

October 3, 2024

Calgary Head Office
Suite 1000, 250 – 5 Street SW
Calgary, Alberta T2P 0R4
Canada

By email only

www.aer.ca

Mr. Alex Bolton
AER Chief Hearing Commissioner
1000, 250 5 Street SW
Calgary AB T2P 0R4

**RE: Summit Coal Inc.
Applications No.: CCA 1945552 / 1945553, EPEA 001-00496728,
WA 001-00496729 / 001-00496730, PLA 32212208 / 32900389**

Mr. Bolton,

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

The AER determined that the Category 4 lands upon which the above captioned application activities have been proposed are subject to an ‘advanced coal project’ as defined in Ministerial Order 002/2022 (the MO) (Attachment 1). In coming to this conclusion, the AER found that a project summary was previously submitted for Summit’s Mine 14 project to the AER by Summit on December 10, 2021, for the purposes of determining whether an environmental impact assessment (EIA) was required.

The AER also received interpretive clarification on the MO and the definition of an advanced coal project in a letter from the Minister of Energy on November 16, 2023 (‘Minister’s Letter’ - Attachment 2). The Minister in his letter confirmed his understanding that Summit’s Mine 14 project is an advanced coal project, having had a project summary previously submitted for the purposes of determining whether an EIA is required. Bearing in mind that it is the AER that must decide whether to accept the application, the Minister’s Letter carried significant weight in making its determination.

The AER has also determined pursuant to section 33(1) of the REDA, that the applications should be set down for a hearing. Accordingly, I request that you assign a panel of hearing commissioners as soon as possible to conduct a hearing of the Applications and adjudicate any costs applications in connection with the hearing.

Yours truly,



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

cc: Summit Coal Inc. (Martin Ignasiak KC, Bennett Jones, ignasiakm@bennettjones.com)

GOVERNMENT OF ALBERTA


DEPARTMENT OF ENERGY

RESPONSIBLE ENERGY DEVELOPMENT ACT
S.A. 2012, c. R.17.3

MINISTERIAL ORDER 002/2022

I, **SONYA SAVAGE**, Minister of Energy, pursuant to section 67 of the *Responsible Energy Development Act*, make the Coal Development Direction, in the attached Appendix.

DATED at Calgary, in the Province of Alberta, this 2nd day of March, 2022.



Honourable Sonya Savage
Minister of Energy

**APPENDIX
COAL DEVELOPMENT DIRECTION
PURPOSE**

WHEREAS, the Minister of Energy and Minister of Environment and Parks are authorized by section 67 of the *Responsible Energy Development Act* (REDA) to give directions to the Alberta Energy Regulator (the AER) for the purpose of:

- (a) Providing priorities and guidelines for the AER to follow in the carrying out of its powers, duties and functions, and
- (b) Ensuring the work of the AER is consistent with the programs, policies and work of the Government of Alberta in respect of energy resource development, public land management, environmental management and water management.

AND WHEREAS, on March 29, 2021, the Government of Alberta established the Coal Policy Committee (the Committee) to hear from concerned parties about future coal development in Alberta, and the Committee has completed that mandate.

AND WHEREAS, the Committee has provided recommendations to the Minister of Energy based on the concerns expressed by Albertans and Indigenous communities.

AND WHEREAS, the Government of Alberta has heard perspectives from many Indigenous communities across the province about the management of coal resources.

AND WHEREAS, the Government of Alberta has confirmed that the restrictions in place in respect of the exploration for and development of coal within categories of lands as described in the 1976 A Coal Development Policy for Alberta (the 1976 Coal Policy) remain in effect.

AND WHEREAS, all existing legislation related to coal exploration and development remains in place and is unchanged.

AND WHEREAS, Albertans expect coal exploration and development in the Eastern Slopes (as defined in the 1976 Coal Policy and depicted in Annex 1) to remain suspended until such time as sufficient land use clarity has been provided through a planning activity.

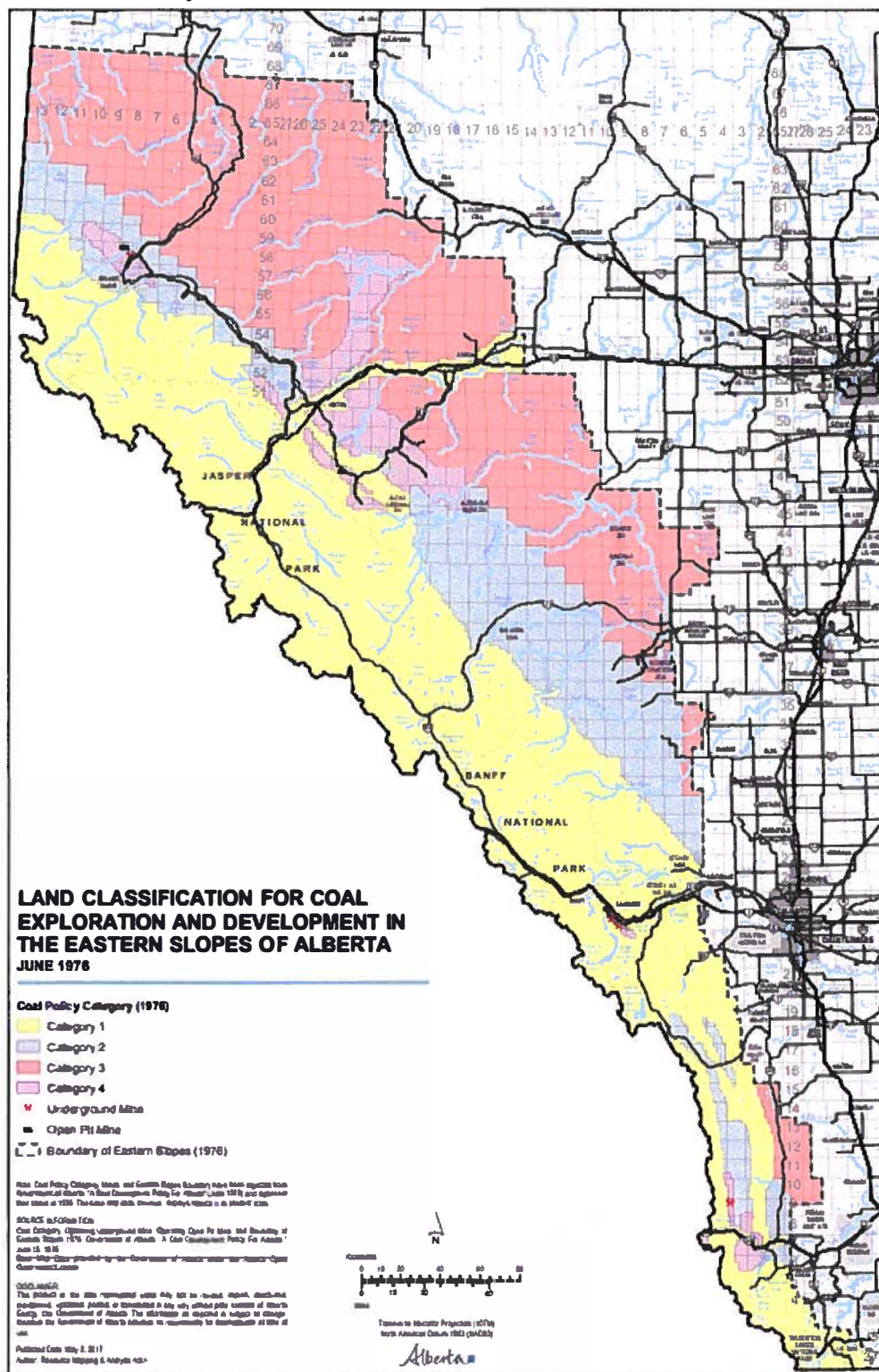
THEREFORE, pursuant to s. 67 of REDA, and to the land use categories in the 1976 Coal Policy, the Minister of Energy hereby directs the AER to take steps to ensure that:

DIRECTION TO THE AER

- 1) No exploration or commercial development activities related to coal will be permitted within Category 1 lands, in accordance with the 1976 Coal Policy.
- 2) All approvals (as defined by REDA) for coal exploration on Category 2 in the Eastern Slopes shall continue to be suspended and no new applications will be accepted until such time as written notice is given by the Minister of Energy and/or Minister of Environment and Parks.

- 3) With the exception of lands subject to an advanced coal project or an active approval for a coal mine, all approvals (as defined by REDA) for coal exploration or development on Category 3 and 4 lands in the Eastern Slopes shall be suspended and no new applications will be accepted until such time as written notice is given by the Minister of Energy and/or Minister of Environment and Parks.
- 4) Nothing in this direction restricts abandonment and reclamation or security and safety activities at active coal mines or related to coal exploration.
- 5) For the purposes of this Directive, an 'active approval for a coal mine' is a licence under the *Coal Conservation Act*.
- 6) For the purposes of this Directive, an 'advanced coal project' is a project for which the proponent has submitted a project summary to the AER for the purposes of determining whether an environmental impact assessment is required.

Annex 1: Eastern Slopes





ALBERTA

Energy and Minerals

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

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,

A handwritten signature in blue ink that reads "Brian Jean".

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