

February 22, 2024

**Calgary Head Office**  
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Calgary, Alberta T2P 0R4  
Canada

**By email only**

[www.aer.ca](http://www.aer.ca)

Mr. Alex Bolton  
AER Chief Hearing Commissioner  
Suite 1000, 250 – 5th Street SW  
Calgary, Alberta T2P 0R4

**RE: Northback Holdings Corporation (Northback)  
Application Nos. 1948547 / A10123772 / 00497386**

Mr. Bolton,

The purpose of this letter is to inform you that the AER has accepted the above captioned applications from Northback and has determined they should be decided by a panel of hearing commissioners.

The AER received clarification on Ministerial Order 002/2022 (the MO) and the definition of an advanced coal project in a letter from the Minister of Energy on November 16, 2023 (the ‘Minister’s Letter’ - Attachment 1). The Minister’s Letter provides that once a project summary has been submitted and a project is considered an advanced coal project, it remains as such regardless of previous application outcomes.

The AER is vested with authority to decide whether the application lands are subject to an ‘advanced coal project’ and whether to accept Northback’s applications. The AER is also mindful that one of the stated objectives of section 67 of the *Responsible Energy Development Act* is to allow the Minister to provide, by order, ‘*guidelines for the Regulator to follow in the carrying out of its powers, duties, and functions*’.

Bearing this in mind, a letter from the Minister of Energy clarifying the application of the MO, a binding direction to the AER from the same Minister, carries significant weight.

Further, section 3 of the MO specifies that written notice may be given by the Minister of Energy to the AER to accept applications on Category 3 and 4 lands.

As contemplated in the MO and the Minister’s Letter, a project summary was previously submitted to the AER for the purposes of determining whether an environmental impact assessment was required.

Accordingly, the AER has determined that the Category 4 lands upon which application activities have been proposed are subject to an ‘advanced coal project’. It has therefore accepted the applications filed by Northback.

The AER has also determined pursuant to section 33(1) of the *REDA*, that the applications should be set

down for a hearing. The AER has broad discretion to decide to send applications to a hearing and can consider any factor that it deems appropriate when making that decision.<sup>1</sup>

Coal development in the Eastern Slopes of Alberta has engaged significant interest from surrounding municipalities, Indigenous and local communities, and many other Albertans. The Minister's Letter emphasizes the importance of Indigenous and community engagement in the AER's regulatory processes. A public hearing will allow for the most informed and transparent technical review of the applications.

Accordingly, I request that you assign a panel of hearing commissioners to conduct a hearing of the Applications and adjudicate any costs applications in connection with the hearing.

<Original signed by>

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Sean Sexton, EVP Law & General Counsel,  
On behalf of the Executive Leadership Team,  
Alberta Energy Regulator

Cc: Northback Holdings Corporation

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<sup>1</sup>Section 7.1 (j), *Alberta Energy Regulator Rules of Practice*, AR 99/2013.



ALBERTA

Energy and Minerals

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*Office of the Minister*

*MLA, Fort McMurray - Lac La Biche*

November 16, 2023

Laurie Pushor,  
President and CEO of the Alberta Energy Regulator.  
[laurie.pushor@aer.ca](mailto:laurie.pushor@aer.ca)

Dear Mr. Pushor,

Currently, the Alberta Energy Regulator (AER) is in the process of reviewing applications that meet the criteria of “advanced coal project” under Ministerial Order 002/2022. The ministerial order was signed by then Minister of Energy, Sonya Savage, on March 2, 2022.

The purpose of this letter is to provide my interpretation regarding appropriate application of the definition of “advanced coal project” under that order. It is my understanding that four projects met and meet the definition of “advanced coal project” under clauses 3 and 6 of the Ministerial Order 002/2022: Mine 14, Vista Coal Mine Phase 2, Grassy Mountain, and Tent Mountain. Each of these four coal projects had submitted a project summary to the AER for the purposes of determining whether an environmental impact assessment is required at the time the ministerial order was signed.

The ministerial order does not require an active regulatory application tied to the project description to qualify a project as an advanced coal project. Once a project is considered an advanced project it remains as one regardless of the outcome of regulatory applications submitted before it was declared an advanced project.

As with all applications submitted to the AER, it is my expectation that the AER will review any applications related to these advanced coal projects following all applicable legislation and AER regulatory processes. This includes the AER’s requirements for 1) community involvement in the regulatory process, 2) ensuring the required Indigenous involvement with the project proponent, and 3) high environmental standards, particularly where protection of Alberta’s valuable water resources is required.

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Thank you for your attention to this matter and the AER's continued commitment to regulatory excellence.

Sincerely,

*<Original signed by>*

Brian Jean, K.C., ECA  
Minister

cc: Honourable Rebecca Schulz  
Minister of Environment and Protected Areas

cc: Larry Kaumeyer  
DM, Energy and Minerals

cc: Kasha Piquette  
DM, Environment and Protected Areas