

Benga Launches Legal Appeal of Joint Review Panel's Conclusion on Proposed Grassy Mountain Steelmaking Coal Project

CROWSNEST PASS, ALBERTA - July 19, 2021 - Benga Mining Limited (**Benga**) today announced that it has commenced a legal appeal process following the decision of the Grassy Mountain Joint Review Panel (**JRP**), in its capacity as the Alberta Energy Regulator (**AER**), dated June 17, 2021, to deny the Grassy Mountain Steelmaking Coal Project (**Project**). Benga has filed an Application for Permission to Appeal to the Court of Appeal of Alberta.

“After careful and thorough review of the JRP’s report, Benga believes that the AER’s conclusions and reasons contain material errors of law and contraventions of procedural fairness,” said John Wallington, CEO of Benga. “Among the reasoning in its report, the AER dismissed the full support of the relevant First Nations without consultation, demonstrated a lack of familiarity with the provincial royalty regime, and gave preference to non-expert layman analysis over expert, science-based evidence. These errors must be addressed to not only deliver fairness to Benga and the Indigenous groups adversely affected by the decision, but to provide future guidance to any company considering an investment in Alberta and Canada, any participants in AER and JRP review processes, future AER and JRP panels, and Indigenous groups that support projects and can benefit economically and culturally from their approval.”

Benga’s Application for Permission to Appeal is based on a number of errors made by the JRP in its capacity as the AER, each of which raises a question of law or jurisdiction. These errors include:

- Failing to engage with, consult with, or suggest consultation with affected Indigenous groups when contemplating the rejection of the Project. As a result, the JRP did not properly assess the impact of the rejection of the Project on Indigenous rights and economic interests. Should it proceed, the Project would create hundreds of jobs and generate economic benefits for nearby Indigenous groups.
- Denying Benga procedural fairness by finding that Benga submitted insufficient information in its application, after informing Benga prior to the hearing that the “content of the EIA report and addenda meet the Alberta Energy Regulator final terms of reference”.
- Ignoring relevant evidence from Benga, or misconstruing that evidence related to topics such as surface-water quality, Westslope Cutthroat Trout and their habitat, and Project economics.
- Improperly relying on layperson or non-expert and unfounded opinions that lacked science-based support, rather than on science-based evidence presented by Benga.
- Finding that Alberta’s Mine Financial Security Program – which is overseen by the government itself – was inadequate for Benga to rely on to address long-term water treatment costs.

Each of these errors was fundamental to the JRP's finding that the Project is not in the public interest and require the JRP to reconsider Benga's application to approve the Project.

Benga believes it is unprecedented for Alberta's energy regulator to deny a project after a public hearing. Since 2009, 11 oil sands and coal mining projects have gone through Alberta's energy regulator oral hearing process, with eight being approved, three withdrawn, and none denied.

"The JRP could have addressed any valid concerns with the Project by making an approval conditional on strict conditions. This well-established and proven approach ensures any development can only proceed with adequate protections in place. Unfortunately, for reasons unknown to us, the JRP imposed a decision that is based on a number of errors of law, leaving Benga no choice but to take the steps we announced today," said Wallington.

Benga will file an Affidavit and a Memorandum of Argument in support of its Application for Permission to Appeal in the coming days and weeks.

The Grassy Mountain Project is a proposed steelmaking coal mine in Crowsnest Pass, Alberta. The Project holds a Category 4 land use classification; nearly 25% of the Project sits on previously mined (legacy) land, which was mined over 60 years ago and never properly restored. Benga's plans incorporate industry-leading practices to manage water use, protect wildlife and accelerate reclamation.

The proposed capital expenditure for the Project is approximately \$800 million, and approximately 500 jobs would be created during construction and 385 full-time site positions at full production. Over the life of mine, the Project would be expected to generate \$1.7 billion in provincial and federal income taxes and royalties.