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February 26, 2020

By Email Only

JFK Law Corporation on behalf of
Ermineskin Cree Nation

Black Eagle Mining Corporation
Application No. 1926308
Statement of Concern No. 31684

Dear Sir/Madam:

You are receiving this letter because you filed a statement of concern (SOC) regarding application no. 1926308. The Alberta Energy Regulator (AER) has reviewed your statement of concern, along with the company's application, and all applicable requirements and other submissions or information about the application. The AER has decided that a hearing is not required to consider the concerns outlined in your statement of concern.

In our review of ECN's concerns, we considered the following:

- The application is for a deep drilling permit under section 10 of the *Coal Conservation Act*. The permit does not authorize any surface activities. Rather it authorizes subsurface activities, specifically the permit allows Black Eagle to drill to depths in excess of 150 metres.
- The majority of ECN's concerns, including those related to traditional land use, access, noise, and wildlife, are beyond the scope of this application. They relate to land use activities that Black Eagle has applied for under the *Public Lands Act* (Application No. CEP190008). The AER notes that ECN also filed a statement of concern in respect of that application (SOC No. 31699) and the AER has considered ECN's concerns related to surface activity and land use in its review of that statement of concern.

- ECN's concerns around potential impacts to health are general in nature, and there is insufficient information to determine that ECN would be negatively affected in this regard by the deep drilling permit.
- With respect to ECN's concerns regarding potential impacts to water, the drilling for Black Eagle's coal exploration program will not require any chemical additives and will not generate any chemical waste.
- ECN's concerns regarding Crown consultation are outside the AER's jurisdiction and should be addressed to the Aboriginal Consultation Office (ACO).
- Black Eagle is required to meet all environmental and regulatory requirements.

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24-hour
emergency 1-800-222-6514

Whether a decision of the AER may directly and adversely affect a statement of concern filer is to be considered by the AER in light of the evidence properly adduced before it¹. Based on the above, the AER has concluded that it is not necessary to hold a hearing before making a decision on the application. The AER has issued the applied-for permit and this is your notice of that decision. A copy of the permit is enclosed.

All AER- regulated parties must comply not only with the conditions of their authorizations, but with all of 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>.

You may file a regulatory appeal on the AER's decision to issue the approval if you meet the criteria within section 36 of the *Responsible Energy Development Act*. Filing instructions and forms are on our website under Regulatory Appeal Process.

If you have any questions please contact SOC@aer.ca.

Sincerely,

<Original Signed By>

Lane Peterson
Director, Regulatory Applications
/bg

Enclosure (1): (Permit)

cc: Black Eagle Mining Corporation, Steven Gardner
The Lornel Group, Emma Hesse
AER SOC Assessor

¹ O'Chiese First Nation v Alberta Energy Regulator, 2015 ABCA 348 at para 43.

AER Wainwright Field Centre
AER Indigenous Relations
Aboriginal Consultation Office

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