

Via Email

January 31, 2025

Calgary Head Office
Suite 1000, 250 – 5 Street SW
Calgary, Alberta T2P 0R4
Canadawww.aer.ca

Cabin Ridge Project Ltd.

CPAWS Southern Alberta

Attention: Bradley Johnston, CEO
Brad.Johnston@crproject.biz**Attention: Katie Morrison, Executive Director**
Kmorrison@cpaws.org

Wilson Laycraft

Livingstone Landowners Group

**Attention: Richard Harrison &
Prof. Shaun C. Fluker**
rharrison@wilcraft.com**Attention: Bobbi Lambright**
info@livingstonelandowners.net

Dear Parties:

**Re: Reconsideration of Suspension and Extension of Expiry Dates under Section 42 of the
Responsible Energy Development Act
Coal Exploration Program CEP 200001, Deep Drill Permit C 2020-6, 52 Regulatory
Temporary Field Authorizations RTF209400 to RTF209451 (the Approvals)**

The AER has reviewed and considered the submissions received from Cabin Ridge Project Ltd. (Cabin Ridge), CPAWS Southern Alberta (CPAWS), Livingstone Landowners Group (Livingstone Landowners) and MD of Ranchland (Ranchland).

For the reasons outlined in this letter, pursuant to section 42 of the *Responsible Energy Development Act* (REDA) the Alberta Energy Regulator (AER) has revoked its April 30, 2021 decision to suspend Cabin Ridge's Approvals and the AER has also varied the Approvals to extend the expiry date of the Approvals to account for the period of suspension (as set out in Appendix 1).

In reaching its decision, the AER considered all of the submissions filed. References in this decision to specific portions of those submissions do not mean that that the AER did not consider all submissions filed.

Background Facts:

The AER has considered the following background facts in reaching its decision.

2020: Cabin Ridge applies for and receives the Approvals

Cabin Ridge filed applications with the AER in 2020 in relation to a coal exploration program on Category 2 lands. One of these applications, which was submitted on June 3, 2020, was for a coal exploration program authorization (CEP) pursuant to the *Public Lands Act*. Revisions to the application were submitted on August 27, 2020 and September 1, 2020. CEPs are temporary activities directly associated with access and exploration on public land for the purpose of evaluating a coal resource primarily through test pits and core holes. Cabin Ridge also filed applications for a deep drill permit under the *Coal Conservation Act* (DDP), and for several regulatory temporary field authorizations under the *Public Lands Act*. (RTFAs).

Ranchland and CPAWS filed statements of concern (SOC) in relation to the CEP application. The AER ultimately issued Cabin Ridge an Authorization for Coal Exploration Program CEP200001 on September 25, 2020 for a five-year term pursuant to section 20(1) of the *Public Lands Act* and in accordance with the Code of Practice for Exploration Operations (Code of Practice) made under the *Environmental Protection and Enhancement Act* (EPEA). A copy of CEP200001 is at Appendix 2. CEP200001 authorized Cabin Ridge to enter upon and occupy public lands described in the application and subsequent supplemental information request (SIR) responses, subject to the methods and environmental conditions outlined in the application and subsequent SIR responses, the conditions in schedule "A" of CEP200001, and all other applicable statutory requirements.

Ranchland and CPAWS did not file a request for regulatory appeal under REDA for CEP200001.

Within the 5-year term, CEP200001 identified two years for operations with an expiry on September 23, 2022, and three years for reclamation with an expiry on September 23, 2025.

CEP200001 included an extensive list of conditions. For example, Cabin Ridge is responsible for obtaining any necessary federal permits; it cannot conduct any activities in key wildlife and biodiversity zones and mountain goat and sheep zones during restricted activity periods; it cannot conduct activities during the breeding season for various species or within applicable buffer zones; all water crossings shall maintain fish passage, and be compliant with Alberta Environment's Code of Practice under the *Water Act, Water (Ministerial) Regulation*); it shall leave buffer zones of undisturbed vegetation between any proposed activity and any watercourse or water body unless otherwise approved; it must comply with various

setbacks to waterbodies (ranging from at least 15m – 100m) and it can only utilize the lands during frozen or dry ground conditions.

The AER also issued Cabin Ridge DDP C2020-6 for a two-year period, with an expiry date of September 25, 2022, and the AER issued Cabin Ridge several RTFAs with expiry dates of October 19, 2022. Ranchland and CPAWS did not file SOCs for these applications, and they did not file a request for regulatory appeal of these Approvals.

Livingstone Landowners did not file SOCs on any of the Cabin Ridge applications, nor did they file a request for regulatory appeal of any of the Approvals.

2021/2022: Ministerial Directions to Suspend Coal Exploration Approvals

On April 23, 2021, pursuant to section 67 of REDA, the Minister of Energy issued Ministerial Order 093/2021 (MO 093/2021). It directed the AER “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.” A copy of MO 093/2021 is at Appendix 3.

The AER subsequently reconsidered the Approvals and suspended them on April 30, 2021 (Suspension Decision).

The Suspension Decision was varied on March 7, 2022 following the issuance of Ministerial Order 002/2022 (MO 002/2022) which confirmed that the suspension of all approvals for coal exploration on Category 2 lands was to continue, and confirmed that “nothing in this direction restricts abandonment and reclamation or security and safety activities at active coal mines or related to coal exploration.” A copy of MO 002/2022 is at Appendix 4.

2025: Ministerial Direction to Lift Suspensions and Extend Expiry Dates to Account for the Suspension Period

Pursuant to section 67 of REDA the AER received direction from the Minister of Energy and Minerals, in Ministerial Order 003/2025 (MO 003/2025), dated January 15, 2025. The AER has been directed to:

- a. lift the suspension of all approvals that were suspended under Ministerial Orders 054/2021, 093/2021 and 002/2022;
- b. extend the expiry dates of approvals suspended under Ministerial Orders 054/2021, 093/2021 and 002/2022 to account for the period of suspension;

- c. continue to apply the restrictions in place in respect of the exploration for and development of coal within categories of lands as described in *A Coal Development Policy for Alberta (1976)* when evaluating coal applications, with consideration of the Coal Industry Modernization Initiative policy guidance set out in the Government of Alberta News Release, titled "Protecting the environment with tougher coal rules", dated December 20, 2024, and
- d. comply with directions given under MO 003/2025 by January 31, 2025.

MO 003/2025 also outlines that the Government of Alberta "confirms that the restrictions in place in respect of the exploration for and development of coal within categories of lands as described in *A Coal Development Policy for Alberta (1976)* continue."

A Coal Development Policy for Alberta (1976) (the 1976 Coal Policy) was originally issued on June 15, 1976. The document provides the Government of Alberta's overall policy for the development of the coal resources in the province. The policy divides the province into four categories and each category dictates where and how coal leasing, exploration and mine development can occur. The Government of Alberta rescinded the 1976 Coal Policy on June 1, 2020 and reinstated it on February 8, 2021 in Ministerial Order 054/2021 (MO 054/2021).

MO 003/2025 also confirms that the Minister of Energy and Minerals "is satisfied that sufficient land use clarity is being provided through ongoing regional planning, including the South Saskatchewan Regional planning review and engagement, and the Coal Industry Modernization Initiative announced December 20, 2024."

Following receipt of MO 003/2025, the AER wrote on January 20, 2024 to Cabin Ridge, and copied Ranchland and CPAWS, as they had filed SOCs prior to the issuance of CEP200001. The letter explained the AER had decided to reconsider the Approvals pursuant to section 42 of REDA and that the AER would decide whether to confirm, vary, suspend or revoke its Suspension Decision and the expiry dates in the Approvals. This letter also explained that the reconsideration will be conducted without a hearing on the basis of written submissions. The AER advised that Cabin Ridge, and any person who had filed a SOC on the original applications for the Approvals could provide submissions to the AER by 4:00 pm January 24, 2025 on the issue of "whether and on what grounds the AER can refuse to lift the suspensions of the Approvals and extend the expiry dates of the Approvals, given the mandatory requirement for the AER in section 67(2) of REDA to comply with the Minister's Direction."

At the request of Ranchland and CPAWS, the AER extended the time for making submissions until January 28, 2025.

Submissions:

The AER received submissions from Cabin Ridge, Ranchland, CPAWS and the Livingstone Landowners.

Ranchland Submissions

Briefly, Ranchland argues that the reclamation deadline in CEP200001 was never suspended and has remained in effect since CEP200001 was granted on September 25, 2020. Ranchland also argues that section 67 of REDA does not empower the Minister to issue directions to the AER that apply to specific authorizations and that neither section 67 of REDA nor the doctrine of necessary implication empower the Minister to extend the expiry dates of CEP200001. Ranchland also argues that pursuant to sections 5 and 13 of the *Coal Conservation Act*, Cabin Ridge must apply for an extension to any deadlines in CEP200001 and these obligations cannot be read down by a ministerial order issued under REDA. Ranchland also argues that Cabin Ridge's reclamation obligations are governed by Part 6 of EPEA and the Code of Practice. Ranchland argues that the Minister is not the designated Minister responsible for the administration of Part 6 of EPEA, and the Minister does not have authority to amend or otherwise change reclamation deadlines under these instruments. Ranchland requests that the AER make an order maintaining the original abandonment and reclamation deadlines in CEP200001; an order that the directive in MO 003/2025 extending the term limit in CEP200001 is *ultra vires*; and an order interpreting or otherwise reading down MO 003/2025 such that it does not extend the term limits of CEP200001. Ranchland also requests a hearing reconsidering the issuance of CEP200001 for reasons set out in a letter to the AER dated January 28, 2025, which formally demands that the AER reconsider CEP200001.

Ranchland did not make submissions in relation to the DDP or the RTFAs.

CPAWS Submissions

Briefly, CPAWS argues that CEP200001 should not be reinstated because the reclamation requirements have not been fulfilled, the 1976 Coal Policy restricts development in Category 2, that critical habitat for threatened westslope cutthroat trout and bull trout were not considered, and that Cabin Ridge has not obtained federal section 58 *Species at Risk Act* permits.

CPAWS did not make submissions in relation to the DDP or the RTFAs.

Livingstone Landowners Submissions

The Livingstone Landowners did not file SOCs on the original applications, nor was the group copied on the AER's January 20 letter. The AER has decided to accept and consider the group's submissions in this

proceeding. Livingstone Landowners argue that CEP200001 should not be reinstated because there is still significant uncertainty around the final coal policy; therefore, no further exploration should be allowed until it is clear what, if any, coal mine development could be permitted on Category 2 lands. The group raised concerns about adverse environmental impacts to surface water quality, water scarcity issues, damage to ecologically sensitive lands, risk to endangered westslope cutthroat trout and their habitat, disruption of wildlife biodiversity and general concerns about reclamation liabilities and risk.

Cabin Ridge Submissions

In a letter dated January 29, 2025, Cabin Ridge responded in respect of Ranchland's submissions. Cabin Ridge takes no position on the relief requested by Ranchland, except for reclamation deadlines. Cabin Ridge states that it has relied on AER letters dated April 12, 2023, and May 18, 2023, which it says confirmed that the suspension period applies to the reclamation expiry date and that the AER expects to extend the expiry date for reclamation to account for the suspension time. Cabin Ridge states that it has relied on the AER's prior letters, and it would be procedurally unfair for the AER to impose a new, earlier reclamation deadline without providing Cabin Ridge with the opportunity to make submissions on the viability of completing reclamation activities by any new, earlier reclamation deadline. Cabin Ridge asks that if the AER reconsiders its earlier decisions, that it provide it with proposed new deadline for completing reclamation activities and the opportunity to make submissions on the viability of completing reclamation by that date.

Analysis:

The AER has the 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.

As indicated in section 42, it is at the AER's sole discretion whether to reconsider a decision made by it.

Section 67 of REDA provides that

67(1) When the Minister considers it to be appropriate to do so, the [Minister](#) may by order give directions to the Regulator for the purposes of

- (a) providing priorities and guidelines for the Regulator to follow in the carrying out of its powers, duties and functions, and
 - (b) ensuring the work of the Regulator is consistent with the programs, policies and work of the Government in respect of energy resource and mineral resource development, public land management, environmental management and water management.
- (2)** The Regulator shall, within the time period set out in the order, comply with directions given under this section.

Government's Policy Role

In Alberta, it is the Government of Alberta, particularly the Ministers of Energy and Minerals and Environment and Protected Areas, rather than the AER, that sets policy for resource development. The AER is responsible for administering provincial legislation designed to ensure that Alberta's energy resources are developed responsibly, as per our mandate in section 2 of REDA. As noted in MO 003/2025, the Minister of Energy and Minerals and Minister of Environment and Protected Areas are authorized by section 67 of REDA to give the AER directions, for the purposes of "providing priorities and guidelines for the AER to follow in the carrying out of its powers, duties, and functions" and "ensuring the work of the AER is consistent with the programs, policies and work of the Government in respect of energy resource and mineral resource development, public land management, environmental management, and water management."

Section 67 of REDA is valid provincial legislation that is to be given legal effect by the AER and none of the parties argue or suggest otherwise.

A ministerial order under section 67 of REDA, such as MO 003/2025, is one means by which the Government of Alberta provides policy direction to the AER. In turn, the AER is responsible to deliver Alberta's regulatory system for energy resources in accordance with Government of Alberta policy.

None of the parties argue that MO 003/2025 is *ultra vires* in relation to the rescinding of MO 054/2021, MO 093/2021 or MO 002/2022 and the direction to the AER to lift the suspension of all approvals that were suspended under them. Nor do any of them argue that it is *ultra vires* in relation to the timeline in which the AER must comply, or in relation to the direction to continue to apply the 1976 Coal Policy.

Instead, Ranchland argues that the Minister of Energy and Minerals has no authority to direct the AER to extend the expiry dates of CEP200001 to account for the period of suspension, and in particular, no authority to extend the reclamation deadlines in CEP200001. In effect the AER understands the argument to be that direction b) in MO 003/2025 is *ultra vires*.

However, the AER has no authority to change the policy as determined by the Minister of Energy and Minerals set out in MO 003/2025. No different than the Direction in MO 093/2021 and MO 002/2022 to suspend the approvals, the validity of which was never challenged, Direction b) in MO 003/2025 is an expression of Government policy – that timelines in suspended approvals should be extended to account for the period of suspension.

Nor can the AER ignore Ministerial Orders that are issued pursuant to section 67 of REDA. Those who are dissatisfied with Government policy need to raise those issues in other forums; the Legislature, through section 67 of REDA, has expressly stated that the AER must comply with Ministerial Orders like MO 003/2025.

MO 003/2025 is Intra Vires

Having reviewed and considered MO 003/2025, the AER is not convinced by Ranchland's *ultra vires* arguments. The AER is satisfied that all of the MO is clearly within the scope of subsections 67(1) (a) and (b) of REDA. The lifting of the suspension of all approvals for coal exploration that were previously suspended pursuant to MO 054/2021, MO 093/2021 and MO 002/2022, and extending time periods to account for the period of suspension, 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 considers the application of the 1976 Coal Policy and government policy as expressed in the December 20, 2024 news release.

The Ministerial Order is not inconsistent with the statutory scheme, nor with AER's authority to make day-to-day decisions on specific approvals. The provisions of section 67 must be read harmoniously with and in the context of the entire Act, as well as the other legislation the AER administers.

The Direction also does not transfer specific statutory 'day-to-day' powers or functions of the AER to the Minister. The Minister has merely provided policy direction to the AER. The AER must determine how to implement that direction, within the scope of its regulatory powers. The AER retains discretion to determine which regulatory lever to pull to enable the Minister's policy direction. For example, the Minister has not directed the AER to lift the suspensions by way of specific order under a specific section of a specific act or regulation. Nor has the Minister directed the AER how to determine or calculate expiry

date extensions. The AER has determined that the best way to implement MO 003/2025 is through the reconsideration process. As indicated clearly in section 42 of the REDA, this is within the AER's sole discretion. This regulatory lever not only provides the AER with flexibility to implement the direction through the ability to vary, suspend, confirm or revoke approvals, it has allowed the AER to provide parties with known concerns the opportunity to be heard in this matter. For example, the AER could have chosen to implement the direction without a public process through section 14(1) of REDA, as a necessary or incidental part of its duty under section 67(2) to implement the Minister's direction.

The AER also does not accept the argument that section 9 of the *Designation and Transfer of Responsibility Regulation*, requires the Minister of Environment and Protected Areas to issue any direction under section 67 of REDA pertaining to reclamation timelines because it engages matters under *EPEA* and the Code of Practice. Section 8(2) of the same regulation expressly indicates the Minister of Energy and Minerals is designated as having *common responsibility* with the Minister of Environment and Protected Areas for all of REDA (with the exception of section 16, which is shared with a third minister), including section 67. There is nothing that indicates that the power to give direction under section 67 can only be exercised by a specific Minister.

To the contrary, section 16(4) of the *Government Organization Act* provides that when two or more Ministers are given common responsibility for the exercise of the same provision, any reference in the provision to a Minister is to be read as a reference to any of those Ministers.¹ As long as the AER is given direction by the one of the ministers, pursuant to section 67 of REDA, the AER can take steps under its authority to extend the reclamation timelines.

Given that this is a valid exercise of the Minister's authority pursuant to legislation, the AER is required to comply with the direction as per subsection 67(2) of the REDA within the time period specified in it, and the AER has identified no other grounds that would warrant it doing otherwise.

Coal Conservation Act sections 5 and 13

CEP200001 was issued under the *Public Lands Act*, not the *Coal Conservation Act*. Even if the *Coal Conservation Act* was applicable, the arguments made regarding sections 5 and 13 of the *Coal Conservation Act* are not relevant or persuasive. A ministerial order issued to the AER under section 67 of REDA is simply not a "contract or other arrangement" as contemplated by section 5. Section 13 falls within Part 4 of the Act which applies to mines and mine sites. Section 13 contains a prohibition against a mine

¹ *Government Organization Act*, RSA 2000, c G-10, section 16 (4).

permittee or licensee from making changes to a program of operations without prior amendment of the permit or licence by the Regulator, and sets out the process for amendment. Cabin Ridge does not hold a permit or licence to which section 13 would apply, instead it holds CEP200001 under the *Public Lands Act*.

Reclamation Deadlines Suspended

Ranchland argues that the reclamation deadlines in CEP200001 were never suspended by Ministerial Order and thus have remained in effect since it was initially granted in 2020.

This argument turns on the effect of clause 4 of MO 002/2022:

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

According to Ranchland, this clause excludes abandonment and reclamation activities from suspension.

In addition to this literal reading of Ministerial Order 002/2022 ... it would be absurd for the Minister to direct the AER to suspend all coal exploration activities in the interest of environmental protection but also relieve permit holders of their legislated reclamation obligations. Accordingly, the only reasonable interpretation of Ministerial Order 002/2022 is that reclamation deadlines were not suspended by the Order.²

With respect, this misconstrues the meaning of clause 4 of MO 002/2022; there is another more reasonable interpretation.

In issuing MO 002/2022, the Minister suspended coal exploration and development. At the time of suspension there were projects in the "operational phase" (2 years from date of approval) who were still drilling test holes and those in the "reclamation phase" (3 years following completion of the "operational phase"). The whole point of clause 4 was to ensure that for those operators in the reclamation phase, the suspension would not delay their abandonment and reclamation activities. These activities (along with safety and security measures) were allowed to continue. The Minister's direction is informed by the regulatory regime, which stipulates the timing of reclamation under the Code of Practice:

5.2.1 The person who conducts or reclaims an exploration operation shall complete all associated reclamation within two (2) full growing seasons following the anticipated completion date of the conduct of the exploration operation, as specified in the notice. [Emphasis added]

² Ranchland's submission dated January 28, 2025, page 4.

The effect of the interpretation of Ranchland and CPAWS would be to render several suspended approvals practically useless. Operators in the operational phase could not both continue operations during the extended period and complete abandonment and reclamation within the original reclamation deadline. Further, even practically speaking it would not be possible to complete the reclamation phase within the few months remaining of the original reclamation deadline. For this reason, it is both absurd and unreasonable to maintain that the time for the operational phase is extended but the deadline for reclamation of that very same exploration is not. The better, more reasonable, view is that clause 4 of MO 002/2022 only contemplates the exclusion of abandonment and reclamation from the suspension for those exploration programs that were already in the reclamation phase.

Environmental and Other Concerns

The AER has considered the concerns raised in the submissions with respect to the reinstatement of the 1976 Coal Policy. The 1976 Coal Policy is a policy document, which clearly identifies specific requirements for environmental protection, land reclamation, exploration and development rights, amongst others, are set out under several statutes and regulations, such as the *Coal Conservation Act*, the *Public Lands Act*, and the *Water Act*. As the approval holder, Cabin Ridge is required to meet these various statutory requirements, as well as the conditions of its Approvals.

As noted above, CEPs are temporary activities directly associated with access and exploration on public land for the purpose of evaluating a coal resource primarily through test pits and core holes.

Conclusion

Pursuant to section 42 of REDA the AER has decided to revoke the Suspension Decision, which means the suspension of the Approvals has been lifted. It has also reconsidered Cabin Ridge's Approvals and decided to vary the Approvals in order to extend the expiry dates of the Approvals to account for the period of suspension (as set out in Appendix 1).

This decision will result in amendments to the Approvals. The amended Approvals may themselves constitute appealable decisions, and parties may wish to file with the AER requests for regulatory appeal of the amended approvals, in accordance with the requirements and within the timelines provided under section 30 of the AER's *Rules of Practice*. Requests can be filed with the AER Regulatory Appeal Coordinator via email: RegulatoryAppeal@aer.ca.

The AER also acknowledges representations that it made to the Court of Appeal in 2024 in relation to litigation involving Ranchland, to provide interested parties with further opportunity to appeal through

AER processes the resumption of coal exploration on the lands respecting CEP200002. The AER is of the view that it has met and exceeded this commitment firstly by providing a written reconsideration process prior to implementing the direction in MO 003/2025 regarding the resumption of exploration activities, and secondly through the subsequent opportunity to request a regulatory appeal that may be filed by parties with respect to the coal exploration approval amendments resulting from the implementation of the Minister's direction.

Sincerely,

<Original signed by>

Laurie Pushor
President and CEO

cc: Rushang Joshi, AER
Doug Koroluk, AER
Coal.Applications@aer.ca
AERSurfaceActivityApplication@aer.ca
TDL.Applications@aer.ca

Appendix 1 – Approvals on Category 2 Lands

Company	Project	Type of Disposition	Disposition Number	Original Operational Expiry Date	Original Reclamation Expiry Date	Original Expiry Date	New Operational Expiry Date	New Reclamation Expiry Date	New Expiry Date
Cabin Ridge Project Ltd.	Cabin Ridge	Coal Exploration Program	CEP 200001	2022-Sept-23	2025-Sept-23	N/A	2026-Jun-26	2029-Jun-25	N/A
		Deep Drill Permit	C2020-6	N/A	N/A	2022-Sept-25	N/A	N/A	2026-Jun-28
		Regulatory Temporary Field Authorization	RTF 209400 to RTF 209451	N/A	N/A	2022-Oct-19	N/A	N/A	2026-Jul-22

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June 2, 2020

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tel 780-638-4491
fax 780-442-1459

Montem Resources Alberta Operations Ltd.

Sent Via Email: souellet@montem-resources.com

www.aer.ca

**RE: Notice of Decision: Authorization Issued
COAL EXPLORATION PROGRAM: CEP190006**

Dear Sir/Madam,

Based on the review of your Coal Exploration Program application dated **September 6, 2019, revised May 25, 2020**, the Alberta Energy Regulator has completed its review of your request.

Pursuant to section 20(1) of the *Public Lands Act* and in accordance with the *Code of Practice for Exploration Operations* made under the *Environmental Protection and Enhancement Act*, **Montem Resources Alberta Operations Ltd.** is hereby authorized to enter upon and occupy the public lands described in the application for the purpose of conducting a coal exploration program, subject to the methods and environmental conditions outlined in the application, the conditions in the enclosed Schedule “A” and all other applicable statutory requirements. In the event of a conflict between Schedule “A” and the application, **Montem Resources Alberta Operations Ltd.** is to comply with the conditions in Schedule “A”.

Please use the file number, **CEP190006**, on all related plan submissions and correspondence.

Under the *Responsible Energy Development Act* an eligible person may file a request for a regulatory appeal on an appealable decision. Eligible persons and appealable decisions are defined in section 36 of the *Responsible Energy Development Act* and section 3.1 of the *Responsible Development Act General Regulation*.

If you wish to file a request for regulatory appeal, you must submit your request in the form and manner and within the timeframe required by the AER. You can find filing requirements and forms on the AER website www.aer.ca under Applications & Notices: Appeals. Regulatory appeal requests should be emailed to the Regulatory Appeal inbox at [RegulatoryAppeal@aer.ca](mailto:RegulatoryAppeal@ aer.ca).

Should you have any questions regarding the above decision, please contact the undersigned at AERSurfaceActivityApplication@aer.ca, quoting the disposition number.

Sincerely,



Rushang Joshi
Manager, Coal
Regulatory Applications
Alberta Energy Regulator

Cc: Alberta Culture: historical.LUP@gov.ab.ca

SCHEDULE “A”

1. 007 **IN THIS DOCUMENT**, unless the context indicates otherwise:

“**approval**” whenever required, must be in writing.

“**authority**” means: this document or the right to occupy public land granted by this document.

“**Authorizer**” means: the "Authorizer" duly designated under the *Public Lands Act*.

“**officer of the regulatory body**” means: an employee of the Regulatory body, responsible for the management of surface activity on the land.

“**Regulator**” means: Alberta Energy Regulator.

“**holder**” means: the recipient of the right to occupy public land granted by this document.

“**land(s)**” means: the specific land which the holder is authorized to occupy by this document.

“**Regulatory body**” means: the Department of Environment and Sustainable Resource Development or the Alberta Energy Regulator.

Payments required by this document are to be made payable to the

“**Government of Alberta**”

- a) The holder shall comply with all relevant laws in the Province of Alberta.
- b) A copy of this authority shall be retained on the job site during all phases of your activity, including, if applicable, preparation, construction, development, maintenance and abandonment.
- c) The holder shall not conduct any activity on the land where prior rights have been issued without the consent of the holder of these prior rights. A list of prior and subsisting authorizations and dispositions (prior rights)

issued on the quarter sections included in this authority can be purchased from Alberta Energy, Crown Land Data Support, Telephone: 780-422-1395, or the Alberta Energy Website: <http://www.energy.gov.ab.ca>.

Surface rights plot sheets showing active dispositions, and individual activity plans can be purchased from IHS, Main Floor, Petroleum Plaza, South Tower, 9915 – 108 Street, Edmonton, Alberta, T5K 2G8, Telephone: 780-413-3380, Fax: 780-413-3383 or Website: <http://www.petrosurveys.ca>.

- d) The holder shall contact the registered trapper, if any trapping areas (TPA) have been issued on the quarter sections included in this authority, at least TEN DAYS PRIOR TO COMMENCING ANY ACTIVITY. This must be done by registered mail and we recommend personal communication follow-up. The trapper's name and address may be obtained from Alberta Energy, Crown Land Data Support (Telephone: 780-422-1395). For other information concerning registered traplines, contact the Client and Licensing Service, Environment and Sustainable Resource Development, Edmonton, Alberta (Telephone: 780-427-5185) upon receipt of this approval. The holder may be responsible for any damage to traps, snares or other improvements.
- e) Where applicable, the Regulatory body may, in addition to any other charges, assess a further charge of 50 cents per acre (\$1.24 per hectare) on every acre or part acre in this authority to fund the Trapper's Compensation Program. Classification of lands can be obtained from Alberta Energy, Crown Land Data Support, Telephone: 780-422-1395 or the Alberta Energy Website: <http://www.energy.gov.ab.ca>.
- f) The holder is responsible for obtaining any necessary federal, municipal and other permits and approvals with respect to this authority.
- g) The holder agrees to hold harmless the Regulatory body from any and all third party claims, demands, or actions for which the holder is legally responsible, including those arising out of negligence or willful acts by the holder or the holder's employees or agents. This hold harmless shall survive this Agreement.

- h) The holder shall indemnify and save harmless the Regulatory body from any and all claims, actions, suits, or similar proceedings commenced by any competent regulatory body against the holder or the Regulatory body in connection with the activity or holder's use of the land, including without limitation the local municipality, any other department or agency of the Alberta Government or the Government of Canada.
- i) The holder shall, at its own expense and without limiting its liabilities herein, insure its operations under a contract of General Liability Insurance, in accordance with the *Alberta Insurance Act*, in an amount not less than \$2,000,000 inclusive per occurrence, insuring against bodily injury, personal injury and property damage including loss of use thereof. The holder shall provide the Regulatory body with acceptable evidence of all the insured prior to the commencement of the work and shall promptly provide the Regulatory body with a certified true copy of each policy upon request.
- j) This authority is granted subject to further amendment by the Regulatory body, in its sole discretion.
- k) The holder shall furnish proof, upon request, that the holder has complied with any and all of the provisions of the holder's disposition in a form and time required by the Regulatory body.
2. 078 The holder shall contact and advise the officer of the Regulatory body of its intentions:
- prior to entry upon the lands, for a stated purpose,
 - prior to any additional construction during the term of this authority,
 - at the completion of operations, and
 - upon abandonment of this activity.
 - AERSurfaceActivityApplication@aer.ca

3. 091 The holder shall not conduct any activity on any of the lands included in this authority between the dates specified unless otherwise approved in writing by the officer of the Regulatory body:

Key Wildlife and Biodiversity Zones North of Highway #1: January 15 to April 30; South of Highway #1, and West of Highway # 2: December 15 to April 30

Mountain Goat and Sheep Zone: July 1 to August 22

4. 092 The holder shall conduct operational, construction and maintenance activities outside of the breeding season for the following specified lands (emergency situations exempt):

<Within 1000 metres of Sensitive Raptor nests: March 15 to July 15>

<Within 500 metres of Burrowing Owl nests: April 1 to August 15>

<Within 500 metres of Swift Fox den: February 15 To July 31>

<Within 200 metres of a Piping Plover water body: April 15 to July 31>

5. 098 Trails are not to exceed the following maximum width: **7 metres.**
6. 084 Unless otherwise approved in writing by the officer of the Regulatory body, the holder shall ensure that drill sites for oil sands exploration shall not exceed **20 metres x 35 metres.**
7. 998 On sites where mechanical mulching methods are utilized to clear forest cover, the holder shall ensure that fine woody debris (wood chips) is managed as per ***Directive SD 2009-01 Management of Wood Chips on Public Land.***
8. When a new access approaches an existing linear feature, the holder shall construct a line at an appropriate angle (45 degrees), within 200m of the intersection, to eliminate a continuous line of sight, unless otherwise approved in writing by the officer of the Regulatory body.
9. 133 Activities shall not result in the deposition or placement of debris, soil or other deleterious materials into or through any watercourse and/or water body, or on the ice of any watercourse and/or water body.

10. 099 Where materials are available, rollback shall be applied as follows unless alternative methods can be supported by Regulated Industry Standards and are approved by the officer of the Regulatory body:
- a) Place rollback across the entire width for a distance of at least 200 metres from all points of intersection with roads and permanent watercourses.
 - b) Place rollback across the entire width on all slopes greater than or equal to 10%.
11. 136 All crossings shall maintain fish passage. Crossings shall be compliant with Alberta Environment's Code of Practice under the Water Act, Water (Ministerial) Regulation.
12. Except for approved crossings of watercourses, the holder shall leave a buffer zone of undisturbed vegetation between any proposed activity (edge of clearing) and any watercourse or water body (top of valley escarpment and/or high water mark), unless otherwise approved in writing by the officer of the Regulatory body, according to the following requirements:
- a) Large permanent watercourses shall have a setback of at least 100m
 - b) Small permanent watercourses shall have a setback of at least 45m
 - c) Intermittent watercourses and springs shall have a setback of at least 45m
 - d) Ephemeral watercourses shall have a setback of at least 15m
 - e) Lakes shall have a setback of at least 100m
 - f) Permanent shallow open water ponds shall have a setback of at least 100m
 - g) Semi-permanent ponds/wetlands shall have a setback of at least 100m.
 - h) Non-permanent seasonal wetlands shall have a setback of at least 45m
 - i) Non-permanent temporary wetlands shall have a setback of at least 15m
13. 897 Except for approved crossings of watercourses, the holder shall leave a buffer zone of undisturbed vegetation of a minimum width of 100 metres between any proposed activity (edge of clearing) and any watercourse, water body (top of valley escarpment and/or high water mark), animal lick or bald eagle nest unless otherwise approved in writing by the officer of the Regulatory body.

14. 995 The holder shall utilize the lands only during frozen or dry ground conditions.
15. 087 The holder shall utilize the land only for temporary undeveloped access. If surface disturbance is necessary, or if permanent access is required, the holder shall contact the officer of the Regulatory body regarding routing, salvage and construction requirements.
16. 994 Any activity on the land during adverse ground conditions must be suspended if the activity is likely to cause unacceptable damage to vegetation or soil as may be determined by the holder or the officer of the Regulatory body.
17. 231 The program crosses designated trail(s) in the CNT980012 snowmobile area. When operations encroach on trail(s), the holder shall ensure that:
- Lines crossing trail(s) are constructed in a manner that will not remove snow from the trail(s), produce ruts in the trail(s), or otherwise adversely affect travel.
 - No mechanical equipment is permitted to travel along the trail(s), unless approved in writing by the officer of the Regulatory body.
 - Warning signs are posted along trail(s) advising trail users of the upcoming crossing location.
18. 993 Prior to entry on the land, the holder shall steam clean all equipment, including seeders.
19. 992 The holder shall strip and pile the topsoil separately from any fine woody debris (wood chips) and subsoil in such a manner that it can be distributed evenly over the disturbed area when operations have been completed. Where topsoil is less than 15 centimetres, conservation shall include the topsoil plus part of the upper subsoil up to a total depth of 15 centimetres (unless considering chemically unsuitable).
20. 151 Soil and surface erosion and sedimentation shall be prevented and controlled on all disturbed lands.
21. 991 The holder shall not dispose of drilling waste off lease without a further disposition or letter of authority under Section 20 of the *Public Lands Act*.

22. 160 The holder shall utilize impermeable tanks to collect all liquid effluents and dispose of at an authorized disposal facility.
23. 990 Drilling waste sumps are not permitted on core hole sites. The holder shall apply for a common sump location in consultation with the inspecting officer of the Regulatory body. Prior to commencement of operations, the holder shall have any sumps approved under a Mineral Surface Lease (MSL).
24. 121 All woody debris and leaning trees must be slashed, limbed and bucked flat to the ground unless otherwise approved by the officer of the Regulatory body. The length of slashed woody debris shall not exceed 2.4 metres.
25. 124 Decks of merchantable timber, prior to transfer to the salvage recipient, shall be legibly and permanently marked with a disposition number.
26. 899 The holder shall cut, keep down and destroy all noxious and restricted weeds and control noxious weeds as per the *Public Lands Act*.
27. 162 In addition to complying with Federal, Provincial and local laws and regulations respecting the environment, including release of substances, the holder shall, to the Regulatory body's satisfaction, take necessary precautions to prevent contamination of land, water bodies and the air with particulate and gaseous matter, which, in the opinion of the Regulatory body in its sole discretion, is or may be harmful.
28. 898 Unless otherwise specified by a local officer of the Regulatory body, initial efforts at re-establishing a vegetative cover on disturbed surfaces described in the Activities Plan for this exploration program must be accomplished by:
- a) Seeding using only a native species seed mixture that shall be approved by the departmental officer. The holder shall provide a certificate of seed analysis for each species (Refer to the Native Plan Re-Vegetation Guidelines for Alberta, (2001).
 - b) Seeding an annual non-invasive cover-crop in conjunction with a native species seed mixture that must be approved by the departmental officer. The holder shall provide a certificate of seed analysis for each species upon request (Refer to the Native Plant Re-Vegetation Guidelines for Alberta, (February 2001).

- c) Allowing the land to re-vegetate through natural processes without seeding.
29. 900 The holder shall provide to the Regulatory body within 60 days of March 31 each year of this program until a reclamation certificate is issued, an Annual Report (submitted electronically to AERSurfaceActivityApplication@aer.ca) indicating;
- a) requirements consistent with Section 7.1.5 of the Code of Practice for Exploration Operations made under the Environmental Protection and Enhancement Act,
 - b) the area of new disturbance cleared and/or utilized as approved under this program,
 - c) any sites added to the program including the authorization issued by the Regulator,
 - d) the total area of lands within the program intensively used (disturbed),
 - e) a listing of all core hole sites or accesses converted to disposition under the *Public Lands Act*,
 - f) the total area of lands within the program cleared but not explored to date and intent for completion, and
 - g) any other pertinent information relevant to this program.
30. 902 Upon completion of the exploration programs on public lands, charges for timber damage, if applicable, will be assessed in accordance with the current schedule (Timber Damage Assessment Table).
31. 235 The holder shall complete reclamation, including line and site clean-up, soil stabilization and wood debris handling progressively and concurrently with operations.
32. 903 The authorization, when issued, will be for a term as indicated effective from the date of this authority.

33.

1040	<p>Under section 54.01 of the <i>Public Lands Act</i> this access Disposition is closed.</p> <p>The Disposition Holder must install access control* that restricts unauthorized access. The access control* identified below must be effective, maintained, and monitored. Access control* may include one or more of the following:</p> <ul style="list-style-type: none"> • earthen berm* (not to be used within native grassland*) • permanent or temporary removal of water crossing structures • barricades • locked gates • manned checkpoints • pre-existing access control* <p>Where effective access control* already exist, additional access control* is not required. If a pre-existing access control* is selected, it must effectively restrict unauthorized access to the new road. The applicant* must ensure all access occurs through the pre-existing access control, and success of access management is subject to the pre-existing access control as a term or condition of this Disposition.</p>
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Term: 5 Years

Two years for operation with an expiry on June 1, 2022.

Three years for reclamation with an expiry on June 1, 2025.

Appendix I

inquiries 1-855-297-8311
24-hour
emergency 1-800-222-6514

1. Reporting the discovery of historic resources

Pursuant to Section 31 of the *Historical Resources Act*, should any archaeological, paleontological, historic period resources or Aboriginal traditional use sites of a type described below be discovered during the conduct of activities associated with the program, staff of the Heritage Division of Alberta Culture (Telephone: 780 431-2300) are to be contacted immediately. It may then be necessary for the Heritage Division to issue further instructions regarding the documentation of these resources.

2. Post development impact assessment audits

Pursuant to Section 37(2), of the *Historical Resources Act*, the Heritage Division of Alberta Culture may require a post development impact assessment audit in the spring and/or summer of the following year and annually until the program is closed.

3. Aboriginal traditional use sites that Alberta Culture consider as historic resources under the *Historical Resources Act*

Aboriginal traditional use sites that are considered by Alberta Culture to be historic resources under the *Historical Resources Act* include but may not be limited to the following:

- historic cabins remains
- cabins (unoccupied)
- ceremonial plant or mineral gathering sites
- ceremonial sites/spiritual sites
- cultural or community camp sites
- gravesites
- historic settlement(s)/Homestead(s)
- historic sites
- oral history sites
- trails
- wickiup/sweat lodge sites

This listing updates the list on pages 5 and 6 of *Tourism, Parks, Recreation and Culture Guidelines for First Nations Consultation on Resource Development and Land Management* (referred to as the ACCS Consultation Guidelines), Part V of Alberta's *First Nations Consultation Guidelines on Land Management and Resource Development*, dated November 14, 2007.

Appendix II

inquiries 1-855-297-8311
24-hour
emergency 1-800-222-6514

All water use must be in compliance with the *Water Act*. Online applications for the temporary diversion of water (TDL) can be submitted to the Alberta Energy Regulator (AER) through WATERS, which can be accessed at <http://www.aer.ca/> (click System & Tools).

Unless exempt under the *Water (Ministerial) Regulation*, the holder shall comply with the *Code of Practice for Watercourse Crossings* under the *Water Act*.

For additional information on the *Water Act* and water management please visit the AER at: <http://www.aer.ca/applications-and-notice> or contact the AER Customer Contact Centre: Inquiries@AER.ca or 1-855-297-8311.

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GOVERNMENT OF ALBERTA


DEPARTMENT OF ENERGY

RESPONSIBLE ENERGY DEVELOPMENT ACT
S.A. 2012, c. R.17.3

MINISTERIAL ORDER 002/2022

I, **SONYA SAVAGE**, Minister of Energy, pursuant to section 67 of the *Responsible Energy Development Act*, make the Coal Development Direction, in the attached Appendix.

DATED at Calgary, in the Province of Alberta, this 2nd day of March, 2022.



Honourable Sonya Savage
Minister of Energy

**APPENDIX
COAL DEVELOPMENT DIRECTION
PURPOSE**

WHEREAS, the Minister of Energy and Minister of Environment and Parks are authorized by section 67 of the *Responsible Energy Development Act* (REDA) to give directions to the Alberta Energy Regulator (the AER) for the purpose of:

- (a) Providing priorities and guidelines for the AER to follow in the carrying out of its powers, duties and functions, and
- (b) Ensuring the work of the AER 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.

AND WHEREAS, on March 29, 2021, the Government of Alberta established the Coal Policy Committee (the Committee) to hear from concerned parties about future coal development in Alberta, and the Committee has completed that mandate.

AND WHEREAS, the Committee has provided recommendations to the Minister of Energy based on the concerns expressed by Albertans and Indigenous communities.

AND WHEREAS, the Government of Alberta has heard perspectives from many Indigenous communities across the province about the management of coal resources.

AND WHEREAS, the Government of Alberta has confirmed that the restrictions in place in respect of the exploration for and development of coal within categories of lands as described in the 1976 A Coal Development Policy for Alberta (the 1976 Coal Policy) remain in effect.

AND WHEREAS, all existing legislation related to coal exploration and development remains in place and is unchanged.

AND WHEREAS, Albertans expect coal exploration and development in the Eastern Slopes (as defined in the 1976 Coal Policy and depicted in Annex 1) to remain suspended until such time as sufficient land use clarity has been provided through a planning activity.

THEREFORE, pursuant to s. 67 of REDA, and to the land use categories in the 1976 Coal Policy, the Minister of Energy hereby directs the AER to take steps to ensure that:

DIRECTION TO THE AER

- 1) No exploration or commercial development activities related to coal will be permitted within Category 1 lands, in accordance with the 1976 Coal Policy.
- 2) 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.

- 3) With the exception of lands subject to an advanced coal project or an active approval for a coal mine, all approvals (as defined by REDA) for coal exploration or development on Category 3 and 4 lands in the Eastern Slopes shall 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.
- 4) Nothing in this direction restricts abandonment and reclamation or security and safety activities at active coal mines or related to coal exploration.
- 5) For the purposes of this Directive, an 'active approval for a coal mine' is a licence under the *Coal Conservation Act*.
- 6) For the purposes of this Directive, an 'advanced coal project' is a project for which the proponent has submitted a project summary to the AER for the purposes of determining whether an environmental impact assessment is required.

Annex 1: Eastern Slopes

