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By Email: cs1@abwild.ca

Alberta Wilderness Association

Kennedy Halvorson

**RE: Northback Holdings Corp. ("Northback") Application Nos. #A10123772, #00497386-001, and #1948547 (the "Applications")
Statement of Concern 32274**

Dear Kennedy,

We act on behalf of Northback with respect to the Applications for a coal exploration permit, a deep drilling permit, and a temporary water diversion licence for 1,500 m³ (1.2 acre-feet) respectively. Please see the attached responses from Northback to the concerns you expressed in statement of concern no. #32274 filed with the Alberta Energy Regulator ("**AER**").

We reiterate on behalf of Northback that the Applications are in relation to an exploration program and not a mine development. Pursuant to section 31 of the *Responsible Energy Development Act*, SA 2012, c R-17.3, any potential future application for mine development at the Grassy Mountain site would be subject to mandatory public notice.

The AER has previously determined that applications for localized exploration programs of short duration with adequate mitigation measures are not likely to result in significant adverse effects on the environment.¹ Similarly, Northback's Applications present minimal risks and will not result in significant adverse effects on the environment due to the temporary nature and small scale of the exploration program and the proposed mitigations.

In light of the above, Northback is of the view that the Applications are not likely to directly and adversely affect you, and that to the extent your concerns relate to potential future development of the Grassy Mountain site, the statement of concern is not properly before the AER at this time because it exceeds the scope of the Applications. The AER has the discretionary authority to

¹ *Re Teck Resources Limited, Application for Oil Sands Evaluation Well Licences* (21 Oct 2013), 2013 ABAER 017 at para 112.

disregard statements of concern that fail to demonstrate direct and adverse effects arising from the Applications at issue or which are not properly before the AER for any other reason.²

We have attached a map prepared by Northback as Appendix 1 to this letter to illustrate the geographic location of the parties who have expressed either support for or concerns about the Applications. As is immediately obvious from the map, the local community overwhelmingly supports the Applications, and a significant number of the parties that filed concerns reside a large distance away from the location of the exploration program. To clarify, the dots on the map representing support petitions include the named parties who signed the Citizens Supportive of Crowsnest Coal's Petition in Favor of Northback Drilling Program submitted to the AER on October 2, 2023. Northback appreciates the local support, which reflects the significant positive effects of responsible steelmaking coal resource development to the residents of the Crowsnest Pass and neighbouring communities.

We have also attached with the map a few photos and a link to a video of aerial footage from the Grassy Mountain site demonstrating the extensively disturbed and unreclaimed state of the site.

Northback remains committed to conducting its exploration program in an environmentally responsible manner in collaboration with local stakeholders, Indigenous nations, the Alberta Government, and the AER.

Yours truly,

BENNETT JONES LLP



Martin Ignasiak KC

cc: Ayan Solomon, AER
Rushang Joshi, AER

² *Alberta Energy Regulator Rules of Practice*, Alta Reg 99/2013 at ss 6.2(1)(a), 6.2(1)(d) and 6.2(2)(b).

Appendix 1: Map Spatially Demonstrating Expressions of Support for and Concerns About the Applications



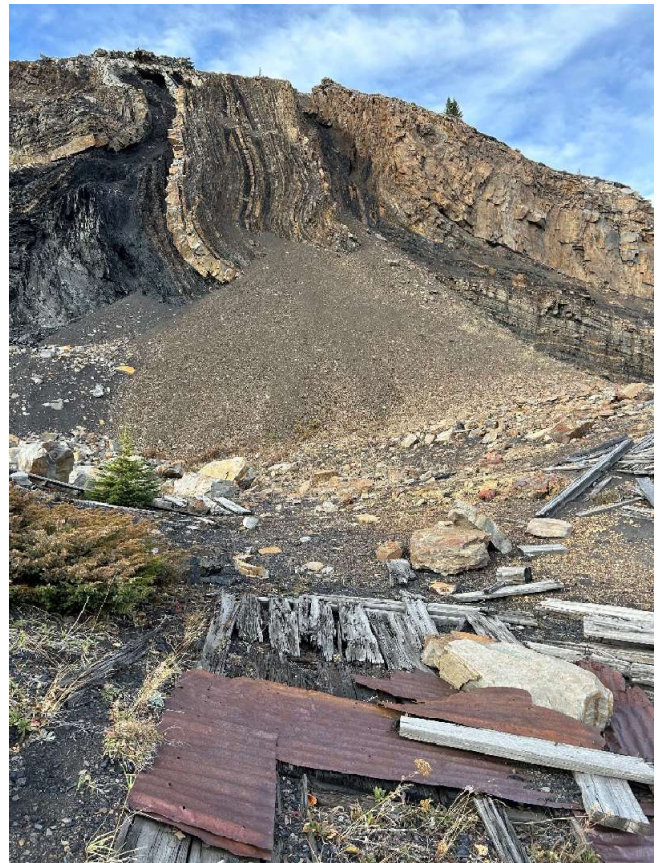
This map is for reference purposes only and is not to be used for engineering, engineering or legal purposes. No warranties, either expressed or implied, are made by Trace to the accuracy, completeness, reliability, validity or suitability of the information presented, as generated by, or on behalf of, third party sources. Users should refer to the original source documents to ascertain the accuracy of the information displayed.

Appendix 2: Grassy Mountain Mine Current Condition – Extensively Disturbed and Unreclaimed Site

Photos from September and October 2023



Previously mined open pit looking south



Previously mined open pit with former underground mine entry and associated debris



Previously mined open pit looking north

See recent video footage at:

<https://youtu.be/KzfWlfqYWeE>

Response to Statement of Concern

SOC Reference	Concern	Response	References
<p>Page 4, Concern 1</p>	<p>Violates Ministerial Order 002/2022</p> <p>Northback (formerly Benga Mining Ltd.) states they have applied with the intent to conduct a coal exploration program on the Grassy Mountain Deposit, located north of Blairmore, Alberta. These applications should be immediately denied, as Ministerial Order 002/2022 explicitly states no new coal exploration or development can take place in the Eastern Slopes.</p> <p>On March 2, 2022, the Minister of Energy issued Ministerial Order 002/2022 directing AER to undertake steps to implement a moratorium on new coal exploration and developments on all category lands as defined by the <i>1976 Coal Policy in the Eastern Slopes</i> (Government of Alberta, 2022). Specifically, the order states,</p> <p>“No exploration or commercial development activities related to coal will be permitted within Category 1 lands, in accordance with the <i>1976 Coal Policy</i>. All approvals (as defined by the Responsible Energy Development Act (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.</p> <p>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</p>	<p>Section 6 of Ministerial Order 002/2022 states that “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” (GoA 2022). Northback, operating under its previous name Benga Mining Ltd., submitted a Project Summary Table to AER on September 29, 2014 for the purposes of determining if an environmental impact assessment was required.</p> <p>The Ministerial Order does not indicate that statutory decisions made on applications under the Energy Resource and Specified Enactments impact the standing of advanced coal projects. This is supported by the fact that the Ministerial Order repeatedly refers to the Coal Policy Committee and the Committee explicitly confirmed that the Grassy Mountain Project is an “advanced coal project” (CPC 2021). The Committee’s Report</p>	<p>CPC (Coal Policy Committee). 2021. Final Report: recommendations for the management of coal resources in Alberta. Prepared by Coal Policy Committee on behalf of Government of Alberta. Available online: https://open.alberta.ca/publications/recommendations-for-the-management-of-coal-resources-in-alberta</p> <p>GoA (Government of Alberta). 2022. Ministerial Order 002/2022. Alberta Energy. Available online: https://open.alberta.ca/publications/energy-002-2022</p>

SOC Reference	Concern	Response	References
	<p>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” (Government of Alberta, 2022).</p> <p>As Benga Mining Ltd.’s original applications for the Grassy Mountain Coal Mine were denied in 2021, Northback’s new submission would constitute a new application, which is not to be accepted under the current ministerial order.</p> <p>Reference</p> <p>Government of Alberta, Department of Energy. 2022. Responsible Energy Development Act S.A. 2012, c. R.17.3. Ministerial Order 002/2022. https://kings-printer.alberta.ca/Documents/MinOrders/2022/Energy/2022_002_Energy.pdf</p>	<p>was issued approximately 6 months after the AER’s decision on the Grassy Mountain Project. Therefore, neither the Ministerial Order nor the Committee’s Report provide any basis on which it can be concluded that the subject lands are no longer subject to the exemption provided for an “advanced coal project” due to the statutory review and decisions made on the previously submitted development applications for the Grassy Mountain Project.</p>	
<p>Page 5, Concern 2</p>	<p>A previous impact assessment on the Grassy Mountain Coal Deposit found it unsuitable for coal mining</p> <p>There is also no need to continue pursuing coal exploration in the area, as the extensive consultations completed by the federal and provincial government’s Joint Review Panel for the proposed Grassy Mountain Coal Project, who found it is not suitable for coal development, due to the significant economic, environmental, and societal risks it posed to the region (AER & Impact Assessment Agency of Canada, 2021).</p>	<p>Northback has applied for a Coal Exploration Permit (CEP), Deep Drilling Permit (DDP), and temporary diversion license (TDL). The proposed activities are exploratory and developmental in nature. It is true that there is little material difference between the proposed activities in Application Nos. #A10123772, #1948547, and #00497386-001 and previous CEP, DDP, and TDL applications</p>	<p>REDA-Alberta Energy Regulator Rules of Practice. Alberta Regulation 99/2013. Edmonton, AB: Alberta King’s Printer. Current as of February 28, 2023.</p>

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	<p>In the review, the Panel highlighted concerns over the “significant adverse environmental effects on surface water quality, Westslope cutthroat trout and their habitat, whitebark pine, rough fescue grasslands, and vegetation species and community biodiversity”, and found mining would “contribute to existing significant adverse cumulative environmental effects on Westslope cutthroat trout, little brown bats, grizzly bears, and whitebark pine”(AER & Impact Assessment Agency of Canada, 2021). The original project would also “result in the loss of lands used for traditional activities, and this would affect Indigenous groups and their members who use the project area” and cause “significant adverse effects to physical and cultural heritage for three Treaty 7 First Nations”(AER & Impact Assessment Agency of Canada, 2021).</p> <p>Reference</p> <p>Alberta Energy Regulator and the Impact Assessment Agency of Canada. 2021. Report of the Joint Review Panel, Benga Mining Limited Grassy Mountain Coal Project. Established by the Federal Minister of Environment and Climate Change and the Alberta Energy Regulator. https://iaac-aeic.gc.ca/050/documents/p80101/139408E.pdf</p>	<p>Northback has made in the past. However, there is a significant physical and regulatory difference between a proposed drilling program and an integrated application for a mining development. The proposed CEP activities are limited in duration, localized to access and drilling locations, and consist of well-understood activities, technologies, and mitigation measures that are considered low risk (REDA 2023).</p> <p>Refer to Section 6(1) of the AER Rules of Practice for the required form of a Statement of Concern. Section 6.2(b) of the AER Rules of Practice specifically notes that the Regulator may disregard a concern raised in Statement of concern is "(b) the concern is unrelated to, or relates to a matter beyond the scope of the application." Application Nos. #A10123772, #00497386-001, and #1948547 are strictly in relation to drilling activities and do not contemplate any other development. Concerns related to activities outside the scope of any application do not meet AER's requirements for consideration.</p>	

SOC Reference	Concern	Response	References
Page 6, Concern 3	<p>AER's 2021 precedent and Coal Policy Committee Findings</p> <p>On June 17, 2021, AER denied the original Grassy Mountain coal mining applications, stating that this coal project was "not in the public interest". AWA encourages AER to follow their own precedent and deny Benga, new, repurposed submission as Northback. The findings of Alberta's Coal Policy Committee engagement and recommendation reports</p> <p>only reaffirm AER's 2021 statement; Albertans are strongly opposed to coal development on the Eastern Slopes, largely because of the adverse environmental impacts (2021).</p> <p>Reference</p> <p>Alberta Energy Regulator. 2021. News Release 2021-06-17: Joint review panel concludes review of Grassy Mountain Coal project. https://www.aer.ca/providing-information/news-and-resources/news-and-announcements/news-releases/news-release-2021-06-17</p> <p>Coal Policy Committee. 2021. Engaging Albertans about coal. https://open.alberta.ca/dataset/78cffece5dc-4474-8617-72b1ca2f4ab2/resource/604fd294-49ba-4942-88b4-5a8fd4d1d191/download/energy-coal-policycommittee-engaging-albertans-2021-12.pdf</p> <p>Coal Policy Committee. 2021. Final Report: recommendations for the management of coal resources in Alberta. https://open.alberta.ca/dataset/cabeccc3-3937-408a-9eb5-f49af85a7b3f/resource/75d241f9-5567-4a86-</p>	<p>Refer to Section 6(1) of the AER Rules of Practice for the required form of a Statement of Concern. Section 6.2(b) of the AER Rules of Practice specifically notes that the Regulator may disregard a concern raised in Statement of concern is "(b) the concern is unrelated to, or relates to a matter beyond the scope of the application." Application Nos. #A10123772, #00497386-001, and #1948547 are strictly in relation to drilling activities and do not contemplate any other development. Concerns related to activities outside the scope of any application do not meet AER's requirements for consideration.</p>	<p>REDA-Alberta Energy Regulator Rules of Practice. Alberta Regulation 99/2013. Edmonton, AB: Alberta King's Printer. Current as of February 28, 2023.</p>

SOC Reference	Concern	Response	References
Page 7, Concern 4 91e7-3ed285e42f18/download/energy-coal-policy-committee-final-report-2021-12.pdf	<p>Exploratory work can threaten the environment and create liabilities for Albertans</p> <p>Exploratory projects themselves can create a significant threat to the environment and an unacceptable liability to Albertans (The Tye, 2023). The logging required to make access roads fragments habitat and exposes the shallow montane soils to erosion and colonization by invasive species. Exploratory roads then become sources of sediment, washing downstream rivers and creeks during precipitation events, negatively impacting aquatic habitat and watershed health. Considering that a) the exploration phase is not profitable in development projects, b) the federal and provincial governments have found this site to be inappropriate for coal development, and c) insurers are becoming increasingly hesitant to fund coal companies (Reuters, 2023), Albertan's could be on the hook for reclamation costs of both Benga's legacy work and Northback's proposed exploratory program</p> <p>Reference</p> <p>The Tye. 2023. Forsaken and 'Urgent': Alberta's Eroding Coal Roads. https://thetye.ca/News/2023/09/08/ForsakenUrgent-Alberta-Eroding-Coal-Roads/</p> <p>Reuters. 2023. Insight: Coal miners forced to save for a rainy day by insurance snub. https://www.reuters.com/sustainability/coal-miners-forced-save-rainy-day-by-insurance-snob-2023-08-</p>	<p>Northback has committed to reclaiming disturbance as prescribed by the Exploration Regulation (MMA 2023). Refer to Section 3.2 of Application No. #A10123772 for a description of environmental protection and reclamation commitments.</p> <p>Northback has undertaken reclamation field activities on its previous drill programs and is continuing to monitor these sites until such time a reclamation certificate can be obtained.</p> <p>Northback has never developed or operated a mine in the area. Legacy mining disturbances due to mining activities on Crown land are not within the care and control of Northback.</p>	<p>MMA (Mines and Minerals Act) : Exploration Regulation. Alberta Regulation 284/2006. Edmonton, AB: Alberta King's Printer. Current to July 10, 2023.</p>

