Alberta Energy Regulator

Hearing Commissioners' Office

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Proceeding 470
November 25, 2026

***To*:** Erik Compton
***For*: Dean Waterfield**

***To*:** Hanh Nguyen
***For*: Xenotime Energy Inc.**

***To*:** Bronwhyn Simmons
***For*: AER Regulatory Applications**

***To*:** Jesse Griffith
***For*: Durham Creek Energy Ltd.**

[By email only]

***Re*:** **Dean Waterfield**
Xenotime Energy Inc. (Xenotime)
Alberta Energy Regulator, Regulatory Applications Branch (Regulatory Applications)
Regulatory Appeal of Well Licence No. 0524095
Decision on Hearing Issues and Procedures

Parties:

We are writing to you as the Alberta Energy Regulator (AER) panel of hearing commissioners presiding over proceeding 470 (the panel).

Background

On October 17, 2026, we wrote to the parties confirming participation, advising on next steps, and indicating that we would address the nature and scope of parties' participation once we set the hearing issues. On October 26, 2026, we sent a letter to the parties which stated that the purpose of this proceeding is to determine whether the AER should confirm, vary, suspend, or revoke the decision to issue Well Licence No. 0524095 to Xenotime on June 2, 2026. We invited written comments on the issues to be determined for proceeding 470. We also asked the parties for their availability and any comments regarding the format and location of the hearing. Finally, we indicated that we would address any limitations we might impose on any party's participation.

Mr. Waterfield provided comments on possible hearing issues on November 2, 2026, and Durham Creek provided comments on possible hearing issues on November 3, 2026. On November 9, 2026, Regulatory Applications and Xenotime provided their responses to Mr. Waterfield's and Durham Creek's comments.

Hearing Issues

Mr. Waterfield proposed eight hearing issues, which we summarize below:

Security Classification: Public

1. The effect of Well Licence No. 0524095 being issued without Mr. Waterfield's statement of concern.
2. Whether Xenotime's participation involvement with Mr. Waterfield was adequate.
3. Site selection and proximity of the well to existing infrastructure and Kenilworth Lake.
4. The effect of the well on Mr. Waterfield's farming operations.
5. Cumulative effects and legacy infrastructure on Mr. Waterfield's lands.
6. The effect of the well on Mr. Waterfield's residence and family.
7. Xenotime's operating experience and its ability to meet its obligations over the well's life.
8. Mineral rights within the drilling spacing unit.

Durham Creek stated that its principal issue is whether Xenotime has the necessary mineral rights and authority to drill and produce the well over the complete drilling spacing unit.

Regulatory Applications indicated that it agreed the main hearing issue is whether we should confirm, vary or revoke the decision to issue Well Licence No. 0524095. It stated that it had no specific response to the issues proposed by Mr. Waterfield and Durham Creek.

Xenotime filed two letters, responding separately to Mr. Waterfield's proposed issues and Durham Creek's proposed issue. Its response to Mr. Waterfield's issues referred extensively to material provided in the record of the decision maker (Exhibit 2.1), as well as its submission "in regard to Appeal 1961718, dated June 23, 2026" which is not part of this proceeding's record. Xenotime did not appear to specifically oppose any of Mr. Waterfield's proposed issues. Xenotime's response to Durham Creek's proposed issue set out a detailed history of its mineral rights and the related Pooling Order No. P474, and made various requests related to the ultimate disposition of this regulatory appeal. Again, Xenotime did not appear to specifically oppose Durham Creek's proposed issue.

Panel Decision on Hearing Issues and Scope of Participation

As stated above, the purpose of this proceeding is to determine whether to confirm, vary, suspend, or revoke Well Licence No. 0524095. As part of this proceeding, we must also consider the factors set out in section 15 of the *Responsible Energy Development Act* and section 3 of the *Responsible Energy Development Act General Regulation*: the interests of landowners; the social, economic and environmental effects of the well; and the impacts on a landowner from the use of land for the well.

Considering the parties' suggestions and responses and relevant legislative requirements, we set the following issues for this proceeding:

- Site selection for the well, including consideration of Lake Kenilworth and existing infrastructure on Mr. Waterfield's land.

- Effects of the well on Mr. Waterfield and his family, including his farming operations and residence. This can include consideration of cumulative effects as related to the additive effects of this well on the existing landscape. We have no authority in this proceeding to direct regulatory action related to legacy infrastructure on Mr. Waterfield's land.
- Is Pooling Order No. P474 in effect? If so, how would Pooling Order No. P474 and Well Licence No. 0524095 directly and adversely affect Durham Creek's rights, considering section 82 of the *Oil and Gas Conservation Act*, which provides a process to vary, amend or terminate a pooling order?

We have not set hearing issues about the effects of Well Licence No. 0524095 being issued without consideration of Mr. Waterfield's statement of concern and the adequacy of Xenotime's consultation with Mr. Waterfield, because carrying out this proceeding will address those matters. We anticipate that most of Mr. Waterfield's evidence will be information that was not available to Regulatory Applications at the time the well licence was issued, effectively making the hearing a new review of Xenotime's well licence application.

We have not set a hearing issue, as proposed by Mr. Waterfield, about Xenotime's operating experience and its ability to meet its obligations over the well's life, because these are not matters usually considered by the AER on well licence applications. Under the AER's licensing system, a licence application by an operator with a Business Associate code and general licence eligibility accepts that the operator has the necessary operating experience and ability to meet obligations.

We have not addressed in the hearing issues the various requests made by Xenotime in its response to Durham Creek's proposed issue. We see those requests as some of Xenotime's desired outcomes for this proceeding, which should be outlined by Xenotime in its written hearing submission and supported by its evidence, as set out in section 9.2(2) of the *Alberta Energy Regulator Rules of Practice*.

Mr. Waterfield (requester of this regulatory appeal), Xenotime (holder of Well Licence No. 0524095) and Regulatory Applications (statutory decision maker that issued Well Licence No. 0524095) have full participation for all hearing issues, which includes filing written hearing submissions, providing oral evidence at hearing, questioning other parties, and providing final arguments. We acknowledge that Regulatory Applications indicated it intends to participate in a limited fashion and remind it that we may provide future specific directions about its participation if necessary to ensure full information and fairness to all other parties.

In our letter dated October 5, 2026, to Durham Creek, we permitted its participation in the hearing subject to further directions or rulings. Our letter of October 6, 2026, to all parties indicated that we would address the nature and scope of participation once we set the hearing issues. For the following reasons, we direct that Durham Creek has full participation for the hearing issues related to Pooling Order No. P474 only. This includes filing written hearing submissions, providing oral evidence at hearing, questioning Xenotime, and providing final arguments. Durham Creek will not be allowed to question Mr. Waterfield as it is not adverse in interest to him. If Durham Creek wishes to question Regulatory Applications, it must file a motion with us

indicating the nature and scope of the intended questions, as Regulatory Applications may not have relevant information about the issues related to Pooling Order No. P474.

We have limited Durham Creek's participation to the hearing issues related to Pooling Order No. P474, mindful that this regulatory appeal was initiated by Mr. Waterfield. In its filings, Durham Creek has focused on Xenotime's mineral rights in the drilling spacing unit and related pooling matters. It has not addressed any of Mr. Waterfield's concerns. As this regulatory appeal was initiated by Mr. Waterfield, its primary focus should be on his issues. We also note that Durham Creek may have other legislative review options through the operation of the pooling provisions of the *Oil and Gas Conservation Act*, specifically section 82 of that Act.

Information Requests

Mr. Waterfield requested that we provide for a round of information requests to Xenotime related to consultation, site selection and capacity to meet end-of-life obligations. Xenotime's response referred to portions of the Record of the Decision Maker in response to these matters and indicated it did not feel another round of information requests is required.

We will not include a formal information request process in the submission schedule for this proceeding. We are not convinced that this information cannot otherwise be obtained through the proceeding, including hearing questioning and responses, and potential undertakings. However, this does not preclude the parties from sharing information between themselves during this proceeding.

Hearing Dates, Location, Format

Based on the comments received, it appears that all parties are available for a hearing during the week of February 8, 2027. There was a preference for an oral, in-person hearing from Mr. Waterfield and Xenotime. Xenotime preferred Calgary for the hearing location. Mr. Waterfield asked that the hearing be held in or near Lloydminster, close to the lands at issue, and that he and any local witnesses be allowed to attend electronically if the hearing is held in Calgary. Durham and Regulatory Applications did not have preferences about either the hearing format or location.

We will hold an in-person, two-to-three day oral hearing during the week of February 8 through 12, 2027, in Lloydminster, close to the lands in question and Mr. Waterfield as the requester of the regulatory appeal. Exact dates, times, and venue will be determined closer to the hearing and will account for all parties' availability.

Agreed Statement of Facts

We believe that having Xenotime and Durham Creek prepare and submit an agreed statement of facts related to the hearing issues about Pooling Order No. P474 may focus and streamline parts of this proceeding. The agreed statement of facts should provide evidence that both parties agree upon, with supporting documents if possible. We note that hearing commissioners have been assigned for alternative

dispute resolution purposes to this proceeding and they may be able to facilitate discussion for Xenotime and Durham Creek to support the preparation of agreed statement of facts.

The submission schedule below sets a deadline for filing an agreed statement of facts.

Submission Schedule

We note that the comments and responses received by the parties referred to materials that are not on this proceeding's record, specifically Mr. Waterfield's statement of concern and Xenotime's submission "in regard to Appeal 1961718, dated June 23, 2026". We wish to make clear to all parties that we can only consider materials filed on our record in deciding this regulatory appeal. Should any party wish to rely on a document not on this proceeding's record, it must file such material as part of its written hearing submission. This proceeding's record is available for all parties to review on the AER's Hearings Public Record System.

We set the hearing submission schedule as follows:

Date	Filing
December 9, 2026	Waterfield and Durham Creek submissions
January 6, 2027	Xenotime and Regulatory Applications submissions
January 6, 2027	Agreed Statement of Facts between Xenotime and Durham Creek
January 22, 2026	Waterfield reply submission
January 29, 2027	Final date for motions
Week of February 8, 2027	Hearing starts

All filings must be submitted to Hearing.Services@aer.ca, with copies to all parties, **no later than 12:00 pm** on the relevant date. Submissions should be in PDF format, page numbered to match the PDF page number, bookmarked and text searchable (optical character recognition).

Regards,

Cindy Chiasson
Hearing Commissioner
(Presiding)

Michael Webb
Hearing Commissioner

Brian Zaitlin
Hearing Commissioner

cc: George A. Wong, AER counsel for the panel