

From: Arooj Shah
To: [ARC Team: SOC](#)
Cc: bgregg@bighornmining.com; [Meaghan M. Conroy](#); [Consultation: Aryn F. Lalji](#)
Subject: Louis Bull Tribe - Statement of Concern regarding Coalspur Mines (Operations) Ltd., McPherson Pit Tailings Cells, CCA Applications 1929395, 1929396, and 1929397; EPEA Application 010-00301345; and, WA Applications 007-00311969 and 006-00311965
Date: September 17, 2020 3:47:01 PM
Attachments: [LBT - SOC.PDF](#)
[Affidavit #1 Redacted.PDF](#)
[Affidavit #2 Redacted.PDF](#)
[Affidavit #3 Redacted.PDF](#)

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Good afternoon,

Please find attached Louis Bull Tribe's Statement of Concern and enclosures with respect to the above noted matter.

Thank you,

Arooj Shah

Lawyer

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September 17, 2020

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Coalspur Mines (Operations) Ltd.

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Hinton, AB T7V 1X5

Attention: Brian Gregg, VP of Engineering and Environmental

Telephone: 780-817-0912 / 780-740-2509

Email: bgregg@bighornmining.com

Dear Sir/Madam:

Re: Louis Bull Tribe - Statement of Concern

Coalspur Mines (Operations) Ltd., McPherson Pit Tailings Cells

CCA Applications 1929395, 1929396, and 1929397

EPEA Application 010-00301345

WA Applications 007-00311969 and 006-00311965

(collectively, "Applications" or "Project")

On behalf of Louis Bull Tribe ("LBT", "Louis Bull" or the "Tribe"), please accept this letter and the attached materials as our Statement of Concern for the above noted Applications.

A. Overview of Applications

Coalspur has applied under the *Coal Conservation Act* ("**CCA**"), *Environmental Protection and Enhancement Act* ("**EPEA**"), and *Water Act* ("**WA**") for new approvals and amendments to existing approvals to, amongst other things:

- construct and operate McPherson tailings cells 2 to 9 for storage, consolidation, and dewatering of fine plant refuse which would result in the sterilization of 2 million tonnes of coal;
- modify the footprint within the approved dump licence boundary; and
- modify the mineral composition and overall tonnes being deposited into the North Dump.

In Coalspur's view, the Project is necessary because, "[t]he Mine has experienced an increased volume in the material being generated from the underflow of the Processing Plant's thickener cells. This increase has caused the mine to fully utilize the capabilities of the Filter Press Plant and therefore do not have the capacity to process the excess underflow being generated."

On November 21, 2019, Coalspur applied for amendments to its existing approvals to install and operate a new refuse treatment system, and to convert a portion of the mined-out McPherson pit to a dam for the storage, settling, dewatering, and reclamation of the coarse and fine refuse from the Vista Mine (the "**MacPherson Tailing Cell 1**"). On February 6, 2020, the MacPherson Tailing Cell 1 was approved.

The Application material is vaguely worded, but it appears that the Project, while located within the mineral surface lease, will result in an increase in currently approved disturbance area. In addition, the Applications have the potential to impact the ground and surface water regime in the area, as well as peatlands.¹

B. Louis Bull – Overview

LBT is a signatory of Treaty 6 and is one of the four First Nations with reserve lands in Maskwacis (the other three being: Ermineskin, Samson and Montana Cree Nations). LBT is a Cree community consisting of 1,500 on-reserve residents and 1,800 residents living off-reserve. LBT members have familial ties to other First Nation communities and currently practice traditional land uses as far as central and northeast British Columbia, western Saskatchewan, Montana, and northern Alberta.

The Tribe's reserve lands are located within Alberta's central parkland natural subregion (Natural Regions Committee 2006), approximately 260 km east of the Vista Mine area. Not all Louis Bull members reside on its reserve lands in Maskwacis. Some Louis Bull members reside at Smallboy Camp approximately 55 km southeast of the Vista Mine area. The Smallboy Camp was founded in approximately 1968, by members of Maskwacis based First Nations, including citizens from Louis Bull. It was motivated by a desire to live in a way and in a location that allowed them to maintain their culture and connection with the land. The Smallboy Camp continues to be a community and some Louis Bull citizens continue to live there.

¹ Section 7.4 (Progressive Reclamation Plan); and in Appendix E, Section 1.3.

Pursuant to Treaty 6, Louis Bull has constitutionally protected Treaty and Aboriginal rights within and adjacent to the Project area. Louis Bull's rights under Treaty 6, as expanded by the *Natural Resource Transfer Agreement, 1930*, include, but are not limited to:

- The right to hunt, fish, trap and gather "on all unoccupied Crown lands and on any other lands to which the said Indians may have a right of access";
- The right to transmit traditional knowledge to subsequent generations; and
- Practices reasonably incidental to Treaty harvesting rights, including use of traditional trails to access an area, camping and other activities (*R v Sundown*, [1990] 1 SCR 393; *R v Badger*, [1996] 1 SCR 771).

Louis Bull's Aboriginal and Treaty rights are entrenched and protected pursuant to section 35 of the Constitution.

This proposed Project will be located in the Tribe's Traditional territory and in close proximity to the Smallboy Camp. The Mountain area is sacred to the Louis Bull citizens living at Smallboy and to Louis Bull citizens generally.

C. Consultation

The provincial Crown has a duty to consult, and possibly accommodate the Tribe before the Applications are approved. Coalspur's application materials are silent about whether the Alberta Consultation Office has been asked for a determination on whether consultation is required and, if so, whether it was adequate. Coalspur did not notify or engage with the Tribe about the Applications.

While the AER does not have the jurisdiction to decide whether consultation is adequate, the AER does not have the power to approve the Application in the absence of Indigenous consultation. The Supreme Court of Canada has held that when the duty to consult has been triggered, a decision maker such as the AER may only proceed to approve a project if Crown consultation is adequate (*Clyde River (Hamlet) v Petroleum Geo-Services Inc*, 2017 SCC 40 at paras 39 and 24). The AER does not have the authority to approve the Applications in the absence of any consultation with LBT and other impacted Indigenous groups.

D. Adverse Impacts and Concerns

There has not been an assessment of the Project's impacts on rights held by Louis Bull and none is included in the Application material.

Louis Bull relies on affidavits (attached) previously submitted in respect of another AER application filed by Coalspur for the purpose of demonstrating the Project's "potential direct and adverse affect" on Louis Bull's rights, including its traditional land use. Each affidavit attaches a map of the Project area with the locations used by the individual affiants marked.

The attached affidavits do not represent the full extent of Louis Bull's traditional use generally, nor do they represent the full extent of the Louis Bull's use in the area. They represent a small sample of these particular citizens' use in the area.

Subsistence hunting, fishing and gathering is an integral and important aspect of the Tribe citizens' way of life and defining feature of their special relationship with the land. The affiants deposed that they grew up exercising traditional land use activities around the Vista Mine.²

The maps appended to the Louis Bull citizens' affidavits delineate areas in relation to the Vista Mine area where they and their families hunt, fish and gather. The affidavits clearly demonstrate traditional use in the vicinity of the Project footprint. Specifically, citizens exercised their rights in and around Coal Valley, north of the Athabasca River, and in surrounding water bodies and rivers.³

In addition to the affidavits from individual members attached (and already provided), at least 11 Louis Bull family groups use the area around the Project. These family groups represent about half of the Tribe, but all LBT citizens have the right to utilize these lands to exercise Treaty rights. The LBT families that utilize this area do so extensively and frequently, many of them at least one time per season.

The Applications if approved will have a direct and adverse impact on Louis Bull Tribe's ability to practice constitutionally protected Aboriginal and Treaty rights. These impacts to rights will extend beyond the project timeline, likely impacting the mental and physical well-being of multiple generations of LBT citizens.

The following sections highlight some of Louis Bull Tribe's primary concerns regarding the Project, but these concerns should not be viewed as comprehensive list. Indeed, it is not possible to provide a comprehensive list of concerns at this point and in the absence of any consultation.

(i) Reduction in available area to practice traditional rights

The Project will further reduce the already limited crown land available to LBT directly resulting from the increase in disturbance area and infrastructure development, and potentially through off-site impacts to adjacent land. The Project will directly impact vegetation and wildlife communities throughout the mine area and downstream in the watershed. According to a study LBT conducted with ALCES Landscape and Land-Use Ltd., only a small percentage (less than 5%) of land remains available in Treaty 6 to practice traditional rights, while cumulative impacts in the area continue to increase. The Upper Athabasca Regional Area, and the Foothills Natural Region, where the Vista Mine and this Project is located, have had the greatest increase in total impacts of any land-use planning region or natural region from 1999 to 2016 at 6.82% and 12.17%, respectively (ABMI 2019). The Tribe is concerned that the additional impacted lands will have a significant negative effect on the ability of Tribe members to continue to practice traditional rights and maintain their culture as Mountain Cree.

Due to extensive development and alteration of the natural landscape, LBT members have to travel further and further away from their preferred areas to practice their Aboriginal and Treaty rights. LBT Elders and land users have advised the LBT consultation office of concerns relating to development in the Vista Mine area and potential impacts to constitutionally protected

² Affidavit #1, Affidavit #2, Affidavit #3.

³ Affidavit #1, Affidavit #2, Affidavit #3.

Aboriginal and Treaty rights. The area is heavily developed for industrial activity such as oil and gas, and forestry. The greatest concern of the LBT members is related to cumulative effects and further adverse impacts to Aboriginal and Treaty rights.

The activities proposed in the Application will exacerbate and increase the current impacts on LBT from Phase I of the Vista Mine.

We also note that the Upper Athabasca Land Use Plan has yet to be started and there are no provincial regulatory mechanisms in place to manage the cumulative impacts of development in this area on Treaty and Aboriginal rights.

(ii) *Reclamation Plan*

The proposed revised reclamation plan in the Applications relates to the potential duration and nature of the impacts on the Tribe's rights. It is critical that affected Indigenous communities are included in the development of reclamation plans at an early stage. As mentioned, no one from Coalspur told LBT about the Applications, nor the reclamation plan included in the Applications.

Louis Bull has serious concerns regarding the Project's reclamation plan, schedule, and timelines as the impacts of the mine will extend beyond the lifespan of many current Louis Bull members. Reclamation would not begin for many years, thus removing the impacted areas from what little area remains for the LBT to practice traditional rights for the remainder of their lives.

In the last 40 years, reclamation has occurred on less than five percent of the mined landscapes in the Gregg, McLeod, Embarras, and Erith rivers, leaving 95% of the mined landscapes still disturbed (Alberta Athabasca Rainbow Trout Recovery Team 2014), bringing into question the accuracy of the project timelines to reclamation of 2039 by Coalspur (Section 9.1, Progressive Reclamation Plan, August 2020 Application and Technical Reports in support of the McPherson Tailings Cell application). Louis Bull is concerned that Coalspur's reclamation plan will not return Crown lands to pre-existing conditions appropriate for traditional land use in a timely manner or at all.

Coalspur provides no evidence that reclaiming the landscape for commercial forestry will support the needs of the LBT for traditional land use. In the experience of LBT citizens, striving for "equivalent land capability" ("ELC") – as the term is interpreted by Provincial regulators - does not take into account capability of the reclaimed area to support the exercise of Treaty and Aboriginal rights. LBT asks that Coalspur clearly describe the ELC target for every type of ecosystem that will be impacted by the Project and how they plan to achieve reclamation success that supports traditional land use.

Peatlands in this area are vital to support Indigenous gathering of medicines and vegetation used for ceremonies. The Vista mine area is comprised of several peatlands that are likely to be directly or indirectly impacted in multiple ways (e.g. directly by complete or partial removal, or indirectly by changes in hydrology due to substantial water usage), but it is unclear whether peatlands reclamation will be incorporated into their reclamation plans. Understanding of peatland reclamation is still complex and incomplete and there are currently no available guidelines for peatland reclamation on industrial mine sites. Coalspur should describe what ELC they intend to reclaim impacted peatlands to and how they intend to accomplish it.

In Section 6.2.1.1 Reclamation Plan Coalspur states "Organic material in excessive of the requirements for the reclamation plan will be disposed with the overburden material in-pit." This is of serious concern to LBT in that the organic material is an important limited natural resource, and should be conserved and reutilized as part of the overall reclamation plan. Additionally, the fact that there could be "surplus" organic material upon completion of the reclamation plan brings into question the overall suitability of the current progressive reclamation plan in terms of equivalent land capability.

The loss of area to practice traditional rights over a sustained period of time has the potential to directly and adversely impact the ability of members to pass on their traditional knowledge and practices as Mountain Cree to their youth. If the area is removed from lands available to exercise rights persists for more than a generation, it is likely that the Indigenous knowledge related to that developed land will be lost. The impact will be permanent. This ability to transfer Indigenous knowledge to youth is only now being revived after decades of being prohibited and repressed thorough assimilationist policies.

Louis Bull is concerned about the impacts of a long-term reduction of natural area, on which to practice constitutionally protected Aboriginal and Treaty rights, on the mental health of its members.

Louis Bull has concerns regarding climate change and the stability of global ecosystems in the future. In addition to having a large carbon footprint (i.e. through the shipping of coal overseas, and burning of coal in other countries), the Vista Mine will also decrease carbon stores by removing important carbon-storing ecosystems such as forests and peatlands. Despite comprising just 2-3% of the Earth's total surface (Lappalainen 1996; Immirzi et al. 1992; Gore 1983), peatlands contain approximately 30% of the world's soil carbon (Gorham 1991), and twice the carbon stored in all the world's forests (Wetlands International N.D.), making them important in the fight against climate change. Peat will readily decompose as it dries (Gambolati 2003; Price and Schlotzhauer 1999), releasing previously stored carbon back to the atmosphere. Thus, stockpiling peat soils will result in a release of carbon. Additionally, peat accumulates very slowly, at a rate of around 0.5 to 1 mm a year (PERG 2009), and therefore removal of a peatland ecosystem can represent thousands of years of carbon accumulation. Louis Bull is concerned that Coalspur has not adopted adequate mitigation measures to accommodate for this long-term carbon imbalance.

In addition to releasing carbon back to the atmosphere through the decomposition of peat soils, the removal of a peatland also constitutes the loss of a substantial peat accumulating system. The Vista mine area is comprised of several peatlands that are likely to be directly or indirectly impacted in multiple ways (e.g. directly by complete or partial removal, or indirectly by changes in hydrology due to substantial water usage), but it is unclear whether peatlands reclamation will be incorporated into Coalspur's reclamation plans. Understanding of peatland reclamation is still complex and incomplete and there are currently no available guidelines for peatland reclamation on industrial mine sites. Coalspur should describe what ELC they intend to reclaim impacted peatlands to and how they intend to accomplish it. That information should be provided now, not decades from now near the end of the Mine's productive life to avoid leaving this environmental liability for the public to remedy.

(iii) Historic tailings pond disasters

The Applications do not adequately discuss how the Project will avoid commonly occurring major tailings mine disasters, such as disasters at Coal Valley in 2011/2012 (Trynacity 2017), Obed in 2013 (The Canadian Press 2017), and Mt. Polly in 2014 (Meissner 2019). In addition to these, between 1970 and 2001, there have been 2-5 major tailings dam failures per year globally (LePoudre 2015).

Louis Bull is concerned that the Project does not incorporate superior design and mitigation features to prevent similar disasters. Following the Obed Mine disaster, the Auditor General of Alberta released a report summarizing several key recommendations and findings which identified failures of the regulatory system which may have contributed to the disaster (Auditor General of Alberta 2015). It is not clear to Louis Bull how these recommendations and findings have been incorporated into the Project.

The AER ought to require that Coalspur demonstrate how these recommendations and findings have been incorporated into the Applications. If there are findings or recommendations which the Government of Alberta has not incorporated into the regulatory system, Coalspur ought to explain how these findings or recommendations are being incorporated internally.

Should a tailings pond disaster occur, it will directly cause impacts to land used for practicing constitutionally protected Aboriginal and Treaty rights by members of LBT. Louis Bull is concerned that in the case of a tailings pond disaster impacts to LBT will not be mitigated. Coalspur should be required to provide a plan on how they would mitigate the impacts to Indigenous land users and communities in the case of a tailings pond disaster.

(iv) Tailings seepage into the surrounding environment

As reported in Table 13 of the Application (Coalspur Mines 2020) elevated total mercury concentrations along with several other total metals were measured in the groundwater well MP2 from the McPherson Tailings Cell 1 on February 25th, 2020. Coalspur states in Section 6.4 that: 1) the groundwater flow model and seepage analysis results confirmed that the tailings cells will act as local groundwater sinks with groundwater flowing towards the cells; and that, 2) a Qualified Environmental Professional has installed groundwater monitoring wells and that they will continue to be monitored on a quarterly basis until an updated Groundwater Monitoring Program and Seepage Control System is approved by the Director. Louis Bull has several questions in this respect:

- Are these elevated metals evidence of seepage from the McPherson Tailings Cell into the groundwater?
- How do these monitoring wells mitigate elevated levels from impacting the environment?
- How are these elevated levels being mitigated from impacting the environment?

Additionally, Coalspur has not provided a scientifically defensible rationale that after the mine is decommissioned, groundwater which Coalspur indicated after decommissioning of the Tailings Cell will be towards McPherson Creek will not have a long-term environmental impact.

With respect to groundwater monitoring on a quarterly basis, Coalspur reports in the footnotes of Table 13 of the Application that the associated MP1 and MP2 were damaged and/or destroyed

prior to the Q2 sampling event so they were not monitored. However, what prevented MP2 from being resampled quarterly for Total metals in the subsequent sampling events as per the quarterly requirement in EPEA Approval 00301345-00-06 Table 4.4-A and as referenced in Section 6.4 of the Application.

(v) *Impacts to fish health and habitat*

Louis Bull citizens have deposed in the attached affidavits that they fish in the areas deposed to for fish species including whitefish, pickerel, jackfish, suckers, and various types of trout.⁴

Coalspur says that the Project will not impact fish or fish habitat, and consequently no impact assessment studies were carried out in this respect. LBT questions the credibility of Coalspur's unsubstantiated conclusion. It is unclear to Louis Bull how Coalspur's engineering and environmental design applications will eliminate all impacts to fish and fish habitat.

There are several reasons to be skeptical that the Project will have no impacts to fish or fish habitat. For instance, the Athabasca Rainbow Trout Recovery Plan (2014) states that "long term changes to stream flow regimes may occur because open pit mining results in the complete loss of forest cover for periods often exceeding four decades, and some portions of the of the mined landscape are never reforested." Similar circumstances are likely for the Vista Mine application as the use of groundwater will affect local hydrology and inflict changes to stream quality and characteristics such as temperature, vegetation species composition, etc. and will indirectly effect stream ecology. Louis Bull is concerned that adequate mitigation efforts to prevent this have not been incorporated by Coalspur.

Additionally, the mine road which crosses the McPherson Creek to access the South Dump will directly impact McPherson Creek, a fish bearing stream containing Athabasca Rainbow Trout. Road and coal dust from will enter the stream from the air via this haul road. This will affect fish habitat in the stream and beyond. This has the potential to directly adversely impact LBT's fishing rights protected by Treaty.

Coalspur acknowledges that pure-strain Athabasca Rainbow Trout are present in the McPherson Creek and that Coalspur will work closely with the Department of Fisheries and Oceans (DFO) as well as provincial regulators to ensure the best mitigation measures are in place to avoid adverse effects to species at risk.⁵ However, the DFO is not mentioned in the Application, nor is there any mention of endangered Athabasca Rainbow Trout or threatened Bull Trout in this application. Louis Bull is concerned that Coalspur is not following mitigations discussed through these working relationships with DFO and provincial regulators.

Louis Bull is concerned that only a 100 m buffer to mitigate effects to endangered Athabasca Rainbow Trout and threatened Bull trout habitat is being used. How was this determined and how is this ecologically defensible?

⁴ Affidavit #1, Affidavit #3.

⁵ September 10, 2019 response to an Information Request submitted by the Impact Assessment Agency (Hutchison 2019)

(vi) *Food security and human health*

As set out in the attached affidavits, the affiants harvest a variety of wildlife and plant species in and around the areas deposed for their sustenance. They hunt various species including moose, deer, elk, geese, grouse, ducks, rabbits and prairie chicken.⁶ They also deposed to gathering various medicines.⁷

LBT members are concerned about the future of food security and acquiring healthy food through a traditional diet. Concerns about food security and limitations to the ability to have a traditional diet and pass on traditional knowledge and practices to youth are impacting mental health.

The Vista Mine is at the headwaters of the McPherson Creek which drains into the McLeod River.

Any changes in water chemistry will have downstream impacts to the McLeod River and subsequently the Athabasca River, rivers which LBT members also rely on for food security and traditional diet. The activities proposed in the Applications have the potential to impact water chemistry through the release of groundwater. As stated in Section 5.1.1 of the Progressive Reclamation Plan (Appendix E)

"Throughout mine development, there is a potential to impact surface water quality during various construction activities. During these activities, potential impacts to surface water quality include...surface water run-off patterns, groundwater discharge..."

Further, in the same section Coalspur states:

"... Groundwater will ultimately be discharged into watercourse (e.g. McPherson Creek)..."

Coalspur is measuring elevated mercury levels in the groundwater as reported in Table 13.

LBT requests baseline methylmercury testing prior to any further development/expansion in disturbed areas. Coalspur should present direct evidence from the McPherson Creek and the McLeod River that any changes in the toxin methylmercury concentrations in fish associated with the proposed expansion will not impact the health of LBT members wishing to utilize the land for food security and traditional diet. Coalspur should outline what a monitoring program incorporating methylmercury would look like and what the mitigation actions would be if the levels increased.

Coalspur should discuss how mining activities contribute to solastalgia (psychological distress that stems from dramatic environmental changes) in First Nations communities. Landscapes that once provided comfort and solace can be so dramatically changed by mining impacts, that a person's "home" is no longer recognisable (Warsini et al. 2014; Glackin 2012; Albrechet et al. 2007; Albrecht 2005). Dramatic environmental changes have been shown to negatively impact human mental health (Horwitz and Parkes 2016). Coalspur should consider these long-term mental health impacts the Project will have to those persons who rely on the land for substance and cultural practice.

⁶ Affidavit #1, Affidavit #3.

⁷ Affidavit #2.

E. Outcome Requested

Louis Bull requests:

1. The AER halt processing of the Applications until Coalspur, as the delegate of the provincial Crown, engages with Louis Bull to address the questions raised above including:
 - a. why a new tailing system is required;
 - b. what went wrong with the previously approved system; and
 - c. how can the Tribe be assured that Coalpur's current design will work, given the failings of the previous design.
2. The AER halt processing of the Applications until Coalspur, provides the information requested in this Statement of Concern which is necessary to determine:
 - a. the potential impacts of the Project on LBT, including impacts on its rights and the health of Tribe members; and
 - b. whether the Project is in the public interest.
3. Coalspur and the AER develop, in cooperation with the Tribe, measures to mitigate impacts on the Tribe's rights and other Indigenous interests, which measures are to be included as conditions in any approval(s) issued by the AER.

F. Contact

I can be contacted at the email address listed below. Please note that for the foreseeable future please do not try to contact me on my office phone number. Given current social distances measures related to COVID-19, I will be working from home.

Melanie Daniels
Lands & Consultation Coordinator

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Please copy the Tribe's legal counsel on correspondence:

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Sincerely,



Melanie Daniels,
Lands & Consultation Coordinator, Louis Bull Tribe

Cc: Meaghan Conroy, MLT Aikins LLP (mconroy@mltaikins.com)

G. References

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Deponent: [REDACTED]
Date Sworn: March 19, 2020

LOUIS BULL TRIBE: AFFIDAVIT #1 OF [REDACTED]

I, [REDACTED] of the Louis Bull Tribe in the Province of Alberta, MAKE OATH AND SAY AS FOLLOWS:

1. I am a member and Councilman of the Louis Bull Tribe (the "Tribe") and I am a hunter and fishermen within the Tribe's traditional territory and as such I have personal knowledge of the matters deposed to in this Affidavit, except where stated to be based on information and belief and where so stated I verily believe the same to be true.
2. I have lived in the area of Vista Mine owned by Coalspur Mines (Operations) Ltd. ("Coalspur") Project for most of my life. I have lived on the Smallboy Camp on and off since the early 1970s. The Smallboy Camp is located about 55 km south of the Vista Mine. When I'm not living on the Smallboy Camp I live in Maskwacis, Alberta on the Tribe's tribal lands.
3. My paternal and maternal grandparents were part of the expeditions that lead to the founding of Smallboy Camp in 1968.

Exercise of Treaty 6 Rights

4. Now produced and shown to me and marked as **Exhibit "A"** to this my Affidavit is a true copy of a map depicting a portion of the Tribe's traditional territory, the Vista Mine Phase 1, and proposed Phase 2, and the areas where I have hunted and fished and continue to hunt and fish.
5. I have hunted, fished and continue to hunt and fish on unoccupied Crown lands within the Tribe's traditional territory.
6. I have hunted in the marked areas, as shown in **Exhibit "A"** as a child and into my adulthood.
7. I hunt every chance that I can get and when requested to hunt by Elders. The last time I hunted was yesterday, on March 18, 2020. When I hunt, I hunt to sustain the Louis Bull Tribe.
8. In the area shown on the map I have hunted many types of animals including the following:
 - a. Moose;
 - b. Deer;
 - c. Elk;
 - d. Geese;
 - e. Ducks;


- f. Rabbits; and
 - g. Prairie Chickens.
- 9. I have fished in the marked areas, as shown in **Exhibit "A"** as a child and into my adulthood.
- 10. I ice fish when the ice is hard. The last time I ice fished was last year. I fish as a hobby and when requested to fish by Elders.
- 11. I have fished the following:
 - a. Whitefish;
 - b. Pickerel; and
 - c. Jackfish.

Concerns about the Project

- 12. I am concerned about the state of the lands and waters in and around the Vista Mine. Phase 2 of the Vista Mine will be located in the Eastern Slopes, one of the last good areas in our territory to exercise our Treaty rights. The wildlife follows a migratory pattern through the Easter Slopes, making it a good area to hunt in.
- 13. I have noticed a decrease in wildlife available to hunt and fish. I believe that this can be attributed to the development in the region, including clearcutting, mining and traffic. The fishing in the rivers is not viable anymore and game is being pushed further and further away.
- 14. I am concerned about the effects that expanding the Vista Mine will have on wildlife in this area and not being able to exercise my Treaty rights in or near the Vista Mine area in the future.
- 15. The Vista Mines on Treaty 6 territory and in the Tribe's territory and Coalspur should be consulting with the Tribe before they do anything else on these lands. Expansion of the mine will have detrimental effects on the lands that we live off of and the things that I rely on to feed my family and the Tribe.

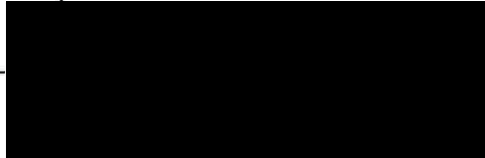
16. I make this Affidavit in support of the position of the Louis Bull Tribe in relation to Coalspur's project proposals related to the Vista Mine, and for no improper purpose.

SWORN BEFORE ME at the City of)
Edmonton, in the Province of Alberta, this 19th)
day of March, 2020.)



A Commissioner for Oaths in and for the
Province of Alberta

Arooj Shah
A Commissioner for Oaths
in and for Alberta
Lawyer



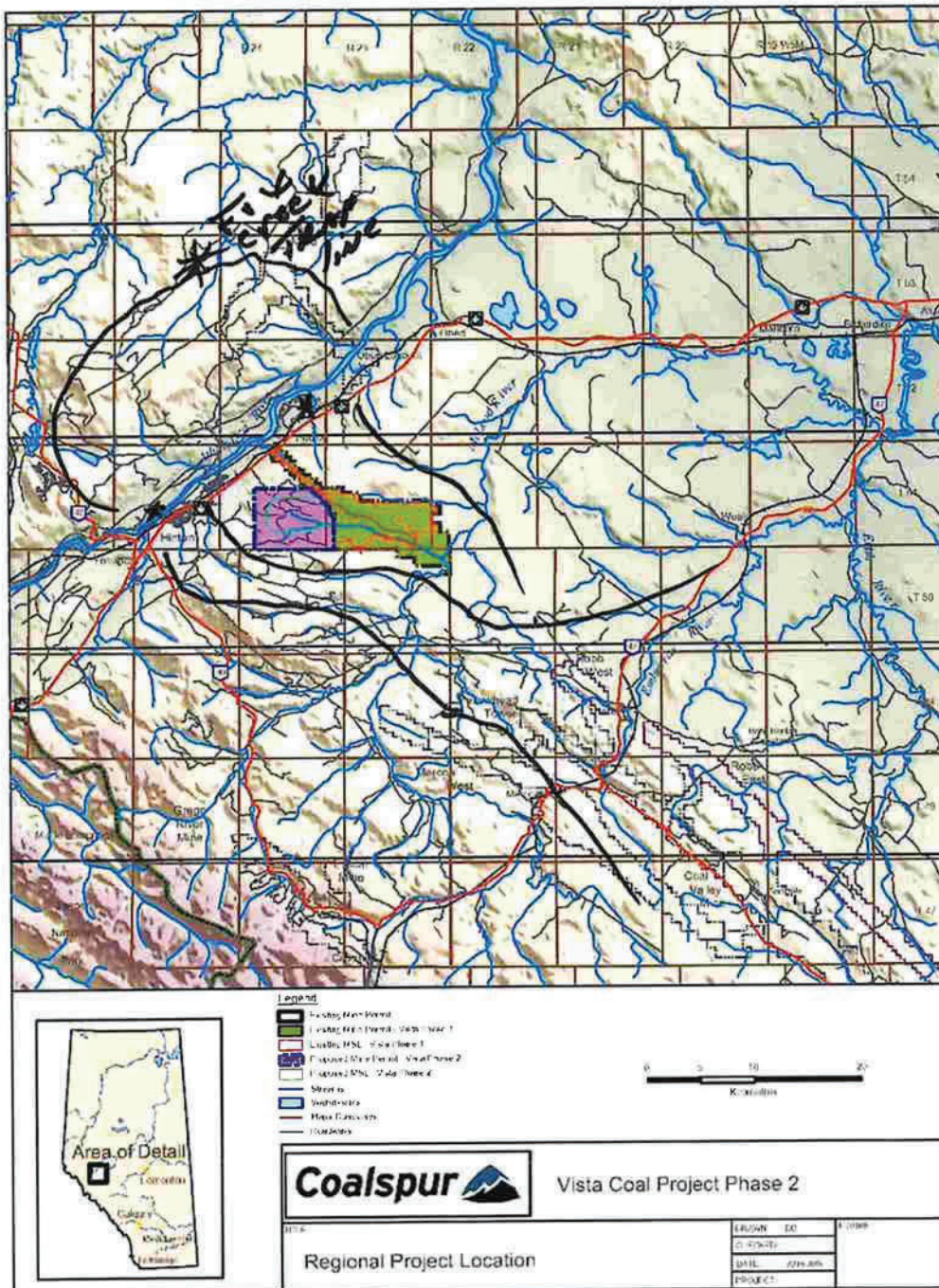


FIGURE 1: PROJECT LOCATION

This is **Exhibit "A"** referred to in the Affidavit of:

sworn before me this
19 day of March, 2020

Arooj Shah

Arooj Shah, Commissioner for Oaths in and for the
Province of Alberta, Lawyer

LOUIS BULL TRIBE: AFFIDAVIT #1 OF [REDACTED]

I, [REDACTED] of the Louis Bull Tribe in the Province of Alberta, MAKE OATH AND SAY AS FOLLOWS:

1. I am a member and Elder of the Louis Bull Tribe (the "Tribe") and I am a gatherer within the Tribe's traditional territory and as such I have personal knowledge of the matters deposed to in this Affidavit, except where stated to be based on information and belief and where so stated I verily believe the same to be true.
2. I have lived in the area where the Vista Mine owned by Coalspur Mines (Operations) Ltd. ("Coalspur") is located for most of my life. I lived in Maskwacis, Alberta on the Ermineskin Cree Nation reserve prior to the late 1950s. I used to be a member of the Ermineskin Cree Nation and transferred to the Louis Bull Tribe after marrying a member.
3. Starting in the late 1950s to the early 1960s, my paternal and maternal grandfathers would go out on the land through the Eastern Slopes area near Hinton, including the area where the Vista Mine is now, and where Phase 2 of the Mine is being proposed. They would go with members of the Tribe and other First Nation people. The purpose of the expeditions was to find a place to camp.
4. My grandfathers were part of the Council that founded Smallboy Camp in 1968. I moved to Smallboy Camp from Maskwacis when it was founded. Smallboy Camp is located about 55 km south of the Vista Mine.

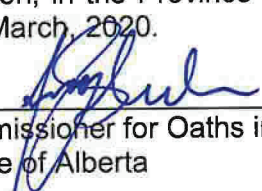
Exercise of Treaty 6 Rights

5. Now produced and shown to me and marked as **Exhibit "A"** to this my Affidavit is a true copy of a map depicting a portion of the Tribe's traditional territory, the Vista Mine, phase 1 and the proposed Phase 2, as well as the areas where I have gathered.
6. I have gathered on unoccupied Crown lands and lands to which I have or previously had a right of access within the Nation's traditional territory.
7. I have gathered in the marked areas, as shown in **Exhibit "A"** as a child and into my adulthood. I learned how to gather from my aunt who is a knowledge keeper of medicines. Since she became ill approximately two years ago, I have not had the opportunity to gather.
8. I would gather with my aunts annually during the summer and fall months. As I am an apprentice of my aunt, who is the knowledge keeper of medicines, I am not in a position to disclose the types of medicines that I would gather with her.

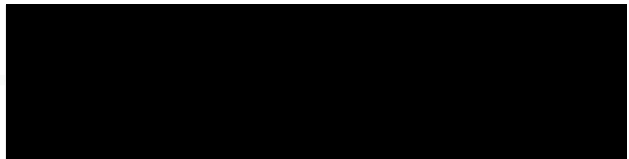
Concerns about the Project

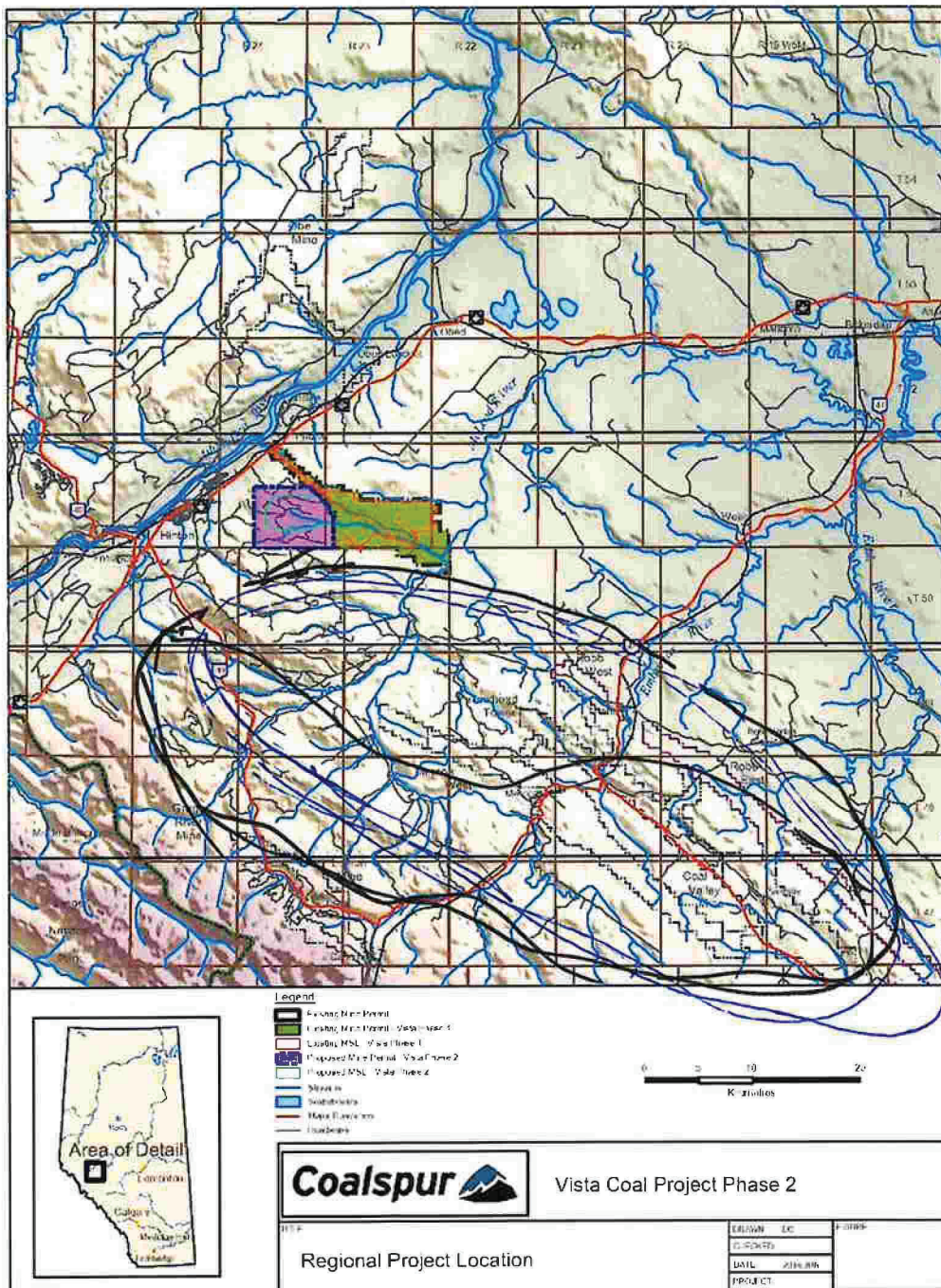
9. I am concerned by the impacts caused by development in the area shown on the map, including Coalspur's proposed and existing developments. I am concerned that there is little land left to exercise Treaty rights because lands are being taken up and cleared for industrial purposes.
10. I have noticed changes to land in the area depicted on the map attached as **Exhibit "A"** caused by industrial development. For example, certain medicines do not grow in the area anymore and wildlife has changed their migratory patterns. Further development in the area will result in further destruction of the environment and there will be no traditional medicines left to gather. I and others will have to travel further and further away to gather medicines that we use to survive and practice our traditional way of life.
11. I make this Affidavit in support of the position of the Nation in this matter and for no improper purpose.

SWORN BEFORE ME at the City of)
Edmonton, in the Province of Alberta, this 19th)
day of March, 2020.)


A Commissioner for Oaths in and for the
Province of Alberta

Arooj Shah
A Commissioner for Oaths
in and for Alberta
Lawyer





certain medicines
-berries
-smudges
↓water

FIGURE 1: PROJECT LOCATION

This is **Exhibit "A"** referred to in the Affidavit of:

sworn before me this
19 day of March, 2020

Analysis Report
Impact Assessment Agency of Canada

Arooj Shah, Commissioner for Oaths in and for the
Province of Alberta, Lawyer

LOUIS BULL TRIBE: AFFIDAVIT #1 OF [REDACTED]

I, [REDACTED] of the Louis Bull Tribe in the Province of Alberta, MAKE OATH AND SAY AS FOLLOWS:

1. I am a member and Elder of the Louis Bull Tribe (the "Tribe") and I am a hunter and fisher within the Tribe's traditional territory and as such I have personal knowledge of the matters deposed to in this Affidavit, except where stated to be based on information and belief and where so stated I verily believe the same to be true.
2. I have lived in the area of Vista Mine owned by Coalspur Mines (Operations) Ltd. ("Coalspur") Project for most of my life. I lived in Robb, Cadomin, Coalspur, Edson, Hinton and other locations. This area is part of the Nation's traditional territory.
3. Starting in the late 1950s to the early 1960s, I would go on expeditions through where the Vista Mine is now, and where Phase 2 of the Mine is being proposed. I would go with other members of the Tribe and other First Nation people, including my father, grandfather, and uncles. The expeditions occurred a few times a year during the spring, summer and fall months. The purpose of the expeditions was to find a place to settle, as well as to learn how to live on the land, maintain our way of life, exercise our Treaty rights.
4. My grandfather was part of the Council that founded Smallboy Camp in 1968, which is the year I moved to Smallboy Camp. Smallboy Camp is located about 55 km south of the Vista Mine.

Exercise of Treaty 6 Rights

5. Now produced and shown to me and marked as **Exhibit "A"** to this my Affidavit is a true copy of a map depicting a portion of the Nation's traditional territory, the Coalspur Vista Mine (Phase 1 and Phase 2), and the areas where I have hunted and fished.
6. I have hunted, fished and continue to fish on unoccupied Crown lands and lands to throughout our traditional territory.
7. I have hunted in the marked areas, as shown in **Exhibit "A"** as a child and into my adulthood. The last time I hunted in these areas was a few years ago. I am now semi-retired and rely on my sons and nephews to do most of the hunting and fishing in this area.
8. I would hunt two to three times per week year-round, as needed to sustain my family. Some of the animals I hunted in the area shown on the map include:
 - a. Moose;
 - b. Deer;

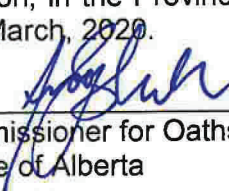
- c. Elk;
 - d. Grouse;
 - e. Geese;
 - f. Ducks;
 - g. Rabbits; and
 - h. Prairie Chickens.
9. My sons and nephews do most of the fishing now, but I still try to fish every once in a while in the spring and summer times. In the marked area, I have fished and continue to fish the following, including but not limited to:
- a. Whitefish;
 - b. Suckers; and
 - c. Various types Trout.

Concerns about the Project

10. I am concerned that the development in this area, in the Eastern Slopes, is pushing the game away. I have seen how there is less game in area in and around the Vista Mine as compared to when I was younger, before the Vista Mine. The Eastern Slopes (where Vista Mine is located) used to be rich with wildlife and a great place to hunt and go out on the land.
11. Development in the Eastern Slopes region including the Vista Mine area is also forcing us to hunt further and further away from our lands around Smallboy Camp. This makes it more expensive and it takes more time to exercise our Treaty rights. Given the extensive development on Treaty 6 land and specifically in the Eastern Slopes area, we need to go to more remote locations to hunt and fish.
12. I am concerned that the activities conducted by Coalspur for the expansion Vista Mine, including the planned Phase 2 open pit surface mine, and the applied for Underground Mine will further impact the animal populations in the area. The activities of Coalspur and its proposed coal projects will also occupy lands to which I and other First Nation peoples previously had a right of access. It will prevent my children from teaching their children how to exercise their rights and live off the land like I learned how to, and will further restrict the area in which we can exercise my Treaty rights to hunt and fish.

13. I make this Affidavit in support of the position of the Louis Bull Tribe in relation to Coalspur's project proposals related to the Vista Mine, and for no improper purpose.

SWORN BEFORE ME at the City of)
Edmonton, in the Province of Alberta, this 19th)
day of March, 2020.)



A Commissioner for Oaths in and for the
Province of Alberta

Arooj Shah
A Commissioner for Oaths
in and for Alberta
Lawyer

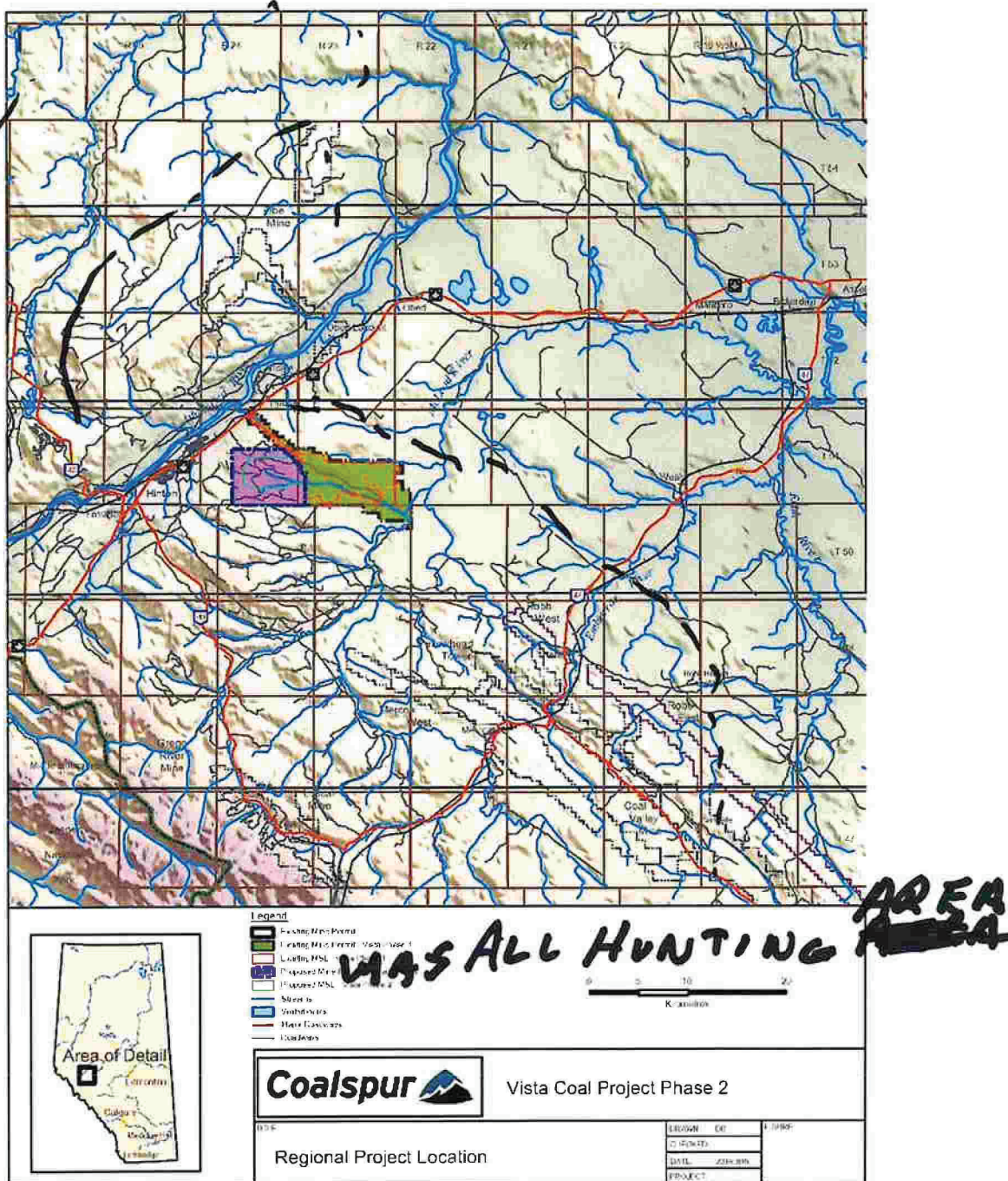


FIGURE 1: PROJECT LOCATION

This is **Exhibit "A"** referred to in the Affidavit of:

sworn before me this
19 day of March, 2020

[Signature]

Arooj Shah, Commissioner for Oaths in and for the
Province of Alberta, Lawyer