

August 20, 2020

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

By Email Only

www.aer.ca

Katie Morrison
CPAWS Southern Alberta Chapter

Statement of Concern Submission
Tracking No. 31787
Elan Coal Ltd.
Application No. 00465249-001

Dear Katie Morrison:

The Alberta Energy Regulator (AER) has considered your statement of concern filed on July 17, 2020, regarding Elan Coal Ltd. (Elan Coal) Application No. 00465249-001 for a temporary diversion licence (TDL) for commercial water diversion under the *Water Act*. The AER notes that, pursuant to section 5.2(2)(g) of the *Alberta Energy Regulator Rules of Practice (Rules)*, a decision was made on the application prior to your statement of concern being filed, and a temporary diversion licence was issued to Elan Coal on July 3, 2020.

In its review of your statement of concern, the AER considered the following:

- The TDL is of a short duration, the term is less than one year, from July 15, 2020 to June 15, 2021.
- The volumes and rates of diversion are low, with a maximum rate of diversion set at 0.008 cubic metres per second.
- The TDL does not have a priority number, and can be cancelled by the AER at any time.
- The maximum water volume that can be used is 2,750 cubic metres and the volume is split up over 13 different water sources, with the maximum volume authorized from each source set at either 150 or 350 cubic metres.
- Your concerns about impacts to fish and downstream users are addressed by conditions in the TDL, which require that fish screens be set on any intakes used.
- Water conservation objectives were used in setting the conditions of this TDL which include conditions that restrict the use of water during periods of low flow.
- When allocating water, the AER follows the Government of Alberta's *Surface Water Allocation Directive*, which limits the amount of water that can be diverted from water bodies and/or water courses throughout the year. You can find the directive at <https://open.alberta.ca/publications/9781460143339>.

Based on the review, restrictions, and conditions imposed on the company for water diversion, the AER has concluded that your concerns were addressed through the review process and the temporary diversion licence provides for environmental protection and responsible development. As noted above, the AER has issued the applied-for TDL and this is your notice of that decision. A copy of the TDL is attached.

All AER-regulated parties must comply not only with the conditions of their authorizations, but with all the AER's regulatory requirements. To ensure industry compliance, the AER has developed its *Integrated Compliance Assurance Framework*, which embodies the three main components of all effective compliance assurance programs, those being education, prevention, and enforcement. You can find out more about how the AER verifies industry compliance and responds to noncompliance here: <https://aer.ca/regulating-development/compliance/compliance-assurance-program>.

Should you have any questions, please contact SOC@aer.ca.

Sincerely,

< original signed by >

Steve Van Lingen
Director, Oil Sand Mining and Coal
Regulatory Applications
/rr

Enclosure (1): TDL Approval

cc: Daniel Campbell, Elan Coal Ltd.
Aphrodit Espanioli, AER
SOC Inbox, AER
Regional Field Centre, AER
ADR Inbox, AER
Environmental Protection & Enhancement and Water, AER