

AER Proceeding 444

By email only

June 27, 2024

Hearing Commissioners' Office

Suite 1000, 250 – 5 Street SW

Calgary, Alberta T2P 0R4

Canada

hearing.services@aer.ca

Crowsnest Conservation Society

Attention: Susan Wagner

**Re: Northback Holdings Corporation ("Northback")
Applications 1948657, A10123772, and 00497386 (the "Applications")
Participation Decision for the Crowsnest Conservation Society ("CCS")**

Dear Susan Wagner,

I am writing to you on behalf of Parand Meysami (Presiding), Meg Barker, and Shona Mackenzie, the Alberta Energy Regulator (AER) panel of hearing commissioners (the panel) presiding over proceeding 444.

Background

The AER will hold a public hearing for applications for a Coal Exploration Program (A10123772), a Deep Drilling Permit (1948547) and a Temporary Diversion Licence (00497386), submitted by Northback.

On April 10, 2024, the panel issued a notice of hearing for proceeding 444 and set a filing deadline of May 1, 2024, for requests to participate. This letter is the panel's decision regarding the CCS's request to participate in the hearing.

On April 30, 2024, the AER received the CCS's request to participate in the hearing. The CCS opposes the Applications and requested full participation in the hearing. The CCS stated that it is a local conservation group devoted to ensuring a healthy future for the natural environment in the region and the people and wildlife that live within it. It further stated that the vast majority of its members are residents of the Municipality of Crowsnest Pass and are directly affected. In addition, some members belong to the MD of Ranchlands and some live elsewhere in Alberta or North America.

On May 9, 2024, Northback provided a response to the requests to participate and submitted that the CCS should be granted limited participation to advance its arguments.

On June 5, 2024, the CCS was given an opportunity to reply to Northback, but CCS did not file a reply.

Legal Framework

Section 34(3) of the *Responsible Energy Development Act* states that: "... a person who may be directly and adversely affected by the application is entitled to be heard at the hearing". In addition, the *Alberta Energy Regulator Rules of Practice (Rules)* give the hearing panel discretion to permit participation of persons who have a tangible interest and whose participation will materially assist the panel in deciding the matter that is the subject of the hearing without unnecessarily delaying the proceedings or repeating or duplicating evidence. The participation provisions in the *Rules* are intended to ensure a fair and efficient process and the development of a complete record that enables the panel to decide Applications.

Panel Decision

The panel has decided to allow the CCS limited participation in proceeding 444.

The CCS's request to participate stated that the vast majority of its 200 plus members reside within 10 kilometres of the Grassy Mountain site and that they are directly affected. The request discusses water contamination associated with coal mines and states that everyone downstream of that contamination is directly affected. The request also discusses the Application for the Temporary Water Diversion Permit. CCS suggest that heavy precipitation could cause water containment to fail leading to contamination of drinking water and increased cost for municipalities who treat that water.

In the panel's view, the information provided does not demonstrate CCS or its members may be directly and adversely affected by a decision on the Applications. Living within 10 kilometres of the proposed project area does not by itself demonstrate sufficient proximity to satisfy the panel those residents will be directly and adversely affected by this exploration program. Concerns about contamination associated with coal mining also do not demonstrate possible direct and adverse effect as the Applications, if approved, would authorize an exploration program, not a coal mine. A weather event might impact the existing pit where the water will be drawn from, but that does not directly relate to these Applications. The panel notes that impacts to municipalities related to water treatment are not direct impacts to CCS members.

The Panel further notes that the concerns raised appear to be more general in nature and not specific to these particular Applications. As such, the panel is of the view that the CCS's full participation will not materially assist the panel. However, the panel is interested in hearing your perspective on this matter and so you have been given limited participation.

Subject to further directions or rulings from the panel, limited participation allows you to provide a written submission and/or make an oral presentation to the hearing panel under oath or affirmation. There will be a deadline for your written submission and a time limit on oral presentations that will be communicated to you at a later date.

All participants will have an opportunity to attend an optional information session prior to the hearing. Details of that session and information regarding the schedule and scope of the hearing will also be provided at a later date.

Submissions and evidence in this matter must be relevant and material to the Applications. This proceeding can be expected to have a large number of participants. It is the panel's goal to have a process that is not only fair and transparent, but also efficient. To this end, the panel encourages parties to make efforts to collaborate with other parties when their interests align and avoid duplicating evidence provided by others in the proceeding. As described below, there may be significant cost claim consequences for participants who do not contribute to the efficiency of this proceeding.

Cost Claims

Hearing participants may be eligible to submit a cost claim to recover some of the costs of their participation under the *Alberta Energy Regulator's Directive 031: REDA Energy Cost Claims*. Section 58.1 of the *Rules* sets out the factors that are taken into consideration when deciding an application for costs. Those factors include whether a participant has attempted to consolidate common issues or resources with other parties (s. 58.1(f)) and whether the conduct of the participant tended to shorten or unnecessarily lengthen the proceeding (s. 58.1(m)).

Hearing Process

Parties can expect direction from the panel regarding the hearing process and timelines in due course. If you have any questions, please contact hearing.services@aer.ca.

Sincerely,

Parand Meysami
Presiding Hearing Commissioner

cc: Martin Ignasiak, KC and Thomas Machell, Bennett Jones LLP
Angela Beattie, Sarah Nossiter, Northback Holdings Corporation
Meighan LaCasse, Alana Hall, Shauna Gibbons, AER counsel for the panel
Tara Wheaton, Elaine Arruda, AER hearing coordinators
Hearing Participants, as identified in the attached 'Schedule of Participants for AER Proceeding 444'

Schedule of Participants for AER Proceeding 444

Full Participants

Blood Tribe/Kainai (“Kainai”)

Livingstone Landowners Group

Municipal District of Ranchland No. 66

Municipality of Crowsnest Pass

Piikani Nation

Siksika Nation

Stoney Nakoda First Nations

Vern Emard

Limited Participants

Josephine Singh

Kevin Watson

Chad Petrone

Kara Potts (Potts Painting Inc)

Pat Rypien

Clayton Bezzeg (Tig Contracting)

Don Forsyth (Tig Contracting)

Kim Cunningham

Gary Clark (Crowsnest Pass Quad Squad)

Rob MacGarva (Southwest Alberta Skateboard Society)

Monica Field

David McIntyre

Kurt Weiss (Blairmore Lions Club)

Troy Linderman (CNP EMS Industrial Safety Services)

Rick Sharma (Davis Dodge)

Lucas Michalsky (Darkhorse Services Inc.)

Kendall Toews (South West Waste Management)

Andy Vanderplas

Ken Allred

Brandy Fehr

John Clarke

Colt Lazzarotto

Brent Koinberg (Crowsnest Adventures Ltd)

Darcy Wakaluk (Diggers Bobcat Service)

Allan Garbutt

Dirk Gillingham

Koral Lazzarotto

Dale Linderman

Tanya hill

Jim Swag (Piikani Employment Services)

William (Randy) Cartwright

Shar Cartwright

Mitchell Withrow

Heidi McKillop

Katrina Shade (Piikani Resource Development Ltd)

Daylu Grier (Piikani Security Services Interest)

Liz Insley (Piikani Travel Center)

Alberta Wilderness Society

Canadian Parks and Wilderness Society

Citizens Supportive of Crowsnest Coal

Coal Association of Canada

Corb Lund

Crowsnest Conservation Society

Gold Creek Grazing Cooperative

Pekisko Group

Timberwolf Wilderness Society