



Proceeding 449

August 8, 2025

To: Martin Ignasiak, KC Bennett Jones LLP
For: Summit Coal Inc.

To: Adam Bordignon, Napoli Shkolnik Canada
**For: Canadian Parks and Wilderness Society
Northern Alberta chapter (CPAWS NAB)**

To: Adam Bordignon, Napoli Shkolnik Canada
For: Alberta Wilderness Association (AWA)

To: Tyler Olsen
For: Municipal District (MD) of Greenview

[By email only]

**Re: Summit Coal Inc., Mine 14 Underground Coal Mine (Summit)
Applications 1945552, 1945553, 001-00496728, 001-00496729, 001-496730,
32212208 and 32900389 (the "Applications")
Panel Decision on Motion for Adjournment Filed by Summit Coal Inc.**

Dear Parties:

As the panel of Alberta Energy Regulator (AER) hearing commissioners presiding over this proceeding (the panel), we write to you to provide our decision on Summit's July 29, 2025, adjournment motion (Motion for Adjournment) made pursuant to section 44 of the *Alberta Energy Regulator Rules of Practice (Rules)*.

Following review and consideration of the submissions provided by the Municipal District of Greenview (MD of Greenview), Canadian Parks and Wilderness Society Northern Alberta chapter (CPAWS NAB) and Alberta Wilderness Association (AWA), we have decided to partially grant Summit's request to adjourn the hearing for the reasons set out below. We are aware that Summit has filed a separate motion for reconsideration (Motion for Reconsideration) that is currently under review in a separate process and will not be put on the record of this proceeding at this time.

In our review of the materials submitted by the parties in response to the Motion for Adjournment, we note that the Chief Executive Officer (CEO) and Board Chair of the AER were copied on one submission, and a letter to Alberta's Minister of Energy was attached to another submission. It appears necessary to clarify for the parties our role in this proceeding.

We, the hearing commissioners constituting this hearing panel, are independent decision makers authorized under section 12 of the *Responsible Energy Development Act (REDA)* to carry out hearings of applications and make decisions in the name of and on behalf of the AER.¹

¹ *O'Brien, Re*, 2021 ABAER 3 at para 27.

The Alberta Legislature delegated to the AER the power, duty, and function to consider and decide applications under energy resource enactments in respect of mines for the recovery and processing of mineral resources, among other powers.²

Where the AER is to conduct a hearing in respect of applications such as the Mine 14 Applications, the hearing must be conducted on behalf of and in the name of the Regulator by a panel of one or more hearing commissioners, and a decision of a panel of hearing commissioners on a hearing is a decision of the AER.³ Neither the CEO nor a director of the AER may be appointed as a hearing commissioner,⁴ and the board of directors of the AER may not authorize a person to carry out a power, duty or function of the Regulator that is prescribed by the regulations – in particular in this case, the conduct of hearings by hearing commissioners.⁵

Accordingly, we, the panel of hearing commissioners, have been delegated the power, duty, and function to conduct this hearing of the Applications. The participants to this hearing are Summit, as applicant, the full participants CPAWS NAB, AWA, and the MD of Greenview, and the Limited Participants identified in the schedule to this decision. The panel reminds all participants that correspondence and submissions in this proceeding should be addressed to the panel and to the parties, and not to external persons.

Background and Submissions

In the Motion for Adjournment Summit asks that we adjourn the hearing *sine die*.

Summit explains in the Motion for Adjournment that it requires an adjournment to reassess whether to proceed with the Applications and the Mine 14 Project, to assess whether to apply for a reconsideration or permission to appeal of the hearing decision, and because Summit was unable to comply with the hearing schedule that required its reply submission by July 30, 2025. The Motion for Adjournment also contains a note that Summit would provide an update and its reply submission to the AER within 20 days of a ruling on this Motion. Finally, Summit submitted that AWA and CPAWS are not prejudiced by an adjournment because they oppose approval of the Applications.

On July 30, 2025, we set a process to receive motion responses from full participants and a reply from Summit to the responses from full participants. We also suspended the submission schedule until further notice.⁶ Motion responses from the MD of Greenview⁷ and CPAWS NAB in conjunction with AWA⁸ were received on July 31 and August 1, 2025, respectively. The MD of Greenview supported the adjournment. CPAWS NAB and AWA opposed the adjournment.

² REDA s 2(2)(a).

³ REDA s 12(1), (3).

⁴ REDA s 11(3).

⁵ REDA s 6(2), (3); *Alberta Energy Regulator Rules of Practice*, s 8 (Rules).

⁶ Exhibit 91.0. Exhibits can be accessed at <https://apps.public.aer.ca/hearing/>

⁷ Exhibit 92.0.

⁸ Exhibit 93.0.

In their response, CPAWS NAB and AWA argued that Summit's reasons for an indefinite adjournment are not valid and create a risk of delaying the hearing when Summit has consistently advocated for a timely and efficient review of the Applications. CPAWS NAB and AWA submitted that the mere possibility of reconsideration, appeal or withdrawal of applications does not justify an adjournment *sine die*. CPAWS NAB and AWA further argued that adjourning the hearing *sine die* would prejudice CPAWS NAB and AWA's ability to fully and meaningfully participate and undermine their procedural rights. In particular, CPAWS NAB and AWA require significant time and resources to participate, and an adjournment *sine die* would disproportionately affect them as non-profit, public interest organizations. They cited that they lack the financial or institutional resources available to Summit. Finally, CPAWS NAB and AWA argued that further adjournment would afford additional time for the Summit to pursue alternative avenues that seemingly circumvent this process.

Summit filed its reply on August 6, 2025.⁹ In its reply, Summit responded to CPAWS NAB and AWA's arguments by advising that it had filed a Motion for Reconsideration with the CEO of the AER and therefore the request was not a "mere possibility". Summit maintained its adjournment request and further requested that should its Motion for Reconsideration be denied, that the proceeding resume in a timely manner.

Panel Decision

Summit's request for an adjournment is partially granted. In order to ensure that this proceeding is heard expeditiously, we decline to adjourn the hearing *sine die* and instead grant an adjournment to **February 9, 2026**. On or before this deadline, Summit must provide an update to tell the panel whether the Motion for Reconsideration has been decided, its outcome, and if there is no reconsideration, whether Summit intends to continue with the proceeding 449 hearing or will withdraw the Applications.

We are not authorized to hear the Request for Reconsideration and would not be aware of any deliberations therein. Summit is directed to provide an update to the parties and the panel as to the status of the reconsideration, **no later than 4:00 pm on August 21, 2025**. If there has been no decision on the Request for Reconsideration by this date, we will need to vacate the October 2025 hearing dates.

Future scheduling of the proceeding 449 hearing will be dependent on the availability of all the parties and the hearing team including AER subject matter experts, other scheduled AER hearings, and other logistical considerations (e.g. availability of hearing venues). For clarity, this means that if the October 2025 dates are vacated as a result of the update on August 21, 2025, and the hearing proceeds at a later date, new hearing dates are likely to be in mid-to-late 2026.

There are numerous factors that must be re-arranged if the hearing is to be re-scheduled, especially with so much of the process already completed. Given the opposition to the Motion for Adjournment, the repeated assertions from Limited Participants and the MD of Greenview that the hearing should be held in a timely manner, and Summit's request in reply that should its Request for Reconsideration be denied that the proceeding resume in a timely manner, the panel will endeavour to reschedule the hearing expeditiously

⁹ Exhibit 94.0.

should rescheduling become necessary, but again will not be able to hold the October hearing dates past August 21, 2025.

Reasons for Decision

Section 46 of the *Rules* provides for broad discretion when a panel is reviewing a request for adjournment:

46 The Regulator may, on its own initiative or on motion by a party, adjourn a proceeding on any terms that the Regulator considers appropriate. It is within the discretion of the panel to grant an adjournment on terms that it considers appropriate.

The issues to consider on determining how to use this discretion broadly include the purpose of the hearing,¹⁰ and what prejudice results from the decision to grant or not grant the adjournment.¹¹

The purpose of this hearing was outlined in the Notice of Hearing.¹² This hearing is a process by which the Applications of Summit to conduct energy resource activities (Mine 14) near Grande Cache is the purpose of this hearing. An adjournment does not change that purpose. The Applicant has asked for time to better determine whether or not its Applications should proceed, and if so, in what legal venue. This request is at the heart of the purpose of this hearing.

Furthermore, we are not convinced that AWA and CPAWS NAB are prejudiced by the adjournment. Under *REDA*, a party may request a reconsideration of the AER or request that the Court of Appeal of Alberta hear an appeal. We see no evidence that suggests that the procedural steps of this hearing are undermined or otherwise circumvented as a result of Summit availing itself of these legal steps. The delay, such that it is, impacts the speed with which we are able to determine the Applications.

We acknowledge the concerns of AWA and CPAWS NAB, but note that unless this panel is directed otherwise, the Applications cannot proceed without this hearing. Furthermore, AWA and CPAWS NAB have submitted their concerns onto the record of this proceeding from which a decision will be made.

What remains on the schedule is the reply to those submissions from Summit, the submissions of the Limited Participants (and Summit's reply if adverse in interest) and any preliminary motions prior to the oral hearing. The adjournment to a date certain remedies any potential prejudice that AWA and CPAWS NAB may suffer.

Finally, *REDA* and the *Rules* provide for this panel to consider costs, and affords parties a process by which their cost claims are assessed. As a reminder, hearing participants may be eligible to submit a cost claim to recover some of the costs of their participation under the *Alberta Energy Regulator's Directive 031: REDA Energy Cost Claims*. The rules regarding an advance of funds and interim award of costs are set out in sections 59 and 61 (respectively) of the *Rules*. We are not persuaded that limited resources of any of the parties is sufficient to demonstrate that an adjournment requested by the Applicant should not be granted.

¹⁰ *Lameman v Alberta*, 2011 ABQB 40 at paras 25-27, citing *R v Barrette*, [1976 CanLII 180 \(SCC\)](#), [1977] 2 SCR 121, 68 DLR (3d) 260 at para 6 and *Khimji v Dhanani* (2004), [2004 CanLII 12037 \(ON CA\)](#), 69 OR (3d) 790 at para 14.

¹¹ *Ibid*, para 33.

¹² Exhibit 3.0.

Given that Summit filed the Motion for Reconsideration, its submissions in respect of requiring an adjournment for the purposes of seeking a reconsideration of the AER's decision to set its Applications down for a hearing are not speculative or premature. Since we are independent decision-makers, we are not in a position to know the outcome of the reconsideration motion made to the CEO. As such, an adjournment is necessary until such time as a decision is made on the reconsideration motion.

An essential consideration was whether any of the parties will be significantly prejudiced by our decision to adjourn proceeding 449. In our view, none of the parties are significantly prejudiced by this decision. The prejudice CPAWS NAB and AWA allege is financial in nature and could potentially be offset by the costs process.

Conclusion

We have considered the Motion for Adjournment and concluded for the reasons set out above, the hearing is adjourned until **February 9, 2026**. We are partially granting Summit's request for adjournment, with a requirement for an update in two weeks, because it is in the interest of all parties to conduct this hearing in an efficient and timely manner. To ensure that October hearing dates are not vacated prematurely, Summit is directed to provide an update to the parties and the panel as to the status of the reconsideration, **no later than 4:00 pm on August 21, 2025**.

We remind all parties that the submission schedule remains suspended. Should the hearing be reactivated, the panel will set a new submission schedule for the remaining submissions, including Summit's reply. We do not anticipate providing an opportunity for parties to update submissions that were filed previously. If parties wish to request an opportunity to update their hearing submissions, they will need to file a motion in accordance with section 44 of the *Rules*.

Any motion must be submitted to hearing.services@aer.ca, with copies to all parties, after which the panel will set an appropriate motion submission schedule in due course.

Sincerely,

Shona Mackenzie
Presiding Hearing Commissioner

Cindy Chiasson
Hearing Commissioner

Andrew MacPherson
Hearing Commissioner

cc: Shauna Gibbons and Bronwyn Simmons, AER counsel for the panel
Elaine Arruda and Andrew Lung, AER hearing coordinators
Full Participants and Limited Participants, as identified in the attached 'Schedule of Participants for AER Proceeding 449'
Tim MacDonald, ACO

Schedule of Participants for AER Proceeding 449

Full Participants

Alberta Wilderness Association

CPAWS – Northern Alberta Chapter

Municipal District of Greenview

Limited Participants

Grande Cache Hotel

Grande Cache Golf and Country Club

Ridgeview Restaurant and Lounge

Willmore Wilderness Foundation

People and Peaks Productions Ltd.

Grande Cache Chamber of Commerce

Spruce & Bean

Eagle Rock Holdings

Busy Beez Play Zone Ltd.

Richard Riva Cambrin

Bob's Trucking Ltd.

Grande Industrial Ltd.

Macro Properties

McNeil Construction

C.C.'s Welding and Fabrication Ltd.

Grande Cache Automotive

Verity LLP