

February 17, 2025

Members of the International Elk-Kootenai/y Watershed Study Board,

Thank you for the opportunity to comment on the Draft Plan of Study for the transboundary Elk-Kootenai/y watershed. We submit these comments on behalf of the conservation and environmental science non-governmental organizations that share a collective interest in the long-term health of this watershed and its terrestrial, aquatic and human communities. Together, we represent more than 2 million members and supporters, for whom the future management of these international waterways is of great importance.

We have participated in many formal and informal processes regarding the selenium contamination of this watershed, and over the past decade have become increasingly alarmed by pollution trendlines. More and more selenium is reaching farther and farther downstream, despite significant investments in water-treatment facilities. This current public process, convened by the International Joint Commission (IJC), affords an opportunity to address these startling trendlines head-on and to develop actionable mitigation strategies and enforceable water-quality standards.

While the Draft Plan of Study is a welcome step toward resolving this longstanding international dispute, we remain concerned that the Study Board's scope of work may prove overly limited, focusing on a review of established science rather than an analysis of concrete next steps. We seek a scope of study worthy of the watershed.

We also are concerned that the two-year limitation on the IJC's review is insufficient given the many centuries of selenium expected to leach from the mines' waste rock. We recommend extending the work of the Study Board and Governance Board, to ensure watershed restoration into the future.

Specifically, we ask that the Study Board's analysis include:

- Ongoing water-quality monitoring (above and below the mines, and in both countries);
- A moratorium on new mine approvals pending proven clean-up technology;
- Sufficient mine bonding to ensure restoration without taxpayer liability;
- Enforceable water-quality standards consistent with US Clean Water Act law;
- Land and water protections in adjacent watersheds, to ensure ecosystem integrity despite damages in the Elk-Kootenai/y; and
- Ongoing IJC Watershed Board involvement, pending identification of long-term solutions.

Additionally, we ask that the Study Board ensure:

- That all data, including data from the Elk Valley Water Quality Plan, is made available and transparent;
- That all information about new and/or expanded mines is included in the scope of a cumulative impacts analysis;
- That selenium impacts to air quality, drinking water and human health are incorporated into the scope of study;

- That all data regarding past, present and future water treatment efforts is made fully available and transparent;
- That passive water treatment technologies are assessed, given the long-duration nature of the contamination; and
- That real-time contaminant levels – for selenium and other pollutants of concern – are made transparent and available to all stakeholders during the study and beyond.

A Plan of Study that does not encompass watershed restoration – by identifying specific and timely actions to reduce pollution and to mitigate selenium impacts – will, ultimately, fail to fulfil the mandate given the IJC to restore this watershed.

We understand a long-term solution is not readily available, and the promise of new treatment technologies is, until proved, still just a promise. As such, a host of strategies implemented through time will be needed to adequately mitigate existing and future harms.

In the near-term, actions such as adjacent land protections can ensure ecosystem integrity even as mine impacts continue. In the mid-term, policies including bonding requirements and enforceable water-quality standards can establish much-needed best practices. And in the long-term, a stable watershed board and robust technical committee can identify emergent passive treatment technologies that, once implemented, will restore the watershed to a healthy future.

We appreciate the attention of the IJC to this matter and we commit to partnering in good faith to achieve the mandate of a restored watershed and healthy communities.