

March 7, 2022

By email only

Daniel Campbell
Elan Coal Ltd.

Email: daniel@atrumcoal.com

RE: Reconsideration and Variance of Suspension under Section 42 of the *Responsible Energy Development Act*

Elan Project: CEP 170004, TFA183710, TFA 183823, TFA 184686

Elan South Project: CEP 190001, TFA 194728, TFA 203392 and Deep Drill Permit C 2019-4

Isolation South Project: CEP190005, TFA 202208, TFA202843, TDL 00465948, Deep Drill Permit C 2019-14

Isolation South Project: CEP 200002, TFA203400, TFA203545, TFA203567, TDL 00465249, Deep Drill Permit C 2020-5

Isolation South 2D Seismic: Geophysical Program GEO200003

Dear Sir:

On April 30, 2021, the Alberta Energy Regulator (AER) suspended all activity previously authorized by the above dispositions and deep drill permits (collectively, the Approvals), as directed by *Ministerial Order 093/2021, Coal Exploration Direction*, from the Minister of Energy. The April 30, 2021, suspension decision is attached to this letter as Appendix 1. Initially, the suspension was to last until December 31, 2021; however, on November 25, 2021, the AER extended the suspension until further notice, again at the direction of the Minister of Energy. The suspension remains in effect to this date.

On March 4, 2022, the AER received the following direction from the Minister of Energy in *Ministerial Order 002/2022, Coal Development Direction*, pursuant to section 67 of the *Responsible Energy Development Act* (REDA):

- All approvals (as defined by REDA) for coal exploration on Category 2 in the Eastern Slopes shall continue to be suspended and no new applications will be accepted until such time as written notice is given by the Minister of Energy and/or Minister of Environment and Parks.

- Nothing in this direction restricts abandonment and reclamation or security and safety activities at active coal mines or related to coal exploration.

The AER has authority to reconsider its decisions pursuant to section 42 of REDA. That section states:

The Regulator may, in its sole discretion, reconsider a decision made by it and may confirm, vary, suspend or revoke the decision.

The AER will only exercise its discretion to reconsider its decisions under the most extraordinary circumstances where it is satisfied there are exceptional and compelling grounds to do so. The AER has determined there are extraordinary circumstances present here. Subsection 67(2) of REDA provides that the AER shall, within the time period set out in a ministerial order, comply with the directions given under section 67.

Given the circumstances outlined above, the AER considers that there exist exceptional and compelling grounds, and the AER has decided to conduct a reconsideration, without a hearing, of the decision to suspend the Approvals.

Decision on Reconsideration

Having reviewed and considered *Ministerial Order 002/2022*, the AER is satisfied that it is clearly within the scope of section 67(1) of REDA. Permitting abandonment and reclamation work to proceed despite the continued suspension of all approvals for coal exploration on Category 2 lands is a clear priority of the Government of Alberta, which the AER has been directed to follow in the carrying out of its powers, duties and functions in this area of its jurisdiction. The direction is also aimed at ensuring the AER's regulation of coal exploration and development is consistent with the programs, policies and work of the Government of Alberta in respect of energy resource development, public land management, environmental management and water management. The Government of Alberta has decided to halt coal exploration and development in the Eastern Slopes until effective land-use planning for the area is completed; however, the Ministerial Order clarifies that abandonment and reclamation work, and security and safety activities, should continue. This direction is consistent with the Government of Alberta's programs, policies and work to implement the Coal Policy Committee's recommendations.

For the reasons above, the AER has decided to vary its April 30, 2021, decision to suspend the Approvals, to allow Elan Coal Ltd. to proceed with abandonment and reclamation of the sites.

Approval of all exploration related activities authorized by the Approvals continues to be suspended until written notice is provided by the AER.

Elan Coal Ltd. remains responsible for maintaining the safety and security of all the sites and associated activities authorized by the Approvals during the suspension.

Should you have any questions, please contact Rushang Joshi at rushang.joshi@aer.ca or 403-297-8494.

Sincerely,

<Original signed by>

Laurie Pushor,
President and CEO

cc: Steven Van Lingen, AER
Rushang Joshi, AER
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Via Email

April 30, 2021

Elan Coal Ltd.

Attention: Daniel Campbell

RE: Reconsideration and Suspension under Section 42 of the *Responsible Energy Development Act*

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Isolation South 2D Seismic: Geophysical Program GEO200003

Dear Sir:

The Alberta Energy Regulator (AER) has received the following direction from the Minister of Energy, Ministerial Order 093/2021, Coal Exploration Direction, dated April 23, 2021, pursuant to section 67 of the *Responsible Energy Development Act* (the REDA):

1. To take steps to suspend or pause all approvals (as defined by REDA) for coal exploration, on Category 2 lands, until December 31, 2021, or such other date as the Minister of Energy may specify in writing to the AER.

The AER has issued to Elan Coal Ltd. a number of coal exploration program (CEP) dispositions, as well as associated deep drill permits, temporary field authorizations, temporary diversion licenses, and an approval for a geophysical program on coal Category 2 lands. A list of these active CEP dispositions and associated permits, authorizations, licenses and approvals issued to Elan Coal can be found in Appendix 1 (collectively, the Approvals). The Approvals permit activities which relate to coal exploration.

The AER has the authority to reconsider its decisions pursuant to section 42 of the REDA. That section states:

The Regulator may, in its sole discretion, reconsider a decision made by it and may confirm, vary, suspend or revoke the decision.

The AER will only exercise its discretion to reconsider under the most extraordinary circumstances where it is satisfied that there are exceptional and compelling grounds to do so. The AER has determined there are extraordinary circumstances present. Subsection 67(2) of the REDA provides that the AER shall, within the time period set out in a ministerial order, comply with the directions given under this section.

Given the circumstances as outlined above, the AER considers that there exist exceptional and compelling grounds, and the AER has decided to conduct a reconsideration of the Approvals, without a hearing.

Decision on Reconsideration

Having reviewed and considered the ministerial direction, the AER is satisfied that it is clearly within the scope of subsections 67(1) (a) and (b) of the REDA. The pausing or suspension of all approvals for coal exploration on Category 2 lands is a clear priority of the Government of Alberta which the AER has been directed to follow in the carrying out of its powers, duties and functions in this area of its jurisdiction. The direction is also aimed at ensuring the AER's coal exploration work is consistent with the programs, policies and work of the Government of Alberta, namely the halting of exploration on Category 2 lands while the Government's public engagement process on coal exploration and development in Alberta is ongoing. Given that this is a valid exercise of the Minister's authority, the AER is required to comply with the direction as per subsection 67(2) of the REDA.

The AER has decided to suspend the Approvals. Effective immediately, activity previously authorized pursuant to the Approvals is hereby suspended.

The suspension of the Approvals is effective immediately and the suspension will remain in place until December 31, 2021.

Elan Coal Ltd. remains responsible for maintaining the safety and security of all the sites and associated activities authorized by the Approvals during the suspension.

Sincerely,

<Original signed by>

Laurie Pushor
President and CEO

cc: Rushang Joshi, AER
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Appendix 1: Approvals on Category 2 lands

Company	Project	Type of Disposition	Disposition Number
Elan Coal Ltd.	Elan	Coal Exploration Program	CEP170004
		Temporary Field Authorization	TFA183710
		Temporary Field Authorization	TFA183823
		Temporary Field Authorization	TFA184686
	Elan South	Coal Exploration Program	CEP190001
		Temporary Field Authorization	TFA194728
		Temporary Field Authorization	TFA203392
	Isolation South	Coal Exploration Program	CEP190005
		Temporary Field Authority	TFA202208
		Temporary Field Authority	TFA202843
		Temporary Diversion License	00465948
		Deep Drill permit	C 2019-14
	Isolation South	Coal Exploration Program	CEP200002
		Temporary Field Authority	TFA203400
		Temporary Field Authority	TFA203545
		Temporary Field Authority	TFA203567
		Temporary Diversion License	00465249
		Deep Drill permit	C 2020-5
	Isolation South 2D Seismic	Geophysical program	GEO200003