Alberta Energy Regulator

Hearing Commissioners' Office

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Proceeding 470
October 5, 2026

To: Jesse Griffith, Vice President, Land
For: Durham Creek Energy Ltd.

[By email only]

Re: **Dean Waterfield**
Xenotime Energy Inc.
Alberta Energy Regulator, Regulatory Applications Branch
Regulatory Appeal of Well Licence No. 0524095
Participation Decision

Jesse Griffith:

We are hearing commissioners Cindy Chiasson and Michael Webb who sit on the panel of hearing commissioners presiding over this proceeding. Proceeding 470 is a regulatory appeal by Dean Waterfield of Well Licence No. 0524095 issued to Xenotime Energy Inc. by the Alberta Energy Regulator (AER), dated June 3, 2026. Under the *Responsible Energy Development Act* (*REDA*), in this regulatory appeal we may confirm, vary, suspend or revoke Well Licence No. 0524095.

On August 14, 2026, the AER published a notice of hearing for proceeding 470 that solicited requests for participation. On August 27, 2026, the AER received Durham Creek Energy Ltd.'s (Durham) request to participate. Durham holds a current petroleum lease covering the freehold mineral tract within the drilling spacing unit affected by the well licence. We have decided to permit Durham to participate in the hearing of the appeal of the well licence.

Section 34(3) of *REDA* 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 of Practice*) give the hearing panel discretion to grant participation status to persons whose participation will materially assist the panel in deciding the matter that is the subject of the hearing, who have a tangible interest in the matter and whose participation will not materially delay the proceedings or repeat or duplicate evidence.

On August 26, 2026, Durham submitted that "Durham holds a current petroleum lease covering the freehold mineral tract within the drilling spacing unit affected by the well licence. As a result, Durham has a direct legal and economic interest in the petroleum rights proposed to be developed by Xenotime and may be directly and adversely affected by the outcome of this proceeding." Durham's submission states that they

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entered into this petroleum lease agreement with PrairieSky Royalty Ltd. on July 10, 2026, a date that occurred after Well Licence No. 0524095 was approved by the AER. On September 26, 2026, Durham submitted that the AER should revoke its decision to approve Well Licence No. 0524095. They stated that they are the current lessee of PrairieSky Royalty Ltd.'s petroleum interest in the affected lands and formations, and they also stated that they do not have a voluntary pooling agreement, farmout, operating agreement, or other contractual arrangement between Durham and Xenotime Energy Inc. authorizing Xenotime to pool or develop Durham's mineral interest for the purpose of drilling the proposed well.

In our view, Durham has a direct legal and economic interest in the petroleum rights proposed to be developed by Xenotime's well licence. As such, Durham is likely to be directly and adversely affected by the outcome of this proceeding. Furthermore, we note that Mr. Waterfield's counsel did not object to Durham's request to participate. For these reasons and subject to further directions or rulings issued by the panel, we permit Durham's participation in the hearing and appreciate its intent not to delay the hearing or duplicate evidence.

Regards,

Cindy Chiasson
Presiding Member

Michael Webb
Hearing Commissioner

cc: Erik Compton, KMSC Law LLP
Hanh Nguyen, Xenotime Energy Inc.
Bronwhyn Simmons, AER Regulatory Applications Branch
George A. Wong, AER counsel for the panel