



**Martin Ignasiak KC**  
Partner  
Direct Line: 403.298.3121  
e-mail: ignasiakm@bennettjones.com  
Our File No.: 94634.2

June 18, 2025

By Email ([hearing.services@aer.ca](mailto:hearing.services@aer.ca))

Alberta Energy Regulator  
Suite 1000, 250 - 5 Street SW  
Calgary, AB T2P 0R4

**Attention: Elaine Arruda, Hearing Coordinator**

Dear Ms. Arruda:

**Re: Summit Coal Inc. ("Summit")  
Alberta Energy Regulator ("AER") Proceeding 449  
Application Nos. *Coal Conservation Act* 1945552 and 1945553;  
*Environmental Protection and Enhancement Act* 001-00496728;  
*Water Act* 001-00496729 and 001-00496730; and  
*Public Lands Act* 32212208 and 32900389 (the "Applications")  
Summit Request for Cancellation of Hearing**

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Summit writes in relation to the current hearing process and schedule for Proceeding 449, as outlined in the June 3, 2025 letter decision issued by the AER Panel.<sup>1</sup> As further set out below, Summit respectfully submits that because there are no parties opposed to the Applications who may be directly and adversely affected by the AER's decision on them, the hearing is no longer necessary. The AER should therefore cancel the hearing and all other existing procedural steps and filing deadlines for Proceeding 449 and proceed to approve the Applications.

In its hearing participation decisions issued February 7, 2025, the AER Panel determined that a total of seven "Full Participants" and seventeen "Limited Participants" would have the ability to participate in the public hearing process for Proceeding 449. The Full Participants include Driftpile Cree Nation ("**Driftpile**"), Louis Bull Tribe ("**LBT**"), Sucker Creek First Nation ("**SCFN**"), Lac Ste. Anne Métis Community Association ("**LSAMCA**"), the Alberta Wilderness Association ("**AWA**"), the Canadian Parks and Wilderness Society ("**CPAWS**"), and the Municipal District of Greenview ("**Greenview**"). The seventeen Limited Participants include a variety of local businesses, community organizations,

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<sup>1</sup> Exhibit 69.0.

and residents – all of whom are supportive of the Applications and have requested that the AER approve same.<sup>2</sup> Greenview is also supportive of Summit's Applications.<sup>3</sup>

Only six of the Full Participants in Proceeding 449 – being Driftpile, LBT, SCFN, LSAMCA, AWA, and CPAWS – are opposed to the Applications. Each of Driftpile, LBT, SCFN, and LSAMCA have recently withdrawn from the current hearing process and provided written confirmation that they no longer object to the AER's approval of the Applications.<sup>4</sup> This leaves AWA and CPAWS as the only remaining participants in Proceeding 449 who oppose the Applications.

In granting AWA's Request to Participate dated December 17, 2024,<sup>5</sup> the AER determined that AWA "meets the criteria set out in the *Rules*" and "may have information that can assist the panel in reaching its decision on the applications."<sup>6</sup> The AER reached an identical conclusion with respect to CPAWS.<sup>7</sup> Importantly, the AER did not find that AWA or CPAWS may be directly and adversely affected by the AER's decision on the Applications, as it did with each of Driftpile, LBT, SCFN, and LSAMCA.<sup>8</sup> It is, in any event, evident that neither AWA nor CPAWS are or may be directly and adversely affected by the Applications. Accordingly, Proceeding 449 does not currently involve any participants who: (i) oppose the Applications; and (ii) may be directly and adversely affected by a decision on the Applications.

Paragraph 6.2(1)(a) of the *Alberta Energy Regulator Rules of Practice ("Rules")*<sup>9</sup> allows the AER to disregard a statement of concern if, in the AER's opinion, the person who filed the statement of concern has not demonstrated that the person may be directly and adversely affected by the application.<sup>10</sup> Section 7 allows the AER to consider a variety of factors when deciding whether to conduct a hearing on an application, and states as follows:

**Decision regarding whether to hold a hearing**

7 The Regulator may consider any of the following factors when deciding whether or not to conduct a hearing on an application:

- (a) whether any of the circumstances described in section 6.2 apply;
- (b) whether the objection raised in a statement of concern filed in respect of the application has been addressed to the satisfaction of the Regulator;
- (c) whether the applicant and any persons who have filed statements of concern in respect of the application have made efforts to resolve the issues in dispute directly with each other through a dispute resolution meeting or otherwise;

[...]

<sup>2</sup> See Exhibits 4.0, 6.0, 7.0, 8.0, 10.0, 11.0, 14.0, 16.0, 17.0, 18.0, 19.0, 20.0, 21.0, 24.0, 27.0, 28.0, and 32.0.

<sup>3</sup> See Exhibit 22.0.

<sup>4</sup> See Exhibits 70.0, 71.0, 72.0, and 73.0.

<sup>5</sup> Exhibit 23.0.

<sup>6</sup> Exhibit 41.0 at PDF p. 3.

<sup>7</sup> Exhibit 42.0 at PDF p. 3.

<sup>8</sup> Exhibit 37.0 at PDF p. 3; Exhibit 38.0 at PDF p. 3; Exhibit 39.0 at PDF p. 3; Exhibit 40.0 at PDF p. 4.

<sup>9</sup> Alta Reg 99/2013 [*Rules*].

<sup>10</sup> This provision also references the special circumstances set out in section 6.1 of the *Rules*; however, these special circumstances are not applicable.

- (e) whether the matter to which the application relates has been adequately dealt with or addressed through a hearing or other proceeding under any other enactment or by a decision on another application;

[...]

- (j) any other factor the Regulator considers appropriate. [emphasis added]

In Summit's submission, there are "circumstances described in section 6.2" of the *Rules* which are highly relevant to the current status of Proceeding 449. That is, there are no longer any remaining participants opposed to Mine 14 who have demonstrated that they may be directly and adversely affected by the AER's decision on the Applications. As noted in Summit's previous submissions, the AER's standard practice has been to cancel hearings in cases where all parties who may be directly and adversely affected have withdrawn from the hearing process.<sup>11</sup> Summit respectfully submits that the AER should adhere to this standard practice in Proceeding 449.

With reference to the other factors listed under section 7 of the *Rules* and excerpted above, Summit submits that the AER Panel should also consider that:

- the Applications contain robust mitigation and planning measures in respect of potential impacts to water, wildlife, and vegetation, as well as other environmental concerns raised by AWA and CPAWS in their respective submissions;
- Summit has expended a great deal of time and effort in engaging with all the hearing participants who may be directly and adversely affected (*i.e.*, Driftpile, LBT, SCFN, and LSAMCA) and resolving their concerns outside the formal hearing process;
- the Applications relate to Summit's Mine 14 Project, which has been in development for more than twenty years, and is already the subject of a positive public interest determination in addition to several other regulatory approvals; and
- given that all eighteen of the other remaining hearing participants are supportive of the Applications, continuing with the hearing process on account of only AWA and CPAWS would be inappropriate where these groups are private organizations whose businesses are focused on objecting to projects such as Mine 14 and resource development generally.<sup>12</sup>

In summary, the withdrawal of Driftpile, LBT, SCFN, and LSAMCA from Proceeding 449 means that there are no longer any participants who may be directly and adversely affected by a decision on the Applications, and that a hearing on the Applications is no longer necessary. Summit further submits that cancellation of the scheduled hearing is entirely consistent with the factors listed in the *Rules*, and is further supported by the numerous letters filed by members of the local community and requesting

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<sup>11</sup> See, for example, Proceeding 392: CSV Midstream Solutions Corp. Application to construct and operate a sour gas processing plant – AER Letter Decision dated April 30, 2021 ([2021 ABAER 007](#)) at para 9; Proceeding 408: Coalspur Mines (Operations) Ltd. Vista Coal Project – AER Letter Decision dated March 23, 2021 ([2021 ABAER 006](#)) at para 9; Encana Corporation Application For Acid Gas Disposal, Wembley Field – AER Letter Decision dated September 26, 2019 ([2019 ABAER 012](#)) at para 9.

<sup>12</sup> See, for example, Exhibit 23.0 at PDF p. 3.

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that the AER approve the Applications without a hearing.<sup>13</sup> For the foregoing reasons, Summit respectfully requests that the Panel cancel the scheduled hearing dates and all other process steps associated with Proceeding 449, and direct that the AER continue processing the Applications.

Please contact the undersigned with any questions.

Yours truly,

**BENNETT JONES LLP**



Martin Ignasiak KC

cc: Thomas Machell, Bennett Jones LLP  
AER Proceeding 449 Participants

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<sup>13</sup> Exhibits 4.0, 6.0, 7.0, 8.0, 10.0, 11.0, 12.0, 13.0, 14.0, 15.0, 16.0, 17.0, 19.0, 20.0, 21.0, 24.0, 28.0, and 32.0.