm clearly exists. The SSRP should incorporate sub-regional plans that are clear and regulatory/prescriptive to clearly delineate zoning for this purpose.

Further, the Coal Policy captures lands not within the SSRP and its wholesale rescission is not appropriate. Until such time as regional planning for all lands encompassed by the Coal Policy is complete, it is not appropriate to rescind the land categories and even then it should not occur without significant and meaningful public participation. Furthermore, the regional plans (once complete) should include clear and regulatory/prescriptive requirements which clearly delineate areas which are not appropriate for coal exploration or development.

The Eastern Slopes region has long been valued for its landscape and habitat, and is critical to watershed health (hence, the reason for the development of the Coal Policy land categories in the first place). Without high level policy protections in place, cumulative impacts on the Eastern Slopes cannot be effectively managed by using a project by project approval approach. The habitat of several endangered/threatened species is at risk with coal exploration and development (e.g. caribou, west slope cutthroat trout, bull trout, grizzly bear).

With the Eastern Slope's critical role in watershed health and as habitat for endangered/threatened aquatic species, the potential for selenium water pollution associated with coal development is troubling to say the least. Past coal developments in both BC and AB appear to have resulted in selenium concentrations in excess of guideline levels for aquatic health.¹ Further, the efficacy of proposed future mine (Grassy Mountain Coal Project) treatment has recently been questioned, with the Government of Canada noting "uncertainties remain with respect to the sources of selenium and the concentrations used by Benga to model bioaccumulation of selenium in migratory birds and other wildlife receptors".²

¹ Bob Weber "Contaminant from coal mines already high in some Alberta rivers: unreported data", January 25, 2021 <https://www.cbc.ca/news/canada/edmonton/selenium-alberta-coal-mines-contamination-1.5886293> also see Bob Weber "Coal company Teck fined \$60M for contaminating rivers in southeastern B.C.", March 26, 2021. Canadian Press. <https://www.cbc.ca/news/canada/british-columbia/teck-fined-60m-contaminating-bc-rivers-1.5965646>

² From the Government of Canada (Environment and Climate Change Canada, Health Canada, Fisheries and Oceans Canada, Natural Resources Canada) to the Joint Review Panel re: Final Argument Re:Grassy Mountain Coal Project, online: Impact Assessment Agency <https://iaac-aeic.gc.ca/050/documents/p80101/137581E.pdf> at page 2. Also see the submissions of the Livingstone Landowners Group to the Joint Review Panel on the Grassy Mountain Coal Project, at



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In light of the foregoing, on lands that fall into Category 1 and 2 under the Coal Policy, all dispositions for coal and all authorizations/approvals/permits/licenses associated with coal exploration and development should be cancelled immediately. On lands that fall into Category 3 and 4 under the Coal Policy, all dispositions for coal and all authorizations/approvals/permits/licenses associated with coal exploration and development that were issued after May 1, 2020 and do not pertain to an already active coal mine or processing plant should be cancelled immediately.

Thank you for the opportunity to make written submissions on the Coal Policy. We would welcome the opportunity for additional engagement on this extremely important issue. Accordingly, please feel free to contact the undersigned with any questions or for further discussion.

Yours truly,

A handwritten signature in black ink, appearing to read 'B. Powell', with a long, sweeping underline that extends to the right.

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<https://iaac-aeic.gc.ca/050/documents/p80101/137586E.pdf>. See also, for instance, the submissions of the Livingstone Landowners Group to the Joint Review Panel on the Grassy Mountain Coal Project, at <https://iaac-aeic.gc.ca/050/documents/p80101/137586E.pdf>.