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By email only

January 20, 2026

DLA Piper

**Alberta Energy Regulator – Regulatory
Compliance Branch**

Attention: Carole Hunter
Anthony Mersich

Attention: Danielle Brezina, Counsel
Oluchi Chijioke, Counsel

Dear Parties:

**RE: Stay Request and Late Filing Request- Request for Regulatory Appeal by Blue Sky Resources Ltd.
(Blue Sky)**

Alberta Energy Regulator – Regulatory Compliance Branch (Regulatory Compliance)

**Regulatory Compliance’s December 8, 2025 response to Blue Sky’s proposed Operating Plan under
November 10, 2025 Suspension Order**

Locations: Various

On December 15, 2025, Blue Sky Resources Ltd. (**Blue Sky**) requested a regulatory appeal under section 38 of the *Responsible Energy Development Act (REDA)*. The request is with respect to Regulatory Compliance declining to approve an operating plan (**Operating Plan**) that Blue Sky submitted pursuant to the terms of a November 10, 2025 Suspension Order (**Order**), in respect of select assets (**Proposed Assets**) that Blue Sky wishes to operate (the declining to approve the Operating Plan being the “**Denial**”). Blue Sky’s request for regulatory appeal includes a request for a stay of the Denial and for a stay of the Order as it applies to the Proposed Assets addressed in the Operating Plan (**Stay Request**). Blue Sky has not filed a request for regulatory appeal in respect of the Order itself.

Following review and consideration of the submissions provided by both Blue Sky and Regulatory Compliance, the Alberta Energy Regulator (**AER**) denies Blue Sky’s request for a stay of the Denial and the Order as it applies to the Proposed Assets for the reasons set out below.

Blue Sky also made an alternative argument in its reply submission seeking an extension of the time to file a request for regulatory appeal in respect of the Order (the **Late Appeal Request**). Regulatory Compliance was given the opportunity to file a submission which it did on January 12, 2026 and Blue Sky had the opportunity to further reply on whether an extension should be granted, which it did on January 15, 2026. The Stay Request and

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the Late Appeal Request appear to be intertwined so decisions on both requests are set out in this letter. For reasons set out in the latter section of this letter, the Late Appeal Request is denied.

One further ground of alternative relief sought by Blue Sky in its reply submission dated January 15, 2026 is an extension of the deadline for suspending the Proposed Assets to either March 24, 2026 or whenever the regulatory appeal of the Denial is decided in accordance with section 41(2) of the *Alberta Energy Regulator Rules of Practice (Rules)*.¹ This provision allows the AER to set time limits for doing anything provided for in the *Rules*, and unless otherwise provided, the AER may on motion by a party, extend a time limit specified or prescribed in the *Rules* or set by the AER. The time limit in the Order is not one provided for in the *Rules* but rather is a time limit set by the statutory decision-maker who issued the Order. Statutory provisions must be read together in a harmonious manner in the context of the legislation. This provision of the *Rules* applies to time limits in respect of a request for regulatory appeal.

Pursuant to *REDA*, section 41(2), AER decisions such as the Order may be confirmed, varied, suspended, or revoked in a decision on a regulatory appeal. As noted previously, Blue Sky has not submitted a request for regulatory appeal of the Order. The only matter properly before us is therefore Blue Sky's request for a stay of the Denial pursuant to section 39(2) of *REDA* and in the alternative, its request for an extension of the time to file a request for regulatory appeal of the Order pursuant to section 41(2) of the *Rules*.

BACKGROUND

Regulatory Compliance issued the Order to Blue Sky under sections 22 and 27 of the *Oil and Gas Conservation Act (OGCA)* and section 23 of the *Pipeline Act* on November 10, 2025. The Order requires Blue Sky to suspend/discontinue all its wells, facilities and pipelines by December 10, 2025 unless otherwise authorized in an approved Operating Plan. The Order indicated that Blue Sky may submit an Operating Plan by November 24, 2025 if Blue Sky wished to propose continuing to operate select assets.

Regulatory Compliance declined approval of the Operating Plan submitted by Blue Sky, but granted Blue Sky an extension to December 17, 2025 to suspend the Proposed Assets. After Blue Sky filed its request for regulatory appeal and Stay Request, on December 17, 2025 Regulatory Compliance granted a further extension to January 19, 2026 to suspend the Proposed Assets.

Blue Sky advised in its submission materials that it filed a notice of intention to make a proposal under the *Bankruptcy and Insolvency Act* on September 24, 2025 (**NOI Proceedings**), and has initiated a court-approved Sale and Investment Solicitation Process (**SISP**) to sell its business and property. In its January 15, 2026 further reply submissions, Blue Sky advised that it has sought a further extension of the time to suspend the Proposed Assets to February 6, 2026.

¹ Alta Reg 99/2013.

REASONS FOR DECISION

AER's Authority re: Stays

Section 38(2) of *REDA* states that filing a request for a regulatory appeal does not operate to stay the appealable decision. Under section 39(2) of *REDA*, the AER may stay all or part of an appealable decision on any terms and conditions it determines, if requested by a party to a regulatory appeal. When considering a stay request, the AER applies the three-part test set out by the Supreme Court of Canada in *RJR-MacDonald Inc v Canada (Attorney General)*.² The three parts of the test are:

1. Is there a serious question to be heard at the appeal?
2. Will the stay applicant suffer irreparable harm if the stay request is refused?
3. On the balance of convenience, which party would suffer greater harm from the grant or refusal of the stay request?³

Further, the party seeking the stay (Blue Sky) has the onus to demonstrate the test is met.

As Blue Sky has not, to date, requested a regulatory appeal of the Order, it would not be in accordance with the AER's authority under section 39(2) of *Rules* to grant a stay of the Order, or part of it. For the purposes of deciding this Stay Request in a fair and expeditious manner, we have nevertheless considered the parties' submissions on all three steps of the *RJR MacDonald* request as they pertain to both the Denial, and the Order as it applies to the Proposed Assets addressed by the Denial.

1 Serious Question

The first step in the test requires the stay applicant to establish that there is a serious issue to be heard. The applicant has to demonstrate that there is some basis on which to present an argument on the requested appeal. This is a very low threshold. The stay applicant need only show that the requested appeal is not frivolous or vexatious.

Blue Sky alleges that the serious issues to be heard are as follows:

- Whether the Denial is an "appealable decision", and whether Blue Sky is an "eligible person";
- Whether the Denial is procedurally unfair or unreasonable;
- Blue Sky may not have appealed the Order, but is seeking a stay of the effect of the Order, or alternatively is seeking permission to extend the timeline for filing a request for regulatory appeal of the Order; and
- The Denial will cause the NOI proceedings to collapse.

² [1994] 1 SCR 311 [*RJR MacDonald*].

³ *Ibid* at 334.

Regulatory Compliance's submissions regarding this branch of the test are that:

- The Denial is not an "appealable decision," and even if it were, Blue Sky is not an "eligible person";
- Blue Sky is attempting a collateral attack on the Order, in respect of which it did not submit a request for regulatory appeal within the mandated appeal timeline;
- The Denial was procedurally fair and reasonable in the circumstances; and
- The Denial's effect on Blue Sky's NOI proceedings is irrelevant.

Some of the issues raised in Blue Sky's request for regulatory appeal *may* constitute serious issues to be heard, within the meaning of the *RJR MacDonald* test. The threshold on the first part of this three-part test is a low one. However, in light of the AER's decision with respect to the irreparable harm and balance of convenience factors in the test, the AER comes to no conclusion on this part of the Stay Request. In particular, consideration of whether the Denial is an "appealable decision" and whether Blue Sky is an "eligible person" will be more appropriately decided at the request for regulatory appeal of the Denial determination stage.

This determination in no way predetermines the disposition of the request for regulatory appeal of the Denial or the issues that would be the subject of a hearing on the regulatory appeal should the request be granted.

2 Irreparable Harm

The second step in the test requires the applicant for the stay to establish that they will suffer irreparable harm if the stay is not granted. Irreparable harm will occur if the stay applicant will be adversely affected by the conduct that the stay would prevent if the applicant ultimately prevails on the regulatory appeal. It is the nature of the harm and not its magnitude that is considered. The harm must be of the sort that cannot be remedied through damages (i.e., monetary terms) or otherwise cured.⁴

The Federal Court of Canada has described the onus that rests upon the stay applicant to meet the irreparable harm test as follows:

The burden is on the party seeking the stay to adduce clear and non-speculative evidence that irreparable harm will follow if their motion is denied.

That is, it will not be enough for a party seeking a stay to show that irreparable harm *may arguably result* if the stay is not granted, and allegations of harm that are merely hypothetical will not suffice. Rather, the burden is on the party seeking the stay to show that irreparable harm *will result*.⁵

As noted above, Blue Sky has requested a partial stay of the Order without having requested a regulatory appeal of the Order. Its request for regulatory appeal is solely with respect to the Denial. We have

⁴ *Ibid* at 341; *Ominayak v Norcen Energy Resources Ltd*, 1985 ABCA 12 at para 31, citing *High on The Law of Injunction*, 4th ed, vol 1 at 36.

⁵ *Canada (Attorney General) v Amnesty International Canada*, 2009 FC 426 at paras 29 and 30 [citations omitted] [emphasis in the original].

nevertheless considered Blue Sky's submissions with respect to the irreparable harm it argues will arise if a stay is not granted of both the Denial and the Order as it applies to the Proposed Assets, as this is the relief sought in Blue Sky's Stay Request.

Blue Sky argues that absent a stay, it will not have financial resources to complete its NOI proceedings, that the SISP will be threatened, and that bankruptcy or receivership will result. The harms to Blue Sky in this regard are monetary in nature. It cannot be said that a suspension of the Proposed Assets eliminates their value. The Proposed Assets will continue to be available after suspension for future use, if and when a party finds itself in a position to operate these assets. The potential change in the process for the selling of Blue Sky's Proposed Assets through a receivership instead of through the existing NOI Proceedings does not necessarily determine that there will be harm to Blue Sky.

The AER finds that Blue Sky has not adduced sufficiently clear and non-speculative evidence of irreparable harms in respect of the Denial and the Order as it applies to the Proposed Assets. Among other things, Blue Sky points to the possibility that Blue Sky's restructuring plans will fail due to a suspension of its assets and that therefore Blue Sky will default on all obligations to creditors, suppliers, working interest partners and others, that a shut-in threatens the SISP due to the prospective ability of purchasers to reactivate assets and the "potential" for vandalism at unmonitored sites, and that it is unlikely that an interim lender would fund revenue shortfalls to continue the NOI Proceedings. While it is possible that a stay increases the likelihood of one or more of these things occurring such that they *may arguably result*, Blue Sky has not demonstrated that these and related or resulting harms *will result*.

Thus, the AER finds that the Blue Sky has failed to demonstrate that it will suffer irreparable harm if the stay is not granted. Accordingly, Blue Sky has not satisfied the second branch of the stay test and the request for a stay is denied.

3 Balance of Convenience

As explained above, an applicant for a stay must satisfy each element of the three-part test for the stay to be granted. Blue Sky has failed to satisfy the second part of the test (demonstrating irreparable harm), so consideration of the third part of the test (balance of convenience) is not strictly necessary. This notwithstanding, we have proceeded to consider the third part of the stay test.

We have considered Blue Sky's submissions regarding the balance of convenience both in respect of the Denial and the Order, while recognizing that Blue Sky has requested a partial stay of the Order without having requested a regulatory appeal of the Order.

When evaluating the balance of convenience, we must weigh which party will suffer greater harm from the grant or refusal of a stay. This requires consideration of significant factors and is not simply a cost-benefit analysis. As the Supreme Court of Canada stated in *RJR MacDonald*, the public interest is an important factor when considering the balance of convenience:

In the case of a public authority, the onus of demonstrating irreparable harm to the public interest is less than that of a private applicant. The test will nearly always be satisfied simply upon proof that the authority is charged with the duty of promoting or protecting the public interest and upon some indication that the impugned legislation, regulation, or activity was undertaken pursuant to that responsibility. Once these minimal requirements have been met, the court should in most cases assume that irreparable harm to the public interest would result from the restraint of that action.⁶

Moreover, though the passage above relates to irreparable harm, it overlaps with and is material to the application of the balance of convenience test to Blue Sky's stay request. Irreparable harm to the public interest is assumed where a stay would have the effect of restraining actions taken pursuant to public interest legislation. From this, it can be taken that there would be irreparable harm to the public interest if the Order or actions taken by the AER further to the Order are stayed, and this is a significant factor in the balance of convenience test weighing against the granting of a stay.

In cases involving orders protecting the public and environment, the public interest is a relevant consideration as it is not only the impact to the body issuing the order that needs to be measured, but the potential impact to the public and the environment.⁷

Blue Sky has pointed to potential harms that it argues will occur in the absence of a stay – harms to Blue Sky and to the OWA as well as potentially to creditors, suppliers, working interest partners, and prospective purchasers of Blue Sky assets. It has also submitted that, absent a stay, Blue Sky's uneconomic assets will transfer to the OWA, shifting the burden of the associated abandonment and reclamation liabilities to the public.

However, we must consider that the AER is charged with the authority of protecting the public interest in the environment and safety of the public. Regulatory Compliance submitted that it issued the Order pursuant to valid legislation to effect Blue Sky's compliance with its regulatory obligations, and that the Order's purpose was to ensure Blue Sky's operations were safe, orderly, and environmentally responsible. The objects of the legislation under which the Order was issued include securing the observance of safe and efficient operating practices, responsible management of oil and gas infrastructure, pollution control, and the responsible development in the public interest of the oil and gas resources of Alberta. This legislation and actions taken to ensure compliance clearly serve the public interest which must be factored into the balance of convenience analysis.⁸

Blue Sky has not, to date, requested a regulatory appeal of the Order. Further, its reply submission acknowledges that it "does not take issue with the Suspension Order". Presumably, this means it does not take serious issue with Blue Sky's compliance history as set out in the preamble clauses of the Order, notwithstanding Blue Sky's assertions in its submissions that Regulatory Compliance inflated Blue Sky's non-

⁶ *RJR MacDonald* at 346.

⁷ [KinMerc Oil & Gas Inc, Decision re: Stay Request \(March 12, 2021\) at 4 \[KinMerc\]](#).

⁸ *RJR MacDonald* at 348-349.

compliances. Additionally, although Blue Sky argues that it would be inequitable for the AER to not grant a stay of the Denial when the AER is also evaluating the transfer applications of Blue Sky asset purchasers, we note that it appears that some or all of the sold assets are not part of the Proposed Assets such that it is not clear that any third party purchasers may be impacted by the Denial.

Nevertheless, Blue Sky submits that it is seeking both a partial stay of the Order and a stay of the Denial of the Operating Plan submitted pursuant to that Order. It suggests a stay should be granted for a period ranging from approximately two months, to the date on which Blue Sky's regulatory appeal is determined, which could be a significant time period should this matter proceed to a hearing.

Given the nature of the Order, and the Denial of Blue Sky's proposed Operating Plan which if approved would have allowed an exception or relaxation from the requirements of the Order, and the mandate of the AER, we are not convinced that the balance of convenience favours Blue Sky. Blue Sky has not demonstrated that the potential harms that it asserts may result if a stay is not granted outweigh the public interest served by maintaining the Denial and the Order as it applies to the Proposed Assets. Considering specifically the site-specific information of the Proposed Assets and the risks to the public and the environment from noncompliance or inadequate or unsafe operations, we find the balance of convenience favours protecting the public interest by maintaining in force the Denial, as well as the Order as it applies to the Proposed Assets.

Consequently, the AER finds that, in addition to failing to demonstrate irreparable harm, Blue Sky has not established that the balance of convenience favours the AER granting the Stay Request.

Blue Sky's Alternative Relief Request

In its reply submissions to the AER, Blue Sky made two alternative requests pursuant to s. 41(2) of the *Rules*: the Late Appeal Request (the request for an extension of time to file a request for regulatory appeal of the Order) or a request to extend the deadline for suspending the Proposed Assets to either March 24, 2026 or whenever the regulatory appeal of the Denial is decided (**Suspension Deadline Request**).

Blue Sky argues that its Late Appeal Request or Suspension Deadline Request should be granted in the alternative to its Stay Request because:

- It filed its request for regulatory appeal of the Denial within 7 days of receiving the Denial, and any request for regulatory appeal of the Order before the Denial would have been premature and doomed to fail;
- It will be severely prejudiced if its Late Appeal Request or Suspension Deadline Request are not granted because without such relief, it will have to suspend the Proposed Assets and its NOI Proceedings will collapse.

Blue Sky argued in its January 15, 2026 further reply submission that it would have been nonsensical for it to file a request for regulatory appeal of the Order while it was still complying with the Order by preparing and

submitting its Operating Plan. It reiterated that it was not opposed to suspending its assets as the Order required. Blue Sky advised further that it had, as recent as January 13, 2026, requested from Regulatory Compliance an extension of the deadline to suspend the Proposed Assets, to February 6, 2026.

Regulatory Compliance Response

In response to Blue Sky's Late Appeal Request and Blue Sky's Suspension Deadline Request, Regulatory Compliance submitted on January 12, 2026 that Blue Sky had approximately three months' notice that it would be required to suspend its assets, Blue Sky did not act expeditiously in filing a request for regulatory appeal of the Order, and that there are no extenuating circumstances that warrant an extension. Regulatory Compliance further argued that if Blue Sky took issue with the Order, it could have immediately requested a regulatory appeal to preserve its rights and then asked for the appeal to be held in abeyance pending an outcome on the Operating Plan. In its January 12, 2026 submission Regulatory Compliance notes that the Order expressly references the appeal process for regulatory appeals. Regulatory Compliance submitted that accepting a request for regulatory appeal several weeks late would undermine regulatory certainty.

Regulatory Compliance also argued in its submissions that because the Order has not been appealed it is only Regulatory Compliance that at this point has authority to amend the Order or stay the operations of its requirements.

Analysis

The AER has discretion under section 41 of the *Rules* to extend the time within which a person may request a regulatory appeal:

- 41 (1) The Regulator may set time limits for doing anything provided for in these Rules.
- (2) Unless otherwise provided, the Regulator may, on its own initiative or on motion by a party, extend or abridge a time limit specified or prescribed in these Rules or set by the Regulator, on any terms that the Regulator considers appropriate.
- (3) The Regulator may exercise its discretion under this section before or after the expiration of a time limit specified in these Rules or set by the Regulator.

The AER has previously held that an extension of time to file a request for regulatory appeal will only be granted "in limited cases, such as where circumstances indicate that an extension is warranted to protect procedural fairness for the parties concerned" and that "the onus is on the person requesting an extension to demonstrate circumstances exist that support extending the filing deadline."⁹

⁹ [*AER Decision on Request for Regulatory Appeal from Gregory and Beverly Wieben re Canadian Natural Resources Limited \(March 15, 2021\) at page 2.*](#)

In applying its discretion under section 41 of the *Rules*, the AER typically considers whether the requester acted expeditiously in filing their request for regulatory appeal and whether any of the parties on balance would be prejudiced by the time extension.

We find that Blue Sky has not demonstrated that it acted expeditiously in filing its request for regulatory appeal of the Order.

While it is possible that if Blue Sky filed a request for regulatory appeal within the 7 day deadline for doing so, Regulatory Compliance might have argued that it was premature, the possibility of that argument being raised does not make it reasonable for Blue Sky to delay requesting an appeal of the Order. There was nothing prohibiting Blue Sky from filing a request for regulatory appeal of the Order in the event that its Operating Plan was denied – the Order itself contains a section on page 10 that informed Blue Sky of its right to appeal under *REDA* and gave Blue Sky general instructions on how to file such an appeal. While Blue Sky says it takes no issue with the Order itself, in effect it does take issue with the Order as it applies to the Proposed Assets, and so it should have requested a regulatory appeal within the prescribed time to do so.

The filing deadlines exist because there is a need for finality and certainty in the AER's decisions. As the AER has said in previous decisions, it is expected that those requesting a regulatory appeal know and follow the regulatory appeal process, and any other applicable processes under the *REDA* and the *Rules*.¹⁰

In the case of the Order, the deadline for filing a request for regulatory appeal was November 17, 2025. Blue Sky first explicitly requested an extension of time to file a request for regulatory appeal of the Order on January 12, 2026, as alternative relief to its Stay Request. This is not expeditious in the circumstances.

Further, we find that Blue Sky has not demonstrated that it will suffer significant prejudice absent an extension to file a regulatory appeal, and that such prejudice would outweigh interests in upholding the regulatory certainty of deadlines prescribed in the *Rules*.

Lastly, in respect of Blue Sky's Suspension Deadline Request, as discussed above, section 41(2) of the *Rules* allows the AER to extend a time limit for filing a request for regulatory appeal. We do not read it as allowing us to extend a deadline for suspension of assets pursuant to a suspension order. The *REDA* and *Rules* provide that the appropriate process to seek such a remedy with the effect of an interim delay of the provisions of a compliance order, in circumstances like this one, is by requesting a regulatory appeal and by satisfying the applicable test to obtain a stay of the decision under appeal.

Blue Sky's Suspension Deadline Request is therefore not granted.

Conclusion

We dismiss the Stay Request because Blue Sky has failed to meet the second and third parts of the stay test related to irreparable harm and balance of convenience.

¹⁰ *AER Decision on Request for Regulatory Appeal by Jaycor Resources Inc. (Jaycor)* (September 9, 2025) at page 3.

We deny Blue Sky's Late Appeal Request.

The AER will provide further correspondence in due course with respect to the process and timelines for the request for regulatory appeal of the Denial.

Sincerely,

<Original signed by>

Jason Brunet

Director, Science and Innovation

<Original signed by>

Paul Ferensowicz

Principal Regulatory Advisor

<Original signed by>

Steve Thomas

Director, Oil and Gas Subsurface, Waste
and Storage

cc: Kaitlin Szacki, Regulatory Compliance