

Notice of Application

CCA Applications No. 1844520 and 1902073

EPEA Application No. 001-403427

**WA Applications No. 001-00403428, 001-00403429, 001-00403430 and
001-00403431**

**PLA Applications No. MSL160757, MSL160758, LOC160841, LOC160842 and
LOC970943**

Benga Mining Limited

Grassy Mountain Coal Project

The Alberta Energy Regulator (AER) has received updated *Coal Conservation Act (CCA)* Applications No. 1844520 and 1902073; *Environmental Protection and Enhancement Act (EPEA)* Application No. 001-403427; *Water Act (WA)* Applications No. 001-00403428, 001-00403429, 001-00403430, and 001-00403431; and *Public Lands Act (PLA)* Applications No. MSL160757, MSL160758, LOC160841, LOC160842, and LOC970943 from Benga Mining Limited (Benga) for approval of its Grassy Mountain Coal Project (the project). The AER is reviewing the applications together with the associated environmental impact assessment (EIA) report.

This notice also sets out the deadline for filing statements of concern on all of the above-listed applications.

Benga previously applied in Applications No. 1844520 and 1844522 for a permit to develop a surface metallurgical coal mine and for an approval to construct and operate a new coal processing plant. A notice of application was issued on November 19, 2015, for these applications, and an amended notice of application was issued on January 12, 2016. Application No. 1902073 updates/amends Application No. 1844522; therefore, the AER has closed this application. The AER will consider Application No. 1844520 together with the new applications filed by Benga.

Any statements of concern (SOCs) already filed on Application 1844520, or on the closed Application No. 1844522, will be linked to CCA Applications No. 1844520 and 1902073 and will be considered when making a decision on all of Benga's applications submitted to date. You do not have to resubmit the same SOC if you had previously filed it on Applications No. 1844520 or 1844522 unless you have a new and different concern about CCA Applications No. 1844520 and 1902073.

See the "How to File a Statement of Concern" section below for filing dates.

Description of the Project

Benga's proposed project consists of a mine with an estimated mine life of about 24 years that includes a predevelopment year and excludes final closure and reclamation; a coal processing plant with associated infrastructure; an overland conveyor system connecting to a rail load-out facility; and a new section of rail track.

The project would produce 4.5 million tonnes of metallurgical coal per year by 2021, with this production rate maintained for most of the mine life. The production rate would decrease to an average of about 3.8 million tonnes per year in the last nine years of production. Subject to regulatory approval, site construction is scheduled to begin in the first quarter of 2019 and production in the fourth quarter of 2020. The project would be located in southwest Alberta near the Crowsnest Pass, about 7 kilometres north of the community of Blairmore, in Townships 8 and 9, Ranges 3 and 4, West of the 5th Meridian.

Description of the Applications

Benga has applied

- under section 11(b) of the *CCA* for mine licences to construct, operate, and reclaim the associated open mine pit, a north rock disposal area, a central rock disposal area, and a south rock disposal area;
- under section 23 of the *CCA* for an approval to construct and operate a new coal processing plant;
- under section 66 of *EPEA* for an approval to construct, operate, and reclaim the project;
- under the *PLA* for a mineral surface lease (and associated licence of occupation) to use Crown lands within the project's mine permit boundary;
- under the *WA* for an approval to capture, collect, treat, and manage surface runoff and groundwater as part of the water management program, including development of an end pit lake; and
- under the *WA* to transfer surface water licences and a licence to divert surface water for use in the project as described below.

Benga has filed under the provisions of the *Water Act* and of the *Oldman River Basin Water Allocation Order* (the Order) for the diversion of 185 022 cubic metres (m³; 150 acre-feet) of water per year reserved for industrial purposes under the Order. Benga proposes to divert surface runoff and seepage, which will be collected within the mine fence line area and stored in a reservoir located in the southwest quarter of Section 24, Township 8, Range 4, West of the 5th Meridian (SW-24-008-04W5M). Surface runoff and seepage water not diverted and collected would normally flow to Blairmore Creek and Gold Creek.

Benga has filed an application to permanently transfer 123 348 m³ of water under a licence issued to divert water from the Crowsnest River in NE-02-008-05-W5M to surface runoff/seepage collection and diversion at SW-24-008-04-W5M. The allocation of water to be transferred was licensed to Devon Canada Corporation with priority number 1961-12-14-02. The purpose of the transferred water will remain industrial.

Benga has filed an application to temporarily transfer 250 400 m³ of water (203 acre-feet) under a licence issued to divert water from York Creek at NW-34-007-04-W5M to surface runoff/seepage collection and diversion at SW-24-008-04-W5M. The allocation of water to be transferred was licensed to the Municipality of Crowsnest Pass with priority number 1910-09-19-01 for a total allocation of 308 370 m³ (250 ac-ft). The purpose of water use will be changed from municipal (urban water supply for Blairmore) to industrial (coal washing and mine operations).

Under section 83 of the *Water Act*, the director may withhold up to 10 per cent of the allocations of water being transferred. Any water withheld may be licensed to the provincial government for protection of the aquatic environment or for implementation of a water conservative objective.

In addition, section 81(6) of the *Water Act* requires a public review, which may include a hearing, of the applications to transfer allocations of water. Any person intending to attend a public review of the transfer applications is asked to include this intent in their statement of concern, filed in accordance with this notice. If a hearing or other type of public review is to be held, the AER will provide notice to the person who filed a statement of concern.

Benga has also submitted an updated EIA report. This EIA report supports the applications to the AER.

For a copy of the applications, contact

Benga Mining Limited
PO Box 660
12331-20 Avenue
Blairmore, Alberta T0K 0E0
Attention: Cal Clark
Telephone: 403-563-7600
Fax: 403-753-0716
Email: Cal.Clark@rivresources.com

To receive a copy of the applications, EIA, and supporting documents, submit an information request, as outlined at www1.aer.ca/ProductCatalogue/ordering.html, to

AER Order Fulfillment
Suite 1000, 250 – 5 Street SW
Calgary, Alberta T2P 0R4
Telephone: 1-855-297-8311 (toll free; option 2)
Email: [InformationRequest@aer.ca](mailto:InformationRequest@ aer.ca)

inquiries 1-855-297-8311
24-hour
emergency 1-800-222-6514

Refer to this notice when requesting information for a speedier response. Copies of the applications will also be available at

Alberta Government Library
44 Capital Boulevard
11th Floor, 10044 – 108 Street
Edmonton, Alberta T5J 5E6
Telephone: 780-427-2985
(toll free: 780-310-0000)

Requirement to File a Statement of Concern

If you have concerns with these applications, you must file a statement of concern as described below. If you do not file a statement of concern, the AER may approve the applications without further notification.

How to File a Statement of Concern

For your submission to be considered a valid statement of concern, it must be filed before 4:00 p.m. on **December 8, 2017**. Send one copy of your statement of concern to Benga Mining Limited at the name and address above and one copy to

Authorizations Branch
Alberta Energy Regulator
Suite 1000, 250 – 5 Street SW
Calgary, Alberta T2P 0R4
Fax: 403-297-7336
Email: SOC@aer.ca

Contents of a Statement of Concern

For your submission to be considered a valid statement of concern, it must include

- a) why you believe that you may be directly and adversely affected by a decision of the AER on the applications;
- b) the nature of your objection to the applications;

- c) the outcome of the applications that you advocate;
- d) the location of your land, residence, or activity in relation to the location of the energy resource activity that is the subject of the applications; and
- e) your contact information, including your name, address in Alberta, telephone number, and email address or, if you do not have an email address, your fax number.

inquiries 1-855-297-8311
24-hour
emergency 1-800-222-6514

The AER also requests that you include the application number in your statement of concern.

Confidentiality

Section 49 of the *Alberta Energy Regulator Rules of Practice (Rules of Practice)* requires that all documents and information filed in a proceeding be placed on the public record. If you file a submission, you must not include any personal information that you do not want to appear on or are not authorized to put on the public record. Section 49(2) of the *Rules of Practice* states how to apply to the AER for an order to keep information confidential. The *Rules of Practice* is available on the AER website at www.aer.ca.

Jurisdiction

Submissions relating exclusively to compensation for land use are not dealt with by the AER and should be referred to the Alberta Surface Rights Board.

Under section 21 of the *Responsible Energy Development Act*, the AER does not have the jurisdiction to assess the adequacy of Crown consultation associated with the rights of aboriginal peoples as recognized and affirmed under the *Constitution Act, 1982*.

For information on AER procedures, contact the authorizations specialist, Africa Geremew, by phone at 403-297-8167 or by email to africa.geremew@aer.ca.

Issued at Calgary, Alberta, on October 31, 2017.

ALBERTA ENERGY REGULATOR

Patricia M. Johnston, Q.C., General Counsel