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Indigenous Leaders from the Kootenay Bring Canadian Mining Issues to Washington, Urging Biden Administration to Hold Canada to its Promises

Canadian Government Must “Keep the Promise” to Stand Up to Teck Mining and Resolve Decades-Long Water Pollution Crisis, Amid Canada-U.S. Talks

WASHINGTON, D.C., March 27, 2023—

The Indigenous leaders from the transboundary Ktunaxa Nation are descending on D.C. during a period of high-level negotiations between Canada and the United States, including Prime Minister Trudeau’s meeting with President Biden last week, and bilateral discussions between the two countries scheduled for April.

At the top of the agenda for these negotiations is the legacy and on-going contamination of the Kootenay Watershed, a massive river system that flows through the traditional territory of the Ktunaxa Nation, from British Columbia downstream into Montana and Idaho.

President Biden wrapped up a state visit to Canada last Friday, and the joint statement between Biden and Prime Minister Trudeau signaled some progress on resolving the contamination crisis. It stated that the two governments “intend to reach an agreement in principle by this summer to reduce and mitigate the impacts of water pollution in the Elk-Kootenai watershed, in partnership with Tribal Nations and Indigenous Peoples.” This is a sign that the Canadian government may be ready to push back against fierce lobbying by the British Columbia provincial government and the politically powerful mining conglomerate Teck Coal Limited.

President Biden’s Administration and the Ktunaxa Nation stand together in their ask that Canada address B.C. mining pollution in the Kootenay—so far Canada, however, has refused to take any meaningful steps, despite a series of broken promises to act.

Leadership from two governments of the Ktunaxa Nation—Kupawic̓q̓nuk (Ksanka Band, Confederated Salish and Kootenai Tribes) and ʔaq̓anq̓mi (Kootenai Tribe of Idaho)—are rallying support with bipartisan U.S. government allies this week, including congressional allies and Administration officials.

The Nation’s demand is clear: The Biden administration must ramp up the pressure on the Canadian government to stand up to Teck Coal and finally join with the United States to establish an Indigenous-led watershed board under the Boundary Waters Treaty, to address mining pollution in the Kootenay Watershed from Teck Coal’s Elk Valley coal mines in British Columbia.

Last year, the governments of the Ktunaxa Nation were informed that a breakthrough had been negotiated—and a joint action between the two governments had been agreed to. Only to see those promises broken by Canada amid a fierce lobbying campaign by Teck Coal and its allies within the British Columbia provincial government.

“Promises have been made by the Canadian government and then broken before,” said Chairman Tom McDonald of the Confederated Salish and Kootenai Tribes. “It is encouraging that this joint statement acknowledges that action needs to be taken, but clear pressure needs to be focused on ensuring Canada lives up to its commitment. This cannot just be more empty words. This is the perfect time for Prime Minister Trudeau to take a strong stand for the environment and for the people.”

As Canada has dragged its feet for over a decade, the Kootenay Watershed has reached a crisis point. “Canada’s negligence and failure to act is directly impacting our fish, water, and Tribal Treaty lands” says Vice Chairman Gary Aitken Jr. from the Kootenai Tribe of Idaho, adding “selenium concentrations in the Kootenay are alarming and significantly exceed the standards permitted by Montana, Idaho, and the United States.”

“The United States must throw its full weight behind getting Canada to honor its commitments to Indigenous governments and support a joint reference” says Tribal Councilmember Mike Dolson, of the Confederated Salish and Kootenai Tribes, adding that “selenium contamination should be a top priority for the United States, not only because the U.S. government has an obligation to honor our tribal sovereignty, but because these toxic pollutants threaten the health and safety of all communities across Montana, Idaho, and British Columbia.”

“We have stewarded the waters and lands in the Kootenay Watershed since time immemorial, and we have sought to preserve these resources for future generations,” said Chairman McDonald. “Now, Canada’s negligence and Teck’s pollution threaten to permanently damage our legacy of stewardship,” Chairman McDonald added. “As U.S. and Canadian governments convene, we ask them to stand in unity with Indigenous leadership of the transboundary Ktunaxa Nation and immediately address this issue under the Boundary Waters Treaty.”

Background:

For over a century, open-pit coal mining in British Columbia's Elk Valley, owned and operated by Teck Coal Limited, a Canadian company, has released selenium and other toxic pollutants into these waters, impacting fish and water quality on both sides of the border. The governments of Canada and British Columbia have refused to respond, ignoring the hundred-year-old Boundary Waters Treaty between the United States and Canada.

Montana and Idaho have both adopted 0.8 ug/L as the ceiling for safe concentrations of dissolved selenium, a standard approved by the U.S. Environmental Protection Agency. Recorded concentrations of selenium in the Kootenay Watershed have shattered this limit, reaching a shocking 9.46 ug/L in some locations.

Ktunaxa Nation leadership are urging the United States to increase pressure on Canada to address on-going mining pollution draining from British Columbia into U.S. and Tribal Territory in the Kootenay(i) Watershed.

This year marks the eleventh anniversary of the Ktunaxa Nation's unanswered request for both countries to issue a joint "reference" to the International Joint Commission, the binational entity created by Canada and the United States under the Boundary Waters Treaty of 1909 to manage Canada-U.S. shared transboundary waters. This would allow for the creation of an Indigenous-led watershed board to address the mining pollution. The Nation's request is supported by the United States, other First Nations and Tribes, and all sitting members of the International Joint Commission. Canada, however, has refused to support the reference, despite past commitments to do so only to walk back its promise at the last minute.

Recent events involving Teck Coal, the Canadian company whose mines are the source of the selenium contamination, have only increased the urgency of Indigenous-led oversight. In the last month, Teck announced plans to siphon off its coal operations into a separate corporation, a move by Teck to avoid liability and shield its assets from litigation down the road. Teck's announcement follows recent penalties by the government of British Columbia against the company for exceeding water quality limits for selenium and nitrate and for failing to implement wastewater treatment as required under Provincial permits. Late last year, Freedom of Information requests revealed collusion between the mining industry, the province of British Columbia, and Trudeau's government; all aimed at defeating calls for action from Indigenous governments and the United States, excluding Indigenous governments from decision-making, and preventing an objective and transparent process to address this legacy mining issue.

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