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Our File No.: 94634.2

June 25, 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 – Reply**

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This letter constitutes Summit's reply to Mr. Bordignon's letter of June 20, 2025.<sup>1</sup>

Mr. Bordignon's letter fails to acknowledge that, pursuant to section 34(1) of the *Responsible Energy Development Act* ("**REDA**"), the Alberta Energy Regulator ("**AER**") has the discretion to decide the Applications "with or without conducting a hearing" unless one of the specific criteria in section 34(2) apply. None of those criteria apply in this case. Furthermore, pursuant to section 34(3), even if a hearing is held, only "a person who may be directly and adversely affected" is entitled to be heard at the hearing. The Alberta Wilderness Association ("**AWA**") and the Canadian Parks and Wilderness Society ("**CPAWS**") are not directly or adversely affected by the Applications and therefore have no legal entitlement to be heard at a hearing.

The potential cancellation of a hearing when certain parties withdraw from the process is a long-standing feature of the AER's regulatory regime. This gives the AER the flexibility to schedule a hearing when it is in the public interest to do so, for instance when parties such as First Nations with constitutional rights may be affected, and to cancel the hearing if those concerns are addressed by the proponent. The AER has historically allowed parties that have no potential to be directly and adversely affected to participate if a hearing is being held in any event. However, this is done with the

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<sup>1</sup> Exhibit 77.0.

understanding that if the concerns of parties who are directly and adversely affected are addressed, the hearing is likely to be cancelled, as confirmed in the AER's earlier ruling:<sup>2</sup>

Another issue that Summit proposed is related to a future process and if some parties withdraw their participation. It would be inappropriate to predetermine a decision that we might make in the future on facts that we do not have in front of us today. If those withdrawals occur, we will address them when they occur.

These withdrawals have now occurred. All Indigenous groups that may be directly and adversely affected have confirmed they do not object to the Applications being approved without further process. The Municipal District of Greenview ("MD") is a statutory body with a legal mandate "to foster the well-being of the environment" and "foster the economic development of the municipality".<sup>3</sup> It represents the people who live and work in the area, including those who have invested in and raised families in the community. The MD has requested that the hearing be cancelled, and the Applications approved as soon as possible. The "limited participants" who run businesses, work, reside, and raise families in the MD, have also repeatedly asked that the hearing be cancelled and the Applications approved as soon as possible.

Mr. Bordignon asserts that the numerous requests from Indigenous groups, the elected representatives of the MD, and local businesses and residents, that the hearing be cancelled, amount to frivolous and vexatious conduct and that it would be an abuse of process to cancel the hearing. This position demonstrates a fundamental misunderstanding of the AER's mandate and processes. The primary objective of the regime is to ensure the concerns of those who may be directly and adversely affected are considered and addressed. This objective has been achieved in the present case. Everyone who has any potential to be affected by the Applications wants the hearing to be cancelled and the Applications to be approved. Only AWA and CPAWS, who have absolutely no potential to be directly or adversely affected, are requesting a hearing.

With respect, the carrying out of a hearing solely because of opposition from two environmental groups who have no statutory mandate, no connection to the area, and no potential of being directly or adversely affected, would constitute an abuse of process. These environmental groups have admitted they are using the AER's process to generate public attention and improve their fundraising abilities.<sup>4</sup> Alberta's regulatory processes are not intended for this purpose and advocacy groups should not be permitted to hijack the regulatory process for their own private objectives. Resource companies will be loath to invest in a jurisdiction where the regulatory process requires those companies to fund the activities of environmental organizations that oppose resource development as a matter of course.

It is entirely accurate and appropriate to refer to AWA and CPAWS as "private organizations whose businesses are focused on objecting to projects such as Mine 14 and resource development". This is well known by everyone who has worked in resource development and project approvals in Alberta

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<sup>2</sup> Exhibit 53.0 2025-03-03 AER to Summit re Pre-hearing Meeting.

<sup>3</sup> *Municipal Government Act*, s. 3.

<sup>4</sup> Exhibit 23.0 2024-12-17 AWA to AER re Request to Participate, PDF 3.

and is not a contentious statement. The suggestion that only these groups care about Alberta's environment is absurd. The Indigenous groups who support the Applications care about the environment. The families who work, run businesses, and raise families in and around Grande Cache, care about the environment. The people who work at Summit, many of whom live in the Grande Cache community, care about the environment. The staff and officials who work at the AER and other Alberta government departments and agencies care about the environment and, unlike CPAWS and AWA, have a statutory mandate to take appropriate steps to ensure development is carried out in an environmentally responsible manner.

Lastly, with respect to the matters referenced by AWA and CPAWS in their respective hearing submissions,<sup>5</sup> and in their previous filings, Summit submits that neither AWA nor CPAWS have put forward any material, relevant, or substantive arguments which raise any question as to whether the Applications should be approved. Instead, AWA and CPAWS have filed submissions which: (i) contain numerous references to mountaintop coal mining and other unrelated activities; (ii) advocate for assessments or studies which are either not required under the applicable legislative regime or are already the subject of final determinations, such as the need for an environmental impact assessment; and (iii) point to alleged contradictions or inconsistencies which are fully addressed in Summit's Applications and its responses to the AER's supplemental information requests. The fact is, AWA and CPAWS have not raised any issues which have not previously been dealt with by Summit to the satisfaction of the AER.

For the reasons set out above, a hearing is not necessary and, as a matter of policy, no hearing should be held. Holding a hearing even though Summit has addressed the concerns of all parties who may be directly and adversely affected would create a troubling precedent which could disincentivize proponents from proactively addressing directly affected parties' concerns outside the confines of a hearing process. Such a disincentive is contrary to the primary objective of the regulatory regime.

In conclusion, we request the oral hearing be cancelled, and that the AER decide on the Applications based on the current record.

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>5</sup> Exhibits 75.0, 75.1, 75.2, 76.0, and 76.1.