Clerk's Stamp

COURT FILE NUMBER:	2001-08938
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
APPLICANTS	E. MACLEAY BLADES, ROCKING P RANCH LTD., JOHN SMITH and PLATEAU CATTLE
RESPONDENTS	HER MAJESTY THE QUEEN IN RIGHT OF ALBERTA and THE MINISTER OF ENERGY FOR THE PROVINCE OF ALBERTA
DOCUMENT	**Brief of the Applicants (Respondents), Her Majesty the Queen in Right of Alberta and The Minister of Energy for the Province of Alberta** **(Special Chambers Application returnable in Justice Chambers during the week of January 18, 2020)**

ADDRESS FOR SERVICE AND CONTRACT INFORMATION OF PARTY FILING THIS DOCUMENT

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File No. LIT-11521

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PART I: Facts

1. Overview of the Application

[1] Her Majesty the Queen in Right of Alberta and the Minister of Energy for the Province of Alberta (collectively, the "**Minister**"), the Respondents in this Action, apply to strike the Amended Originating Application for Judicial Review (the "**Application for Judicial Review**") in its entirety pursuant to Rule 3.68 of the Alberta *Rules of Court*.

[2] In the alternative, the Minister also applies for summary dismissal of the Application for Judicial Review pursuant to Rule 7.2 and 7.3 of the Alberta *Rules of Court*.

[3] The decision at issue is not reviewable by the Court and this Court has no jurisdiction to hear it. Furthermore, the Application for Judicial Review discloses no reasonable claim against the Minister. As will be set out below, the Applicants' grounds for review and prayer for relief are not supportable in law.

[4] Insofar as the Applicants allege that a duty of procedural fairness has been breached, they were owed no such duty.

[5] Finally, the allegation that the decision at issue was made by anyone other than the Minister of Energy has no merit.

[6] No portion of the Application for Judicial Review has a reasonable prospect of success. Further, there is no genuine issue requiring a hearing. Accordingly, the Application for Judicial Review should be struck and/or dismissed in its entirety.

2. Statement of Facts

[7] The facts set out below are relevant for the purposes of this Application.

(a) Background

[8] The Application for Judicial Review concerns the rescission of a 1976 Alberta Government policy entitled "A Coal Development Policy for Alberta" (the "**1976 Coal Policy**")[1] by the Minister of Energy.

[9] The 1976 Coal Policy was adopted to encourage and regulate coal exploration and development in Alberta:

> The Government's overall policy for the development for Alberta's coal resources is designed to bring and maintain the maximum benefits, now and in the future, to the people of Alberta who own this resource. Exploration and development will be encouraged in a manner that is compatible with the environment and at times which will best suit Alberta's economy and labour force.[2]

[10] The 1976 Coal Policy was not enacted using a legislative tool.[3] It was a policy adopted by the government of the day to address social, economic, and environmental issues and concerns at the time.

[11] At the time the 1976 Coal Policy was adopted, Alberta lacked many of the regulatory tools to assess the economic, environmental, and social impacts of coal projects. Since that time, a robust regulatory framework has been enacted to determine whether resource development and extraction projects, including coal projects, are in the public interest. This framework includes:

a. leasing and royalty requirements established under the *Mines and Minerals Act*[4] and *Coal Royalty Regulation*[5];

b. regulatory requirements administered by the Alberta Energy Regulator (the "**AER**") found under the *Coal Conservation Act*[6], *Environmental*

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[1] A Coal Development Policy for Alberta, Department of Energy and Natural Resources, June 15, 1976 ("**1976 Coal Policy**"), **Appendix "A"** to this Brief (also found at Exhibit "A" to the Affidavit of Macleay Blades, sworn on July 12, 2020 (the "**Blades Affidavit**").

[2] 1976 Coal Policy, at pp 3-4, **Appendix "A"**.

[3] Advice to Minister for Decision about Alberta's Coal Policy ("**Advice to Minister**"), Exhibit "A" to the Affidavit of Micheal Moroskat, sworn November 30, 2020 (the "**Moroskat Affidavit**").

[4] *Mines and Minerals Act*, RSA 2000, c M-17.

[5] *Coal Royalty Regulation*, Alta Reg 295/1992.

[6] *Coal Conservation Act*, RSA 2000, c C-17.

Protection and Enhancement Act[7], and *Public Lands Act*[8], including the *Master Schedule of Standards and Conditions*[9], the *Water Act*[10], and codes of practice and directives; and

c. applicable land use policies and plans.

[12] Due to the evolution of the regulatory environment in Alberta, most of the policy objectives set out in the 1976 Coal Policy have been codified in legislation and other regulatory instruments, have been modified such that they are no longer relevant, or no longer exist due to changing conditions.[11]

[13] Of note to the Application for Judicial Review, however, is the classification of lands for coal exploration and development set out in the 1976 Coal Policy. For example, "Coal Category 2" is described in the 1976 Coal Policy as follows:

> [lands] in which limited exploration is desirable and may be permitted under strict control but in which commercial development by surface mining will not normally be considered at the present time. This category contains lands in the Rocky Mountains and Foothills for which the preferred land or resource use remains to be determined, or areas where infrastructure facilities are generally absent or considered inadequate to support major mining operations. In addition this category contains local areas of high environmental sensitivity in which neither exploration or development activities will be permitted. Underground mining or in-situ operations may be permitted in areas within this category where the surface effects of the operation are deemed to be environmentally acceptable.[12]

(b) Rescission of the 1976 Coal Policy

[14] On March 31, 2020, the Minister decided to rescind the 1976 Coal Policy (the "**Decision**").[13] On May 15, 2020, Alberta Energy issued Information Letter 2020-23 (the "**Information Letter**"), which advised the public that it was rescinding the 1976 Coal

[7] *Environmental Protection and Enhancement Act*, RSA 2000, c E-12.
[8] *Public Lands Act*, RSA 2000, c P-40.
[9] Master Schedule of Standards and Conditions.
[10] *Water Act*, RSA 2000, c W-3.
[11] For example, the provisions related to royalties, labour requirements, environmental protection and Crown equity participation are no longer applicable to the current regulatory framework.
[12] 1976 Coal Policy, at p 15, **Appendix "A"**.
[13] Advice to Minister, Exhibit "A" to the Moroskat Affidavit.

Policy, effective June 1, 2020. The Information Letter explains that the only part of the 1976 Coal Policy that was still in effect was the classification of lands, which is no longer required due to Alberta's contemporary regulatory approval process.[14]

[15] The Information Letter also explains that restrictions on issuing coal leases for "Coal Category 2" and "Coal Category 3" areas have been removed, and that holders of active coal lease applications that had previously been deferred would be offered a right of first refusal to continue their applications.

(c) The Application for Judicial Review

[16] E. Macleay Blades, Rocking P Ranch Ltd., John Smith, and Plateau Cattle Co. Ltd. (collectively, the "**Applicants**") applied for Judicial Review of the Decision on July 14, 2020 and subsequently amended their application in November 2020. The Applicants allege the following grounds of review:

a. noncompliance with section 4(1) of the *Alberta Land Stewardship Act*, which provides that only the Lieutenant Governor in Council may amend a regional plan previously approved under that act;

b. noncompliance with section 5 of *Alberta Land Stewardship Act*, which provides that the Stewardship Minister must:
    i. ensure that appropriate public consultation has been carried out prior to amending a regional plan;
    ii. present a report of the findings of such consultation to the Executive Council; and
    iii. lay the proposed amendment before the Legislative Assembly;

c. noncompliance with section 13 of the *Alberta Land Stewardship Act*, which provides that an amendment to a regional plan must be published in the Alberta Gazette and be made publically available;

d. noncompliance with the South Saskatchewan Regional Plan, which requires that:
    i. Integrated Resource Plans remain in effect until they can be reviewed for relevance; and
    ii. the coal categories found in the 1976 Coal Policy be reviewed;

[14] Information Letter 2020-23 (the "**Information Letter**"), Exhibit "B" to the Moroskat Affidavit.

e. a lack of procedural fairness by failing to consult with the Applicants and others prior to making the Decision;

f. noncompliance with the Livingstone-Porcupine Hills Sub-Regional Integrated Resource Plan;

g. making a decision that was arbitrary and based upon extraneous, irrelevant and collateral considerations;

h. making a decision *ultra vires* the Deputy Minister;

i. providing reasons that are illogical, that fail to address relevant factors and that are otherwise unreasonable; and

j. usurping the authority of the AER found in the *Coal Conservation Act*, which permits the AER to determine its processes and enforce compliance with its specific requirements.[15]

[17] The Applicants seek the following remedies:

a. a stay of the Decision pending a final determination of the Application for Judicial Review;

b. a declaration that the Minister has an obligation to consult with the Applicants and others;

c. a declaration that the Decision is ultra vires Alberta Energy;

d. an order quashing the Decision and restoring the 1976 Coal Policy; and

e. costs of this Application.[16]

PART II: Issues

[18] The following issues arise in this Application:

Issue # 1: Does this Court have jurisdiction to hear the Application for Judicial Review, i.e., is the Decision justiciable?

[15] Amended Originating Application for Judicial Review, Action No 2001-08938 ("**Amended Originating Application**"), at para 2.

[16] Amended Originating Application, at paras 5-10.

Issue # 2: Should the Application for Judicial Review nonetheless be struck out for failing to disclose a reasonable cause of action?

Issue # 3: If any of the allegations disclose a reasonable cause of action, should any or all of the Application for Judicial Review nonetheless be summarily dismissed?

PART III: Argument

1. The allegations against the Respondents

[19] The Application for Judicial Review is largely based upon three premises, namely that:

1) the Decision somehow amended the South Saskatchewan Regional Plan, which triggered the consultation and reporting requirements in the *Alberta Land Stewardship Act*;

2) the South Saskatchewan Regional Plan and the Livingstone-Porcupine Hills Sub-Regional Integrated Resource Plan prohibit the rescission of the 1976 Coal Policy; and

3) the *Coal Conservation Act* prohibits the rescission of the 1976 Coal Policy.

[20] As addressed below, none of these premises is accurate:

1) the Decision cannot be considered an amendment of, and did not amend, the South Saskatchewan Regional Plan;

2) nothing in either the South Saskatchewan Regional Plan or the Livingstone-Porcupine Hills Sub-Regional Integrated Resource Plan prohibits the rescission of the 1976 Coal Policy; and

3) the *Coal Conservation Act* does not restrict the Minister's powers to adopt or rescind any policy.

2. Striking a claim under Rule 3.68

[21] Rule 3.68 permits the Court to end a court action in certain circumstances, in particular, where the Court does not have the jurisdiction to hear the claim or where the pleadings or commencement document do not disclose a reasonable claim.[17]

[22] Rule 3.68 applies equally to applications for judicial review. Where it can be shown there is no right of judicial review, the Court will strike an Originating Application for Judicial Review.[18]

[23] The Court can consider evidence when determining whether it has jurisdiction under Rule 3.68(2)(a).

[24] The test for striking a pleading under Rule 3.68(2)(b) is whether it is plain and obvious that the pleading discloses no reasonable cause of action. The role of the court on an application to strike a claim under this Rule is to inquire as to whether, assuming the facts pleaded are true, a claim has a reasonable prospect of success. If not, the pleading should be struck. [19]

[25] While the Applicants are entitled to a broad reading of the pleadings[20], the Court must apply the rule as intended. If the alleged facts, examined in light of the existing law, do not disclose a cause of action, the claim should be struck and needless litigation should be avoided.[21]

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[17] *Alberta Rules of Court*, Alta Reg 124/2010, Rule 3.68, **Tab 1** of the Minister's Authorities.

[18] *Eksteen v University of Calgary*, 2019 ABQB 881, 2019 CarswellAlta 2507 ("***Eksteen***") at paras 75 & 86, **Tab 2** of the Minister's Authorities.

[19] *Knight v Imperial Tobacco Canada Ltd.*, 2011 SCC 42, 2011 CarswellBC 1968 ("***Imperial Tobacco***") at paras 19-21, **Tab 3** of the Minister's Authorities

[20] *Alberta Adolescent Recovery Centre v Canadian Broadcasting Corporation*, 2012 ABQB 48, 2012 CarswellAlta 107 ("***AARC***") at para 27, **Tab 4** of the Minister's Authorities.

[21] *AARC,* **Tab 4** of the Minister's Authorities; *Harun-ar-Rashid v Royal Canadian Mounted Police (RCMP)*, 2019 ABQB 54 ("***Harun-ar-Rashid***") at paras 14 & 18, **Tab 5** of the Minister's Authorities.

3. Summary dismissal of a claim under Rules 7.2 and 7.3

[26] A claim may be summarily dismissed under Rules 7.2 and 7.3.[22]

[27] The test for summary dismissal is whether there is no merit to the claim and no genuine issue requiring a trial. Where this test is met, the claim should be summarily dismissed.[23]

[28] A determination that there is no genuine issue requiring a trial does not have to be "obvious", "beyond doubt" or "highly unlikely".[24] Rather, this determination focuses on procedural fairness, namely where:

a. the judge is able to make the necessary findings of facts;
b. the judge is able to apply the law to the facts; and
c. the process is a proportionate, more expeditious and less expensive means to achieve a just result.[25]

4. The Minister had the authority to make the Decision

[29] There is no question that the Minister has broad powers to develop policy within her legislative mandate.[26] This includes the power to rescind existing policies.

[30] Our Court of Appeal, in *Athabasca Chipewyan*, held that it is generally accepted that the Crown "may establish policies to guide the exercise of discretion by civil servants, so long as the policy conforms to legal limits". [27]

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[22] *Alberta Rules of Court*, Rules 7.2 and 7.3, **Tab 1** of the Minister's Authorities.

[23] *Weir-Jones Technical Services Incorporated v Purolator Courier Ltd*, 2019 ABCA 49, 2019 CarswellAlta 204 ("***Weir-Jones***") at para 47, **Tab 6** of the Minister's Authorities.

[24] *Hannam v Medicine Hat School District No. 76*, 2020 ABCA 343, 2020 CarswellAlta 1728 ("***Hannam***"), at paras 157-161, **Tab 7** of the Minister's Authorities.

[25] *Hannam,* at para 126, **Tab 7** of the Minister's Authorities.

[26] *Little Sisters Book and Art Emporium v Canada (Minister of Justice)*, 2000 SCC 69, 2000 CarswellBC 2442 ("***Little Sisters***") at para. 85, **Tab 8** of the Minister's Authorities: "It is the statutory decision, however, not the manual, that constituted the denial. It is simply not feasible for the courts to review for Charter compliance the vast array of manuals and guides prepared by the public service for the internal guidance of officials. The courts are concerned with the legality of the decisions, not the quality of the guidebooks, although of course the fate of the two are not unrelated [Emphasis added.]"

[27] *Athabasca Chipewyan First Nation v Alberta*, 2019 ABCA 401, 2019 CarswellAlta 2249 ("***Athabasca Chipewyan***") at para 50, **Tab 9** of the Minister's Authorities. See also, *L'Hirondelle v Alberta (Minister of*

[31] The Minister has the discretion to enter into mineral leases pursuant to section 16 of the *Mines and Minerals Act*[28] and, jointly with the Minister of Environment and Parks,[29] to give directions to the AER pursuant to section 67 of the *Responsible Energy Development Act*.[30]

[32] The Minister's discretion to enter into mineral leases pursuant to the *Mines and Minerals Act* and to give directions to the AER pursuant to the *Responsible Energy Development Act* implicitly provides the basis of the authority to develop policy related to coal exploration and development.

[33] The 1976 Coal Policy was an expression of policy by previous Ministers of Energy to provide guidance in relation to coal exploration and development. This Minister's decision to rescind the 1976 Coal Policy is, similarly, an expression of guidance in relation to coal exploration and development in Alberta.

5. The Application for Judicial Review is not justiciable

[34] The mere fact that a decision has been made by a government does not mean that it is subject to judicial review.

[35] Judicial review is rarely available where the decision in question concerns the development of policy:

> While in concept all statutory grants of power are legally limited and their exercise subject to judicial review, some administrative action is rarely interfered with by

Sustainable Resource Development), 2013 ABCA 12, 2013 CarswellAlta 77 ("***L'Hirondelle***"), at paras. 25-27, **Tab 10** of the Minister's Authorities.

[28] *Mines and Minerals Act*, RSA 2000, c M-17, s. 16, **Tab 11** of the Minister's Authorities.

[29] *Designation and Transfer of Responsibility Regulation*, Alta Reg 44/2019, s 9(3)(a), **Tab 12** of the Minister's Authorities.

[30] *Responsible Energy Development Act*, SA 2012, c R-17.3, s. 67, **Tab 13** of the Minister's Authorities.

> the courts because of its "political," "policy" or "legislative" character. In that sense, such action is shown the highest degree of deference.[31]

(a) The Law of Justiciability

[36] A challenge to the justiciability of an application involves a review of the subject matter of the application to determine whether it is appropriate for judicial consideration.[32]

[37] Justiciability is generally determined with reference to the pleadings.[33] In considering whether the issues raised in a claim are justiciable, the court must examine whether the claim engages issues that are purely political in nature or whether the claim raises issues that have a sufficient legal component to warrant judicial intervention.[34]

[38] The Application for Judicial Review states:

> The Applicants seek judicial review of a May 15, 2020 decision by the Respondents, the Assistant Deputy Minister or their delegates, as contained in Information Letter 2020-23 (the "Decision").
>
> The Decision rescinds A Coal Development Policy for Alberta (1976)…
>
> Remedy Sought:
> …

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[31] Brown, Donald J.M., and John M. Evans, with the assistance of David Fairlie, *Judicial Review of Administrative Action in Canada* (Toronto: Thomson Reuters, 2017) (looseleaf, updated December 2018) ("**Brown & Evans**"), §15:2121, **Tab 14** of the Minister's Authorities.

[32] Lorne M Sossin, *Boundaries of Judicial Review: The Law of Justiciability in Canada*, 2nd Ed. (Toronto: Carswell, 2012) as cited in *Highwood Congregation of Jehovah's Witnesses (Judicial Committee) v Wall*, 2018 SCC 26, 2018 CarswellAlta 1044 ("***Wall***"), at para. 33, **Tab 15** of the Minister's Authorities; *Canada (Auditor-General) v Canada (Minister of Energy, Mines & Resources)*, [1989] 2 SCR 49, 1989 CarswellNat 593 ("***Canada (Auditor-General***)") at paras 49-50, **Tab 16** of the Minister's Authorities.

[33] *Teskey v Canada (Attorney General)*, 2014 ONCA 612, 2014 CarswellOnt 11456, leave to appeal ref'd [2014] SCCA No 455 ("***Teskey***"), **Tab 17** of the Minister's Authorities; *Committee for Monetary and Economic Reform v Canada*, 2016 FC 147, 2016 CarswellNat 381 ("***Committee for Monetary and Economic Reform***"), at paras. 46-57, **Tab 18** of the Minister's Authorities, aff'd 2016 FCA 312, leave to appeal ref'd [2017] SCCA No 47

[34] *Reference re Canada Assistance Plan (Canada)*, [1991] 2 SCR 525, 1991 CarswellBC 168 ("***Canada Assistance Plan***"), at para. 33, **Tab 19** of the Minister's Authorities; *Operation Dismantle Inc. v R.*, [1985] 1 SCR 441, 1985 CarswellNat 151 ("***Operation Dismantle***"), at para 38, **Tab 20** of the Minister's Authorities; *C.U.P.E. v Canada (Minister of Health)*, 2004 FC 1334, 2004 CarswellNat 3303 ("***CUPE***"), at paras 39-48, **Tab 21** of the Minister's Authorities.

> An Order quashing the Decision and restoring [the 1976 Coal Policy]… [35]

[39] There can be no doubt that the purpose of the Application for Judicial Review is to challenge the wisdom of the Minister's decision to rescind the 1976 Coal Policy.

(b) Core policy decisions are not justiciable

[40] The decision to rescind the 1976 Coal Policy was a true or core policy decision made by the Minister. It is not justiciable. It engages issues that are purely political in nature.

[41] In *Imperial Tobacco*, the Supreme Court of Canada described a "policy decision" as follows:

> Generally, policy decisions are made by legislators or officers whose official responsibility requires them to assess and balance public policy considerations. The decision is a considered decision that represents a "policy" in the sense of a general rule or approach, applied to a particular situation. It represents "a course or principle of action adopted or proposed by a government": New Oxford Dictionary of English (1988), at p. 1434. When judges are faced with such a course or principle of action adopted by a government, they generally will find the matter to be a policy decision. The weighing of social, economic, and political considerations to arrive at a course or principle of action is the proper role of government, not the courts [Emphasis added].[36]

[42] While *Imperial Tobacco* involved an application to strike a third party claim, this description is also instructive in the context of judicial reviews.

[43] In *Hamilton-Wentworth*, the Ontario Divisional Court cautioned about the role of the judiciary:

> … it is not for any court to oversee a Minister of the Crown in policy decisions or in the exercise of his or her discretion in the expenditure of public funds entrusted to his or her department by the Legislature.[37]

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[35] Amended Originating Application, at paras. 1, 2, and 8.

[36] *Imperial Tobacco*, at para 87, **Tab 3** of the Minister's Authorities.

[37] *Hamilton-Wentworth (Regional Municipality) v. Ontario (Minister of Transportation)* (1991), 2 OR (3d) 716, 1991 CarswellOnt 45 (Ont Div Ct) ("***Hamilton-Wentworth***"), at para 47, **Tab 22** of the Minister's Authorities.

[44] In *Hayes*, the British Columbia Supreme Court noted:

> It is fundamental to the function of government and its relationship to the judiciary that questions of government policy are not subject to judicial review. The formulation of policy and the expression of policy are political in nature and it is not the responsibility of courts within their powers to review and thus implicitly dictate policy… It is in the course of the implementation of policy that review can occur, not in the formulation or announcement of it.[38]

[45] Ministers are not bound by the policy decisions of their predecessors and may make new decisions and change existing policies to respond to social and economic considerations.[39]

[46] The 1976 Coal Policy set a course of action for coal exploration and development in Alberta.

[47] The rescission of policy, and in particular, this rescission of the 1976 Coal Policy is similarly an expression of policy which sets a course of action for coal exploration and development in Alberta. It was made to respond to social and economic considerations. It is neither the role nor the responsibility of this Court to review and dictate the wisdom of the adoption or the rescission of policy.

(c) The Decision was made in good faith and is not irrational

[48] True policy decisions, i.e., those that offer a general approach to a particular situation, are not justiciable absent evidence of bad faith, non-conformity with the principles of natural justice and reliance on extraneous factors.[40]

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[38] *Hayes v British Columbia (Minister of Labour & Minister Responsible for Gaming)*, 2000 BCSC 1665, 2000 CarswellBC 2458 (BCSC) ("***Hayes***"), at para 25, **Tab 23** of the Minister's Authorities.

[39] *Malcolm v Canada (Minister of Fisheries and Oceans)*, 2014 FCA 130, 2014 CarswellNat 1590 ("***Malcolm***"), at paras. 46 and 53, **Tab 24** of the Minister's Authorities.

[40] *Maple Lodge Farms Ltd. v Canada*, [1982] 2 SCR 2, 1982 CarswellNat 484 ("***Maple Lodge Farms***"), at paras. 5-6, **Tab 25** of the Minister's Authorities; *Manitoba Metis Federation Inc. v The Government of Manitoba et al.*, 2018 MBQB 131, 2018 CarswellMan 309 ("***MMF***"), at paras. 53, 60-61, **Tab 26** of the Minister's Authorities.

[49] In *Entreprises Sibeca*, the SCC described two concepts of bad faith that permit a court to intervene in otherwise non-justiciable policy or political decisions:

> …the concept of bad faith can encompass not only acts committed deliberately with intent to harm, which corresponds to the classical concept of bad faith, but also acts that are so markedly inconsistent with the relevant legislative context that a court cannot reasonably conclude that they were performed in good faith.[41]

[50] There is no suggestion in either the pleadings, or in the evidence filed on behalf of the Applicants, that the rescission of the 1976 Coal Policy was made deliberately with intent to harm.

[51] Furthermore, as discussed above, the Decision falls squarely in line with the Minister's mandate over coal exploration and development and the relevant legislative context. There can be no suggestion that the Decision is so markedly inconsistent with the relevant legislative context that a Court could reasonably conclude that it was made in bad faith.

[52] Put differently, if previous Ministers of Energy chose to adopt and continue to follow the 1976 Coal Policy, absent some legislative prohibition (which does not exist), it cannot be markedly inconsistent that the current Minister of Energy could choose not to follow the 1976 Coal Policy, but rather to rescind it. To find otherwise would bind Ministers to the policy decisions of their predecessors and limit their ability to respond to shifting social, political, and economic considerations.

[53] The Applicants allege that the Decision was arbitrary and based upon extraneous, irrelevant and collateral considerations,[42] and that the reasons provided are illogical, fail to address relevant factors and are otherwise unreasonable. [43]

[54] The Decision was not arbitrary, and was not based upon extraneous, irrelevant and collateral considerations. As noted in the Advice to Minister, the Minister considered

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[41] *Les Entreprises Sibeca Inc. v Municipality of Frelighsburg*, 2004 SCC 61, 2004 CarswellQue 2404 ("***Entreprises Sibeca***"), at para 26, **Tab 27** of the Minister's Authorities.

[42] Amended Originating Application, at para 2(e).1.

[43] Amended Originating Application, at para 2(e).3.

various competing interests and considerations in deciding to rescind the 1976 Coal Policy.

[55] The Applicants ask this Court to question the weight given to those competing interests and considerations. That is not the Court's role.

[56] There is a presumption that the Minister acted properly. The Applicants have presented no evidence to the contrary.[44] The Applicants must demonstrate that the Minister acted improperly. They cannot met this burden because the Minister has not acted improperly.

(d) The Decision did not affect the Applicants' rights or legitimate expectations

[57] Non-adjudicative policy decisions do not attract a general duty of procedural fairness. Furthermore, it is not necessary to provide reasons for such a decision.[45]

[58] Neither the *Mines and Minerals Act* nor the *Responsible Energy Development Act* create any obligation on the Minister to consult any member of the public prior to considering an application for a lease or giving directions to the AER. Nor is there any such requirement in any other legislation within the Minister's mandate.

[59] Any obligation that the Minister consult the public prior to making policy decisions would curtail her ministerial discretion.

[60] Furthermore, the Applicants have not demonstrated that they (or anyone else) were owed a duty of procedural fairness, that they had legitimate expectations to be consulted, or that their rights were otherwise affected by the Decision.

[61] Indeed, the rescission of the 1976 Coal Policy did not, and could not, affect the Applicants' rights or legitimate expectations. The 1976 Coal Policy was not a regulating

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[44] *Cook v Alberta (Minister of Environmental Protection)*, 1999 ABQB 137, 1999 CarswellAlta 1169 ("***Cook***"), at para. 58, **Tab 28** of the Minister's Authorities, rev'd in part on other grounds, 2001 ABCA 276.

[45] Brown & Evans, at §15:2131, **Tab 14** of the Minister's Authorities, citing *R v Anderson*, 2014 SCC 41 at paras 36 and 48.

device and did not have the force of law. While it may have presented aspirational objectives, it did not create legally binding obligations. Its rescission had no measurable legal impact.

[62] The 1976 Coal Policy was described as follows in 1982:

> It should be emphasized at the outset that the coal policy in both its theoretical basis and its implementation and administration was not designed to be a legal document, but rather an administrative one. While portions of it have been legislated into existence, many aspects of the coal policy are enforced through administrative dictates rather than through any legal sanctions. In many instances discretion and flexibility take precedence over legal rights.[46]

[63] The 1976 Coal Policy has evolved over time. As noted in the Information Letter:

> The only mechanism left in effect from the Coal Policy before rescission was the land classification system comprising four coal categories. Other mechanisms, such as provisions pertaining to royalties, labor requirements, environmental protection, and Crown equity participation, were superseded or not enforced.
>
> The coal categories are no longer required for Alberta to effectively manage Crown coal leases, or the location of exploration and development activities, because of decades of improved policy, planning, and regulatory processes.[47]

[64] While restrictions on the former Category 1 lands remain, the central change from the Decision is the removal of any "restrictions" on the former Category 2 and 3 lands.

[65] In support of the Application for Judicial Review, Macleay Blades states, in his affidavit:

> Because Alberta Energy rescinded the [1976 Coal Policy], Rocking P Ranch will no longer be able to make submissions to the Alberta Energy Regulator that these lands are within category 2 and therefore off limits to coal development.[48]

[46] Douglas Rae, "The Legal Framework for Coal Development in Alberta", (1982) Alta LR 117 ("**Rae**"), **Tab 29** of the Minister's Authorities at p. 117.

[47] Information Letter, Exhibit "B" to the Moroskat Affidavit.

[48] Blades Affidavit, at para. 26.

[66] However, the former Category 2 and 3 lands have always been described as areas where some exploration and/or development may be permitted, contemplating a further regulatory process. This is noted explicitly in the 1976 Coal Policy:

> … Category 2: in which limited exploration is desirable and may be permitted under strict control but in which commercial development by surface mining will not normally be considered at the present time…
> …
> It is also important to note that lands in Category 2, 3 or 4 are not automatically open to exploration nor are lands in Category 3 or 4 automatically open to exploration and development. Each application for rights to explore, for leases to Crown coal rights and for authorization for development will be considered on its own merits through the procedure outlined in Section 4.1, 4.2 and 4.3 [emphasis in original].[49]

[67] Section 4.1 of the 1976 Coal Policy refers to the categories as "policy guidelines". Sections 4.1, 4.2, and 4.3 reference regulatory application processes. Generally, and most importantly, Crown mineral leases are still obtained through the *Mines and Minerals Act* and coal exploration and development approvals must still be obtained through the AER.

[68] The 1976 Coal Policy did not impose any binding obligations. It was not incorporated by statute, and explicitly contemplated further applications/processes for any coal exploration and development.

[69] The Applicants are in no different position than prior to the rescission of the 1976 Coal Policy. The Applicants are not opposed to coal exploration, but are opposed to coal development in the former Category 2 lands.[50] There has never been a complete prohibition on coal development in the former Category 2 lands.

[70] The Applicants were not owed any procedural fairness as their rights have not been impacted and they had no legitimate expectations.

[49] 1976 Coal Policy, at pp 15 and 17, **Appendix "A"**.
[50] Blades Affidavit, at para. 19.

[71] This Court, in *Cook*, held that "'it would take an egregious case' to allow a court to review a decision made by a minister of state on a matter of general policy".[51] There was no such egregious circumstance in *Cook*, nor is there an egregious circumstance here.

[72] The Applicants' disappointment in the Decision, while no doubt legitimate, does not give rise to a judicial review.[52]

(e) This Court must not review the wisdom of the Decision

[73] There can be no doubt that the Decision was a policy decision. It was made in good faith and was not irrational. Further, the Decision did not affect the rights or legitimate expectations of the Applicants.

[74] In *Thorne's Hardware*, the Supreme Court of Canada stated:

> … Decisions made by the Governor in Council in matters of public convenience and general policy are final and not reviewable in legal proceedings. Although, as I have indicated, the possibility of striking down an order in council on jurisdictional or other compelling grounds remains open, it would take an egregious case to warrant such action.
> …
> Counsel for the appellants was critical of the failure of the Federal Court of Appeal to examine and weigh the evidence for the purpose of determining whether the Governor in Council had been motivated by improper motives in passing the impugned Order in Council. We were invited to undertake such an examination but I think that with all due respect, we must decline. It is neither our duty nor our right to investigate the motives which impelled the federal Cabinet to pass the Order in Council…
> …
> I agree with the Federal Court of Appeal that the government's reasons for expanding the harbor are in the end unknown. Governments do not publish reasons for their decisions; governments may be moved by any number of political, economic, social or partisan considerations [Emphasis added].[53]

[75] The Decision is meant for government alone and is not justiciable. The Applicants are asking the Court to review the wisdom of the Decision. That is improper. This Court

[51] *Cook*, at para. 55, **Tab 28** of the Minister's Authorities.

[52] *MMF*, at para. 26, **Tab 26** of the Minister's Authorities.

[53] *Thorne's Hardware v R*, [1983] 1 SCR 106, 1983 CarswellNat 530 ("***Thorne's Hardware***"), at paras. 9-14, **Tab 30** of the Minister's Authorities.

has no jurisdiction to review the Decision and the Application for Judicial Review should be struck.

6. The Application for Judicial Review discloses no reasonable cause of action and/or has no merit

[76] If the Court finds that the Application for Judicial Review is justiciable, it must nonetheless still be struck, as it discloses no reasonable cause of action. Alternatively, it must be dismissed, as there is no merit to the Applicants' claims.

[77] A careful review of the grounds of review pleaded in support of the Application for Judicial Review shows that it has no reasonable prospect of success. The allegation that the Applicants, or any member of the public, were entitled to be consulted prior to the Decision is not supportable in law. Similarly, nothing in the South Saskatchewan Regional Plan, the Livingstone-Porcupine Hills Sub-Regional Integrated Resource Plan, or the *Coal Conservation Act* prohibits the rescission of the 1976 Coal Policy.

(a) The *Alberta Land Stewardship Act* has no application to the Decision

[78] The Applicants allege that they were entitled to be consulted by the Minister prior to her making the Decision. In support of this allegation, the Applicants point to section 5 of the *Alberta Land Stewardship Act*,[54] which provides:

> 5 Before a regional plan is made or amended, the Stewardship Minister must
>
> (a) ensure that appropriate public consultation with respect to the proposed regional plan or amendment has been carried out, and present a report of the findings of such consultation to the Executive Council, and
>
> (b) lay before the Legislative Assembly the proposed regional plan or amendment.

[79] This provision has no application to the 1976 Coal Policy. The requirement for public consultation set out in section 5 of the *Alberta Land Stewardship Act* applies where a regional plan is to be amended. The 1976 Coal Policy is not a regional plan.[55]

[54] *Alberta Land Stewardship Act*, SA 2009, c A-26.8, **Tab 31** of the Minister's Authorities.
[55] *Alberta Land Stewardship Act*, **Tab 31** of the Minister's Authorities, s 2(1)(v).

[80] However, the Minister understands that the Applicants allege that the Decision was, in effect, an amendment to the South Saskatchewan Regional Plan, which is a regional plan as defined in the *Alberta Land Stewardship Act*.

[81] The South Saskatchewan Regional Plan does not require the maintenance of the 1976 Coal Policy. The only reference to the 1976 Coal Policy in the South Saskatchewan Regional Plan reads as follows:

> Currently in the region, there are a number of Integrated Resource Plans, a number of Public Land Use Zones, surface requirements under the Public Lands Act; subsurface restrictions on sales of mineral rights; and voluntary practices such as integrated land management to support minimizing land disturbance. The Integrated Resource Plans will remain in effect until they have been reviewed for their relevance and incorporated as appropriate under the implementation strategies of this regional plan or future subregional or issue-specific plans within the region. This will include direction for key industrial sectors such as coal, oil and gas, industrial minerals and aggregates. As part of reviewing and incorporating the Integrated Resource Plans, the government will integrate a review of the coal categories, established by the 1976 A Coal Development Policy for Alberta to confirm whether these land classifications specific to coal exploration and development should remain in place or be adjusted. The review of the coal categories will only be for the South Saskatchewan planning region. The intent is for the South Saskatchewan Regional Plan and implementation strategies of the regional plan or future associated subregional or issue-specific plans within the region to supersede the coal categories for the purposes of land use decisions about where coal exploration and development can and cannot occur in the planning region [Emphasis added].[56]

[82] The reference to the 1976 Coal Policy in the South Saskatchewan Regional Plan is to the Coal Categories defined in the 1976 Coal Policy. The Coal Categories are to be reviewed, and nothing in the South Saskatchewan Regional Plan requires the 1976 Coal Policy to remain in effect pending that review.

[83] The rescission of the 1976 Coal Policy does not in any way inhibit any potential review that may be undertaken under the South Saskatchewan Regional Plan. It should be noted that the South Saskatchewan Regional Plan does not describe or dictate what a potential review might be. There is no reason for the 1976 Coal Policy to be in effect

[56] South Saskatchewan Regional Plan: An Alberta Land-use Framework Integrated Plan, 2014 – 2024, Amended May 1, 2018 ("**South Saskatchewan Regional Plan**"), p 61, **Tab 32** of the Minister's Authorities.

for the government to refer to the Coal Categories. It will continue to exist as a historical resource.

[84] Given that the South Saskatchewan Regional Plan contains no requirement that the 1976 Coal Policy remain in effect, there is no basis for the suggestion that its rescission has amended the South Saskatchewan Regional Plan. In the absence of any amendment, the consultation requirement in section 5 of the *Alberta Land Stewardship Act* has not been triggered. As such, there is no basis to review the Decision on this ground.

(b) The Decision did not contravene the South Saskatchewan Regional Plan or the Livingstone-Porcupine Hills Sub-Regional Integrated Resource Plan

[85] The Applicants appear to argue that the Decision was somehow in contravention of the South Saskatchewan Regional Plan and Livingstone-Porcupine Hills Sub-Regional Integrated Resource Plan. Again, it is unclear what the basis for this allegation is: nothing in either the South Saskatchewan Regional Plan or the Livingstone-Porcupine Hills Sub-Regional Integrated Resource Plan prohibits the rescission of the 1976 Coal Policy.

[86] Section 13 of the *Alberta Land Stewardship Act* provides that regional plans are legislative instruments and are considered to be regulations; however, the legislation also provides that a regional plan can specify which parts are enforceable as law and which parts are "statements of public policy or a direction of the Government that is not intended to have binding legal effect."[57]

[87] The South Saskatchewan Regional Plan contains such rules of application and interpretation and states:

> …the following portions of the SSRP are not intended to have binding legal effect and are statements of policy to inform the Crown, decision-makers, local government bodies and all other persons in respect of this regional plan and the planning regions:

[57] *Alberta Land Stewardship Act*, **Tab 31** of the Minister's Authorities, s 13; see also South Saskatchewan Regional Plan, **Tab 32** of the Minister's Authorities at p 8.

- Introduction
- Implementation Plan
- Strategic Plan[58]

[88] The South Saskatchewan Regional Plan further states:

> Except as otherwise provided in the Regulatory Details, the provisions of this Implementation Plan are not intended to have binding legal effect and are statements of policy to guide the Crown, decision-makers and local government bodies in respect of the following activities in the planning region:
>
> a. Managing activities to meet the reasonably foreseeable needs of current and future generations of Albertans, including aboriginal peoples;
>
> b. Enforcing compliance with any provision of this Regulatory Details Plan or any other enactment;
>
> c. Setting priorities in the co-ordination of decisions by decision-makers and local government bodies;
>
> d. Monitoring the cumulative effect of human endeavour and other events;
>
> e. Responding to the cumulative effect of human endeavour and other events; and
>
> f. Generally in respect to carrying out their respective powers, duties and responsibilities.[59]

[89] The South Saskatchewan Regional Plan requires that the Integrated Resource Plans remain in effect until the review of the Coal Categories is complete.[60] The commitment to integrate a review of the Coal Categories is found within the Implementation Plan of the South Saskatchewan Regional Plan.[61] There is nothing in the Regulatory Details that suggests that the commitment to integrate a review of the Coal Categories has binding legal effect or is anything other than a statement of policy

[58] South Saskatchewan Regional Plan, **Tab 32** of the Minister's Authorities at p 8.
[59] South Saskatchewan Regional Plan, **Tab 32** of the Minister's Authorities at p 42.
[60] South Saskatchewan Regional Plan, **Tab 32** of the Minister's Authorities at p 61.
[61] South Saskatchewan Regional Plan, **Tab 32** of the Minister's Authorities at p 61.

to guide the Crown. Further, it does not require that the 1976 Coal Policy remain in effect.

[90] The Livingstone-Porcupine Hills Sub-Regional Integrated Resource Plan requires that all proposals for coal exploration and development must be processed in accordance with the 1976 Coal Policy.[62] It also refers to the 1976 Coal Policy in specific sections as the basis for the establishing restrictions on coal exploration in certain areas of the Livingstone-Porcupine Hills region.[63]

[91] Insofar as the Applicants are alleging that the Livingstone-Porcupine Hills Sub-Regional Integrated Resource Plan creates a requirement that the 1976 Coal Policy remain in place, the Minister notes the following provisions contained in the preface to the Livingstone-Porcupine Hills Sub-Regional Integrated Resource Plan:

> It is intended to be a guide to resource managers, industry and the public with responsibility or interests in the area rather than as a regulatory mechanism.
> …
>
> This plan has no legal status and is subject to revisions or review at the discretion of the minister of Forestry, Lands and Wildlife.[64]

[92] Further, the legal effect of a subregional plan such as the Livingstone-Porcupine Hills Sub-Regional Integrated Resource Plan[65] is also limited by section 17 the *Alberta Land Stewardship Act*, which provides that a regional plan prevails over a subregional plan. This section also provides that where there is a conflict or inconsistency between any Act and a regional plan, the Act prevails.[66]

[93] Further, the current regulatory regime supersedes the requirement to process all proposals in accordance with the 1976 Coal Policy, and insofar as the Livingstone-

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[62] Livingstone-Porcupine Hills Sub-Regional Integrated Resource Plan, 1987, **Tab 33** of the Minister's Authorities at p 26 (PDF33).

[63] Livingstone-Porcupine Hills Sub-Regional Integrated Resource Plan, 1987, **Tab 33** of the Minister's Authorities at pp 58 (PDF61), 71 (PDF74), 84 (PDF86) & 100 (PDF100).

[64] Livingstone-Porcupine Hills Sub-Regional Integrated Resource Plan, 1987, **Tab 33** of the Minister's Authorities at p iii (PDF3).

[65] Plans are considered regulatory instruments: see *Alberta Land Stewardship Act*, **Tab 31** of the Minister's Authorities, s 2(w).

[66] *Alberta Land Stewardship Act*, **Tab 31** of the Minister's Authorities, s 2(w).

Porcupine Hills Sub-Regional Integrated Resource Plan conflicts with the current regulatory regime, the regime will prevail. As such, the Livingstone-Porcupine Hills Sub-Regional Integrated Resource Plan cannot override Alberta's contemporary regulatory approval process and require the Minister to revert back to the process contemplated by the 1976 Coal Policy.

(c) Section 15 of the *Alberta Land Stewardship Act* governs breaches of its provisions

[94] Insofar as the Applicants allege that the Minister has failed to comply with the South Saskatchewan Regional Plan, section 15 of the *Alberta Land Stewardship Act* forecloses a judicial review of such a contravention, except by the stewardship commissioner:

> 15(1) Except to the extent that a regional plan provides otherwise, a regional plan binds
>
> > (a) the Crown,
> > …
>
> (3) Subject to subsection (5), subsection (1) does not
>
> > (a) create or provide any person with a cause of action or a right or ability to bring an application or proceeding in or before any court or in or before a decision-maker,
> >
> > (b) create any claim exercisable by any person, or
> >
> > (c) confer jurisdiction on any court or decision-maker to grant relief in respect of any claim.
>
> (4) For the purposes of subsection (3), a claim includes any right, application, proceeding or request to a court for relief of any nature whatsoever and includes, without limitation,
>
> > (a) any cause of action in law or equity,
> >
> > (b) any proceeding in the nature of certiorari, prohibition or mandamus, and
> >
> > (c) any application for a stay, injunctive relief or declaratory relief.
>
> (5) Subsection (3) does not apply in respect of an application by the stewardship commissioner to the Court of Queen's Bench under section 18.

[95] These provisions were considered in *Keller v Municipal District of Bighorn No. 8*, where Justice Hunt-MacDonald noted the following with respect to the recourse available to address non-compliance with the *Alberta Land Stewardship Act*:

> I agree with the Municipality that, by excluding references to individuals or persons other than the Stewardship Commissioner, the Legislature intended to exclude anyone other than the Stewardship Commissioner from bringing an application for judicial review on the basis of non-compliance with ALSA. This interpretation is consistent with s.15(3) of the Act, which expressly limits the ability to bring any action concerning compliance with a Provincial Regional Plan to the Stewardship Commissioner, and s. 62 of the Act, which provides the mechanism by which individuals may make a written complaint to the Stewardship Commissioner. In short, ALSA taken as a whole implements a scheme whereby the Province assumes a greater role in local planning and the power to determine whether there has been compliance with the Act and with Provincial dictates as expressed in regional plans. Individual recourse is limited to the complaint provision at s.62.[67] [Emphasis added.]

[96] As noted in the *Keller* decision, individual recourse under the *Alberta Land Stewardship Act* is limited to a complaint review by the Secretariat pursuant to section 62. Specifically, section 62 permits a person to "make a written complaint to the secretariat that a regional plan is not being complied with."

[97] If the Applicants are alleging that the Minister did not comply with South Saskatchewan Regional Plan, their recourse is to the complaint process under the *Alberta Land Stewardship Act* and not this Court.

[98] The Application for Judicial Review seeks to circumvent a self-contained legislative scheme.

(d) The *Coal Conservation Act* does not apply to the Decision

[99] The Applicants allege that, in rescinding the 1976 Coal Policy, the Minister has acted contrary to the *Coal Conservation Act*,[68] in particular by usurping the express statutory authority granted to the Regulator in section 9 with respect to the following:

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[67] *Keller v Municipal District of Bighorn No. 8*, 2010 ABQB 362, 2010 CarswellAlta 994 ("***Keller***"), at para 52, **Tab 34** of the Minister's Authorities.

[68] *Coal Conservation Act*, RSA 2000, c C-17, **Tab 35** of the Minister's Authorities.

Regulations

9(1) The Regulator may make rules

> (a) prescribing the manner in which an application under this Act or the rules is to be made;
> …
>
> (d) restricting or prohibiting the development of a mine, mine site, coal processing plant or in situ coal scheme at any point within a stated distance of a boundary, road, road allowance, lake, river, stream, pipeline or other public or private works;
> …
>
> (u) generally, prescribing measures to conserve coal or to prevent its waste or improvident disposition, and stipulating any other provisions reasonably incidental to the efficient development of mines, mine sites, coal processing plants and in situ coal schemes, and to production from them;
> (v) respecting compliance with and enforcement of ALSA regional plans.

[100] None of these provisions prohibit the Minister from developing or rescinding any policy, including the 1976 Coal Policy. Rather, they empower the AER to determine its processes and enforce compliance with its specific requirements.

[101] It is important to note that, in considering any application for any project, the AER is required to consider a wide range of applicable legislative provisions, regulations, plans, and government policies. The effect of the repeal or rescission of any regulatory instrument does not have any effect on the authority of the AER to consider project applications. It simply means that the AER no longer has to consider that regulatory instrument in making its determination.

[102] The *Coal Conservation Act* sets out the AER's mandate with respect to applications for coal projects. It does not prohibit the Minister from making or rescinding policies that offer guidance with respect to coal exploration and development.

(e) Neither the Deputy Minister nor the Assistant Deputy Minister made the Decision

[103] The Applicants allege that the Decision was *ultra vires* the Deputy Minister. Implicit in this allegation is another allegation that the Deputy Minister, and not the Minister made the Decision.

[104] There is simply no merit to this ground. There can be no doubt that the Minister, and not the Deputy Minister, made the Decision.

[105] The Minister made the Decision on March 31, 2020,[69] and the Decision was communicated to the public by the Senior Assistant Deputy Minister in the Information Letter on May 15, 2020.[70]

[106] This ground should be summarily dismissed.

PART IV: Conclusion and Relief Sought

[107] All of the Application for Judicial Review should be struck, or alternatively, summarily dismissed. There is no reasonable prospect of success and/or no merit to the allegations against the Minister:

a. The Minister acted within her authority in making the Decision;

b. The Decision is a core policy decision, made in good faith, and is not justiciable;

c. The Minister had no obligation to consult the Applicants, or any other member of the public;

d. The Decision did not contravene the *Alberta Land Stewardship Act*, the South Saskatchewan Regional Plan, the Livingstone-Porcupine Hills Sub-Regional Integrated Resource Plan, or the *Coal Conservation Act*; and

e. This is an appropriate case to determine on a summary basis.

[69] Exhibit “A” to the Moroskat Affidavit.
[70] Exhibit “B” to the Moroskat Affidavit.

[108] Accordingly, the Respondents requests that this Honourable Court grant its application and strike or summarily dismiss the Application for Judicial Review, in its entirety, with costs.

All of which is respectfully submitted this 23rd day of December, 2020.

Alberta Justice and Solicitor General, Legal Services Division

Per: 

Melissa N. Burkett
Counsel for Her Majesty the Queen in Right of Alberta and the Minister of Energy for the Province of Alberta

Alberta Justice and Solicitor General, Legal Services Division

Per: 

for **Andrea M. Simmonds**
Counsel for Her Majesty the Queen in Right of Alberta and the Minister of Energy for the Province of Alberta

Table of Authorities

Tab 21. *C.U.P.E. v Canada (Minister of Health)*, 2004 FC 1334, 2004 CarswellNat 3303

Tab 22. *Hamilton-Wentworth (Regional Municipality) v. Ontario (Minister of Transportation)* (1991), 2 OR (3d) 716, 1991 CarswellOnt 45 (Ont Div Ct)

Tab 23. *Hayes v British Columbia (Minister of Labour & Minister Responsible for Gaming)*, 2000 BCSC 1665, 2000 CarswellBC 2458 (BCSC)

Tab 24. *Malcolm v Canada (Minister of Fisheries and Oceans)*, 2014 FCA 130, 2014 CarswellNat 1590

Tab 25. *Maple Lodge Farms Ltd. v Canada*, [1982] 2 SCR 2, 1982 CarswellNat 484

Tab 26. *Manitoba Metis Federation Inc. v The Government of Manitoba et al.*, 2018 MBQB 131, 2018 CarswellMan 309

Tab 27. *Les Entreprises Sibeca Inc. v Municipality of Frelighsburg*, 2004 SCC 61, 2004 CarswellQue 2404

Tab 28. *Cook v Alberta (Minister of Environmental Protection)*, 1999 ABQB 137, 1999 CarswellAlta 1169, rev'd in part on other grounds, 2001 ABCA 276.

Tab 29. Douglas Rae, "The Legal Framework for Coal Development in Alberta", (1982) Alta LR 117

Tab 30. *Thorne's Hardware v R*, [1983] 1 SCR 106, 1983 CarswellNat 530

Tab 31. *Alberta Land Stewardship Act*, SA 2009, c A-26.8

Tab 32. South Saskatchewan Regional Plan: An Alberta Land-use Framework Integrated Plan, 2014 – 2024, Amended May 1, 2018

Tab 33. Livingstone-Porcupine Hills Sub-Regional Integrated Resource Plan, 1987

Tab 34. *Keller v Municipal District of Bighorn No. 8*, 2010 ABQB 362, 2010 CarswellAlta 994

Tab 35. *Coal Conservation Act*, RSA 2000, c C-17

A COAL DEVELOPMENT POLICY FOR ALBERTA

DEPARTMENT OF ENERGY AND NATURAL RESOURCES

GOVERNMENT OF ALBERTA

JUNE 15, 1976

Preface

This statement of a coal development policy for Alberta is in four parts:

1. An Introduction which touches on the nature and importance of Alberta's coal resources.
2. A General Statement or Summary which summarizes the overall policy.
3. Detailed Elements of the Policy which deal more fully with the individual aspects of the policy.
4. Administrative Procedures which highlight the actual procedures of application, consideration and decision-making respecting individual coal development proposals.

Two appendices supplement the document.

Although not reviewed in this document, several statutes of Alberta and regulations issued under them define specific requirements with respect to environmental protection, land reclamation, exploration rights, development rights, leasing, royalty, conservation, safety, etc. The most important of these statutes are:

The Clean Air Act

The Clean Water Act

The Coal Conservation Act

The Coal Mines Safety Act

The Forests Act, 1971

The Forest and Prairie Protection Act

The Freehold Mineral Taxation Act

The Land Surface Conservation and Reclamation Act

The Mines and Minerals Act

The Public Highways Act

The Public Lands Act

The Surface Rights Act

The Water Resources Act

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1. Introduction

Alberta's coal resources constitute an enormous potential source of energy, comparable at least to that of the Alberta Oil Sands.

Extending from the International Boundary on the south to the Peace River region in the northwest, coal deposits of variable seam thicknesses underlie large areas of the Alberta Plains, Foothills and Rocky Mountains. In the Plains the depths of the deposits increase from east to west from less than 100 to 10,000 feet and over. In the Foothills and Mountains the depth is extremely variable due to the folding and repetition of strata. The quality and heating value of the deposits also vary markedly, from lignite and subbituminous thermal coals of the Plains to bituminous thermal and coking coals of the Foothills and Rocky Mountains. Alberta coals have a uniformly low sulphur content and constitute a clean, low-polluting source of thermal energy.

As with the Oil Sands, only a small fraction of Alberta's coal resources is commercially accessible at the present time with existing technology. The accessible deposits are those which are at or near the land surface and which generally are amenable to surface mining techniques, or are at depths to about 2,000 feet and may be recovered by more or less conventional underground mining methods. However, a substantial part of Alberta's coal resources is buried at depths greater than 2,000 feet; these deposits are not economically accessible at the present time, although conceivably they may be utilized in the future by some type of in-situ technology which has yet to be developed.

An energy resource of this magnitude cannot be ignored or remain undeveloped indefinitely, especially in view of the fact that Alberta's

existing supplies of relatively low cost energy sources -- conventional crude oil and natural gas -- are being steadily depleted. At the same time, Canadian demand for energy supplies -- especially fossil fuels -- is growing at a steady rate, and firm steps must be taken to ensure that new energy resources are found and developed to meet future domestic requirements. This means, in addition to accelerating the search for conventional oil and natural gas, we must look to alternative fossil fuel resources, which in the shorter term are the economically accessible, mineable deposits of oil sands and coal.

2. General Statement or Summary

The Government's overall policy for the development of Alberta's coal resources is designed to bring and maintain the maximum benefits, now and in the future, to the people of Alberta who own this resource. Exploration and development will be encouraged in a manner that is compatible with the environment and at times which will best suit Alberta's economy and labour force.

No development will be permitted unless the Government is satisfied that it may proceed without irreparable harm to the environment and with satisfactory reclamation of any disturbed land. Neither exploration nor development will be permitted in certain designated areas. Limited exploration and development will be permitted in other areas while some areas will be broadly open for both exploration and development under controlled conditions.

On private lands right of entry to the surface will continue to be based on negotiation between the surface owner and the developer. If agreement is not reached, application may be made to the Surface Rights Board which may grant the right of entry setting the appropriate compensation.

Development will be first for the purpose of meeting Alberta's own growing demands for electric energy and serving its other industrial requirements. Constant surveillance will be maintained to ensure a long-term adequacy of supply for all Alberta uses.

The Government will ensure that a fair price is received for this depleting non-renewable resource and that the people of Alberta, by way of a royalty on Crown-owned coal and a tax on freehold coal, obtain a proper share of this revenue while leaving attractive returns to the industry as an incentive to explore for and develop the resource.

All future developments will be required to make the maximum practical use of Alberta's skilled and professional manpower, Alberta services and Alberta materials and equipment.

All operations will be under strict inspection and regulation to ensure full compliance with standards and requirements relating to safety and industrial health, environmental protection and resource conservation.

Wherever appropriate opportunities will be made available for Albertans to participate in the equity ownership of future projects.

The Government's policy will continue to be administered by the Department of Energy and Natural Resources, the Energy Resources Conservation Board and the Department of the Environment, with other Government departments participating as appropriate. Modifications to the procedure of considering applicati s for new developments will result in a four-step screening and evaluat n process:

1. Preliminary disclosure of a development proposal to the Government, and the Government's initial response.
2. Disclosure and detailed descriptions of the proposal by the applicant to the public.
3. Consideration of formal applications including the basic Technical Application, a Cost-Benefit and Social Impact Analysis, an Environmental Impact Assessment and a Land Surface Reclamation Plan through a public hearing.
4. Final decision by the Government in the light of the findings of the Energy Resources Conservation Board, the Department of the Environment and the other concerned departments.

3. Elements of the Policy

3.1 Protection of the Environment

The Government's environmental protection policy for surface and sub-surface operations applies equally to public and private land, whether located on the Plains, in the Foothills or in the Mountains.

The Government is committed to maintaining a balance between resource development and environmental protection in order to maintain a desirable quality of life for future Albertans.

Reconnaissance surveys will only be permitted in environmentally sensitive areas under carefully controlled conditions. Detailed exploration and development operations will not be permitted in areas where the environment and plant and wildlife cannot be properly protected and where reclamation of any disturbed land is not possible.

Environmental impact assessments will be required from those proposing major developments and these will be available to public scrutiny and discussion at both specially convened public disclosure meetings and formal public hearings conducted by the Energy Resources Conservation Board. All operations will be subject to the environmental standards and conditions of The Clean Air Act, The Clean Water Act, The Land Surface Conservation and Reclamation Act and The Water Resources Act. Approvals under environmental legislation will be granted only under conditions where all appropriate measures are taken for the protection of the environment and where environmental standards and criteria are not exceeded. A developer will be expected to absorb all costs attributable to his project of protecting the environment both during and upon completion of operations.

3.2 Compatibility with other Land Uses

The Government recognizes the importance of Alberta's land resources for agriculture, recreation, forest products and wildlife, and is determined that proper attention be given to these alternative uses in the consideration of coal development projects. Some coal developments may be carried on with little disturbance of the land surface; others may involve the progressive disturbance of several square miles at any one time with reclamation immediately to follow production operations. Only where the temporary withdrawal of the land from agricultural, recreational or other use for coal development is judged to be in the public interest, and where full reclamation is assured, will the Government authorize developments which would cause land disturbance.

3.3. Rights of Owners of Surface Land

The rights of the owners of surface land are recognized and will be respected along with those of owners or lessees of coal resources. Holders of rights to coal who do not own the surface will be expected to negotiate with the owners and occupants of the surface for consent to enter and for the temporary use of the land. Should negotiations fail, application may be made under The Surface Rights Act to the Surface Rights Board. The Board would hold a hearing on the application at which representations from the surface owner, lessee or occupant and any other interested party would be received. Where the Board grants a right of entry order it also determines what compensation should be paid and to whom. In determining the compensation the Board may consider a variety of matters, including the value of the land, the loss of use by the owner or occupant, adverse effects on the owner or occupant and damage to the land.

3.4 Land Surface Reclamation

The primary objective in land reclamation is to ensure that the mined or disturbed land will be returned to a state which will support plant and animal life or be otherwise productive or useful to man at least to the degree it was before it was disturbed. In many instances the land can be reclaimed to make it more productive, useful, or desirable than it was in its original state; every effort will be made towards this end.

The Land Surface Conservation and Reclamation Act requires the filing of an Environmental Impact Assessment as well as acceptable detailed mining and reclamation plans before approval to proceed with mining is granted. In addition, a security deposit based on the degree of disturbance and the quantity of coal produced will be required to ensure complete and satisfactory compliance with the regulations and approvals.

Land reclamation will include the contouring of the mined or disturbed lands, the replacement of the top soil, revegetation for soil stabilization, biological productivity and appearance, and suitable maintenance of the vegetation or, where appropriate, the conversion of the land to agricultural or other desirable use. Where applicable it will also include the replacement or rehabilitation of those facilities or features which were disrupted during the mining process and which are required to return the land to its former use. Since each reclamation program will be especially designed to suit the projected future use of the land, it will be necessary to establish this future use early in the review process. Representations will be invited from interested persons, especially any affected landowners and municipal governments.

The Government will accelerate its current reclamation program on lands which were mined prior to effective reclamation legislation in 1973 with the objective of rendering the lands suitable for further beneficial uses. It will expect the coal industry to assist in this program.

3.5 Use of Alberta Manpower, Services, Materials and Equipment

As a matter of policy the Government requires the maximum practical development and use of Alberta manpower, services, materials and equipment in all aspects of resource development, from initial planning and design through construction to final operation. Companies planning new coal developments must demonstrate that all efforts have been made to comply with the Government's policy in this regard.

This means, for example, that Alberta-based engineering and construction firms are to be given every opportunity to participate in the planning and conduct or operation of coal exploration and development projects, in the design and construction of equipment and plants, and in the related environmental protection and reclamation programs. Where local expertise is lacking or is only partly developed, developers will be expected to work with trade and professional associations and the Government to ensure that Albertans are given the opportunity to acquire the necessary skills and build their capability for future needs.

The same principle applies to the provision of services, materials and equipment, including the design, construction and operation of facilities for manufacturing or fabricating essential materials and equipment in Alberta.

3.6 Townsites and Infrastructure

The Government is aware of the critical importance to any expansion of the coal industry of the availability of townsites, residences and commercial activities as well as schools, hospitals and community services. Also the Government is aware of the impact on a community of the kind of industrial development represented by the coal industry. The Government will encourage the improvement and growth of existing towns and

facilities rather than the development of entirely new ones. It recognizes the weaknesses of "one-company" or even "one-resource" based communities and will promote economically feasible diversification wherever possible. The Government solicits the support of the coal industry in this regard and requests potential developers to propose projects which incorporate diversified activites. It agrees with the report of the Grande Cache Commission (Crump report) in recognizing that "reincarnation of the company town would .... be extremely unwise but the assumption of some of the financial risk of building the town by the company might not be."

3.7 Transportation

The Government recognizes the vital role of transportation in the marketing of coal and will continue to support industries' efforts with the railways and the Government of Canada to ensure that planning and development of rail capacity keeps pace with needs and that freight rates are realistic. While some extension and upgrading of existing roads, bridges and railways will be inevitable, the Government believes that most of the desirable new developments can be approved for areas now reasonably well provided with transportation service. Where entirely new facilities are needed primarily for the use of a coal development, the Government would expect the developer to pay their full cost. In keeping with the concept of diversification of economic activity for improved stability of the towns which will serve the expanded coal industry, the transportation system will be developed having in mind diversified industrial growth.

3.8 Royalty on Crown Coal - Taxes on Freehold Coal

Alberta will levy a realistic royalty on all coal produced from Crown leases and will levy a property tax on coal contained in producing freehold properties.

A new schedule of royalties payable on all coal produced from Crown leases and used or marketed becomes effective July 1, 1976. Barring any major disruption of the economy or action of another government having a major impact upon revenues to the producer, the Government will plan to continue the use of the basic formula without change for a ten-year period.

Under The Mines and Minerals Act royalty is payable at the discretion of the Crown in kind as a percent of the quantity of coal used or marketed or in dollars as a percent of the deemed value of the coal used or the revenue received from the coal marketed. Where the Government is satisfied with the conditions of sale arranged by a lessee for the lessee's share of production, the Government may not take its royalty in kind and may request the lessee to market the royalty share of production along with the lessee share.

To recognize the high expenditures which must be made by a developer before revenues are produced, there will be a "phase-in" period of 36 months from the start of commercial operations during which the rate of royalty will be increased in steps from a low initial level to the normal level. The royalty will increase each 12 months over this period from 25 to 50, to 75 and finally to 100 percent of the normal level.

The normal royalty rate will be determined by a formula designed to ensure a fair share of revenues both to the developer and to the Alberta Crown under any reasonably foreseeable combination of investment level, operating costs, production levels and coal prices.

The formula will provide for a normal royalty rate which;

(a) will not seriously restrict the rate of return to the investor in viable projects when total revenues only marginally exceed costs,

(b) will provide the Crown with approximately a one-third share of the total revenue under circumstances where the total revenue sufficiently exceeds the costs to provide a rate of return to the developer adequate to stimulate further exploration and development, and

(c) will provide the Crown with an increasing share of the total revenue when the return to the developer exceeds the rate mentioned above.

Details of the formula are given in Appendix 1.

To ensure that the people of Alberta receive appropriate revenue from those coal reserves which are privately held, the Government will act under The Freehold Mineral Taxation Act and, effective January 1, 1977 will levy a property tax on those coal resources which are generating revenues to their owners. The tax will be based upon an assessed value of freehold coal property. Details of the assessment procedure will be developed in the near future and presented in regulations.

3.9 Opportunity for Equity Participation by Albertans

The Government has recognized the need to provide individual Albertans with an opportunity to invest in the development of the Provinces's energy and natural resources through creation of the Alberta Energy Company. As a matter of principal it believes that Albertans should be able to participate in the equity ownership of such resource developments.

The Government expects that many Albertans would welcome the opportunity to invest in the growth of Alberta's coal industry either directly or through the Alberta Energy Company. Consideration will therefore be given to the degree to which a developer proposes to provide this opportunity and, for developments involving Crown leases, project approval will be conditional upon the manner and degree of equity participation available to Albertans. It is assumed that such equity participation would commence immediately following project approval and would share in both the risk and profit.

3.10 Timing of Developments

The Government recognizes that it may not be in Alberta's best interests that each major industrial development proceed within the time frame which the developer proposes and that some Government adjustment

of the scheduling of projects may be necessary in recognition of such factors as the market situation, the assurance that Alberta's own requirements for coal are met, the prevention of a peaking of demand for capital available for Alberta projects, the supply for manpower, services, materials and equipment available in Alberta and the availability of adequate infrastructure. For these reasons the Government will exercise an overall control on the time when major coal (and other) developments are permitted to proceed.

Should the Government find it desirable in the public interest to require the deferral of a proposed development meeting other requirements of this policy, lease rentals and work requirements on affected Crown properties would be suspended for the period of the deferral.

3.11 Overall Benefit to Alberta

A fundamental feature of the Government's policy is that no coal development will be permitted to proceed unless in its overall economic and social impact it is clearly beneficial to Alberta. This will be ensured by requiring that any proposal for a significant coal development be supported by a detailed Cost-Benefit and Social Impact Analysis which will be assessed by the appropriate departments and agencies of the Government and finally by the Executive Council. The analysis and assessment will incorporate the results of an Environmental Impact Assessment and will evaluate and weigh all significant direct and indirect benefits against all significant direct and indirect costs or adverse effects. Consideration will be given not only to those costs and benefits which are measurable in dollars but also to the more subjective, social costs and benefits.

In order that consideration of proposals for development may proceed on a co-ordinated basis and that worthy projects will not be unduly delayed, an applicant for project approval will be required to file a Cost-Benefit and Social Impact Analysis, an Environmental Impact Assessment and a

Development and Reclamation Plan simultaneously with the Technical Application under The Coal Conservation Act. The Environmental Impact Assessment and the Development and Reclamation Plan will be reviewed by all concerned departments with the appraisal being co-ordinated by the Department of the Environment. The Department will also be responsible for considering the specific applications under the environmental legislation.

Appraisal of the Cost-Benefit and Social Impact Analysis will involve all concerned departments of the Government and the Energy Resources Conservation Board and will be co-ordinated by the Department of Energy and Natural Resources.

3.12 Granting of Rights to Explore for Coal

Rights to explore for coal under public lands may be granted whether or not an applicant has the leasehold right to produce the coal from under the lands but will only be granted under conditions which will ensure no significant adverse environmental impact.

The right to enter on the surface of public lands is granted under The Public Lands Act; approval must be obtained from the Local Authority to use public roads or road allowances. Control of the actual exploration activity and all associated operations on public lands is exercised primarily through The Coal Conservation Act, The Geophysical Regulations (under various acts), and The Land Surface Conservation and Reclamation Act. The provisions of The Clean Air Act, The Clean Water Act, The Water Resources Act, The Forests Act 1971 and The Forest and Prairie Protection Act must also be complied with.

Rights to explore for coal under private lands (whether the coal is owned by the Crown or otherwise) may also be granted separately from the right to produce the coal. The right of entry to the surface must be negotiated with the surface owner. The actual exploration activity and associated operations in the field will be made subject to much the same control as on public lands.

3.13 Classification of Lands for Coal Exploration and Development

Having regard to the questions of environmental sensitivity, alternate land uses, potential coal resources and the extent of existing development of townsites and transportation facilities, the Government has classified Provincial lands into four categories with respect to coal exploration and development:

Category 1 in which no exploration or commercial development will be permitted. This category includes National Parks[a], present or proposed Provincial Parks[b], Wilderness Areas[c], Natural Areas[d], Restricted Development Study Areas[e], Watershed ~~Research~~ Study Basins[f], Designated Recreation Areas[g], Designated Heritage Sites[h], Wildlife Sanctuaries[i], settled urban areas and major lakes and rivers. These are areas for which it has been determined that alternate land uses have a higher priority than coal activity. Category 1 also includes most areas associated with high environmental sensitivity; these are areas for which reclamation of disturbed lands cannot be assured with existing technology and in which the watershed must be protected.

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a. *National Parks are those areas established under The National Parks Act.*

b. *Provincial Parks are those areas established by Order in Council under The Provincial Parks Act. Also included is Willmore Wilderness Park which is established by The Willmore Wilderness Park Act.*

c. *Wilderness Areas are those areas established under The Wilderness Areas Act.*

d. *Natural Areas are those areas set aside for that purpose by Order in Council under either The Public Lands Act or The Provincial Parks Act.*

e,f. Restricted Development Study Areas and Watershed Research Study Areas are lands set aside by Alberta Energy and Natural Resources at the request of other departments and agencies for the purposes of conducting research or preparing detailed land use plans. Examples are the Cooking Lake Study, the Cache Percotte Forest Reserve and the Marmot Basin Watershed Study Area.

g. Designated Recreation Areas include Alberta Forest Service Recreation Areas, Alberta Transportation Campgrounds, municipal and regional parks and intensive recreation facilities such as ski hills.

h. Designated Heritage Sites are those lands designated as registered heritage sites, classified heritage sites and heritage monuments by Ministerial Order or Order in Council under The Alberta Heritage Act, 1973.

i. Wildlife sanctuaries are those lands set aside as bird sanctuaries and game preserves by Order in Council under The Public Lands Act.

Category 2 in which limited exploration is desirable and may be permitted under strict control but in which commerical development by surface mining will not normally be considered at the present time. This category contains lands in the Rocky Mountains and Foothills for which the preferred land or resource use remains to be determined, or areas where infrastructure facilities are generally absent or considered inadequate to support major mining operations. In addition this category contains local areas of high environmental sensitivity in which neither exploration or development activities will be permitted. Underground mining or in-situ operations may be permitted in areas within this category where the surface effects of the operation are deemed to be environmentally acceptable.

Category 3 in which exploration is desirable and may be permitted under appropriate control but in which development by surface or undergound mining or in-situ operations will be approved subject to proper assurances respecting

protection of the environment and reclamation of disturbed lands and as the provision of needed infrastructure is determined to be in the public interest. This category covers the Northern Forested Region and eastern portions of the Eastern Slopes Region shown in Map 1 of Appendix 2. It also includes Class 1 and Class 2 agricultural lands[a] in the settled regions of the Province. Although lands in this category are generally less sensitive from an environmental standpoint than the lands in Category 2, the Government will require appropriate assurances, with respect to surface mining operations on agricultural lands, that such lands will be reclaimed to a level of productivity equal to or greater than that which existed prior to mining.

Category 4 in which exploration may be permitted under appropriate control and in which surface or underground mining or in-situ operations may be considered subject to proper assurances respecting protection of the environment and reclamation of disturbed lands. This category covers the parts of the Province not included in the other three categories.

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a. *As classified by the Canada Land Inventory soil capability for agriculture system.*

Table 1 presents a summary of the classification system and the extent of exploration and development permitted in the four land categories. A further description of the Categories and two maps related to them are given in Appendix 2.

The Government emphasizes that the present classification, while based upon the best available knowledge, is subject to review in the light of changing knowledge and new technology related to environment protection, reclamation and mining methods. The Government will consider documented applications for reclassification of lands from any interested persons. Such applications should be addressed to the Minister of Energy and Natural Resources with a copy to the Minister of the Environment.

It is also important to note that lands in Category 2, 3 or 4 are not automatically open to exploration nor are lands in Category 3 or 4 automatically open to exploration and development. Each application for rights to explore, for leases to Crown coal rights and for authorization for development will be considered on its own merits through the procedure outlined in Section 4.1, 4.2 and 4.3. Particular care will be taken in the appraisal of applications for exploration or development in productive or potentially productive agricultural areas.

	CATEGORY 1 (Mountains & Other)	CATEGORY 2 (Mountains & Foothills)	CATEGORY 3 (Plains & Northern)	CATEGORY 4
CRITERIA	*Includes areas for which:* 1. Alternative land uses have been established not reconcilable with coal operations. 2. Environmental sensitivity is high.	*Includes areas in the Foothills and Mountains for which:* 1. The preferred land or resource use remains to be determined. 2. Environmental sensitivity is moderate, except for specific situations of high sensitivity. 3. Infrastructure facilities are generally absent.	*Includes areas outside of the Foothills and Mountains for which:* 1. Potential land use conflicts remain to be resolved, especially with respect to agricultural lands. 2. Environmental sensitivity is not critical, except for specific situations. 3. Infrastructure facilities are generally absent or only partly developed.	*Includes all areas not placed in Categories 1, 2 and 2A*
EXPLORATION	None	Limited exploration permitted under strict control.	Exploration permitted under normal approval procedures.	Exploration permitted under normal approval procedures.
DEVELOPMENT	None	Restricted development - underground or in-situ only.	Restricted development.	Development permitted under normal approval procedures.
EXISTING LEASES	1. Sell back to Government or 2. Continue to expiration of term. *	1. Sell back to Government or 2. Continue with option to renew.	1. Sell back to Government or 2. Continue with option to renew.	Continue with option to renew.
NEW DISPOSITIONS	None	1. Applications for leases accepted where exploration approved. 2. Leases issued where development approved.	1. Applications for leases accepted where exploration approved. 2. Leases issued where development approved.	Leases issued.

* but without option to renew except in certain leases originally granted by Canada.

TABLE 1

SUMMARY OF CLASSIFICATION OF ALBERTA LANDS FOR PURPOSES OF COAL EXPLORATION AND DEVELOPMENT

3.14 Submission of Results of Exploration

The Coal Conservation Act and regulations under it require the full submission to the Energy Resources Conservation Board of the results of exploration activity. This includes samples, cores, test data, surveys logs and other relevant data or information. These data are of vital importance in appraising the extent of Alberta's coal reserves. This information is kept confidential for a period of time and then becomes available to the public.

3.15 Restrictions on Existing Leases; Lease Purchase by the Government

The Government recognizes that the restrictions now imposed on exploration and development in the areas classified as Category 1, 2 or 3 will affect persons holding Crown leases in areas in those categories and is prepared to purchase such leases for sums commensurate with expenditures which have been made with respect to them by the lessees. The Government requests holders of such leases in Category 1 to sell them back to the Government on this basis. Leases not sold will be subject to normal rental payments but will not be renewed* on expiry of their terms.

Holders of Crown leases in Categories 2 and 3 may also sell their leases back to the Government. Alternately, they may continue to hold them on payment of normal rentals, recognizing the restrictions on development, and may expect them to be renewed on application.

Where the Government buys back Crown leases in areas in Categories 1, 2 or 3 it will do so on the basis of approved expenditures, adjusted to a current dollar basis, plus interest.

Where freehold rights to coal and leases of such rights are affected by the restrictions on exploration and development imposed by Categories 1, 2 and 3, the Government is prepared to purchase the lessor rights at fair value determined by agreement or arbitration, and to acquire any lessee rights on the same basis as for lessees of Crown rights.

Where the Government purchases leases as described above the results of any exploration work done on the leases will immediately be released to the public.

* *except for certain leases originally issued by Canada.*

3.16 Granting of Leases for Development

About 80 percent of the coal resources of Alberta are owned by the Crown in the right of Alberta. The remaining privately owned 20 percent are located mainly in the central and southern settled regions of the Province.

Leases of Crown coal rights granting the right to produce the coal (subject to all applicable regulatory requirements) are issued under the provisions of The Mines and Minerals Act; such leases have an initial term of 21 years and require payment of an annual rental of $1 per acre per year.

The Government has recognized that the leasing of Crown coal rights must accord with general land use and resource development policies applicable to all public lands in Alberta. Consequently since June, 1973 Crown coal leases have not been granted in areas such as the Eastern Slopes where long-term resource development policies have been under review. Elsewhere in the Province, leases of Crown coal rights have been granted only after review by an inter-departmental referral committee, and only in areas where it seems likely that exploration and development activities can meet strict environmental protection and reclamation standards.

In keeping with this policy, new coal leases will be granted only in areas where a reasonable likelihood exists that commercial mining operations will be permitted in the foreseeable future, subject to normal approval and regulatory procedures. Time-dated applications for new leases in Category 2 or 3 lands will be received and given preference in the order of receipt if and when the lands are reclassified as Category 4 or a specific development is approved. The possible need for the issuance of exploration permits will be considered.

The effect of the land classification system on existing leases and new dispositions is summarized in Table 1.

New leases and renewals will be issued for initial or renewal terms of 15 years.* The right of lease renewal will be assured to lease holders who

* *except with respect to certain lands originally issued by Canada where the renewal term will remain 21 years.*

commence or receive approval for commercial development. This will apply to all leases covered by the project approval. New leases and renewals will be subject to annual rental payments at the present rate of $1 per acre, but holders of them may be required to conduct satisfactory programs of detailed reserves appraisal unless commercial operations are underway. The results of the appraisal would be submitted both to the Department of Energy and Natural Resources and to the Energy Resources Conservation Board.

3.17 Regulation to Ensure Safe and Efficient Development Without Waste

In addition to ensuring against adverse environmental impact the Government, through the provisions of The Coal Conservation Act and The Coal Mines Safety Act, and regulations, orders, permits and licences under them, will ensure that all coal mining and processing operations are carried out with full regard for safety and industrial health, efficiency, and the maximum practical recovery without waste of the coal resources being tapped.

Proper operations are ensured not only by the requirements of regulations and orders and the conditions of permits and licences but by actual field inspection by trained personnel of the Energy Resources Conservation Board. These inspectors co-operate with personnel of the Departments of the Environment and Energy and Natural Resources to ensure compliance with conditions relating to the protection of the environment and of the renewable resources.

3.18 Efficient Use of Coal in Alberta - Maximum Upgrading

In order to secure maximum benefit to Alberta from coal mining and processing activity, Government policy will require that so far as practical and beneficial to the Province, processing for the purpose of upgrading coal or any coal product to market specifications be undertaken in Alberta. This policy will apply to all types of coal as well as to secondary processing of all major products that are or may in future be obtained from coal by gasification, liquefaction or other forms of treatment.

The extent of processing that should be undertaken in Alberta in connection with any particular development will be assessed under the provisions of The Coal Conservation Act, having regard both for market opportunities and for all relevant environmental, technical, economic and social aspects of the proposals. The Energy Resources Conservation Board will determine to what extent potentially useful by-products from any project, if not immediately saleable, should be stockpiled and conserved for future marketing.

3.19 Appraisal and Protection of Alberta's Requirements

The protection of a supply of coal of suitable quality and suitably located which may be recovered at reasonable cost and which is adequate for Alberta's present and all foreseeable future needs will be assured. This applies to requirements for present and future thermal power plants; future metallurgical operations; future other industrial requirements including petrochemical operations; future surface and in-situ gasification operations; and future coal liquefaction operations.

The protection will be assured under the provisions of The Coal Conservation Act by the Energy Resources Conservation Board through periodic assessments of Alberta's coal requirements made following public hearings and continuing appraisals of the proved and available reserves of coal in each of its major types. The Board will also ensure that the most appropriate deposits, having regard for location and costs, are made available for the generation of electric energy for Alberta. Permits for mining developments to serve markets outside Alberta will only be granted where it is found in the public interest, having regard to the present and future requirements for coal in Alberta.

If for the protection of Alberta's future requirements it should be found necessary to deny a proposed earlier development meeting other require-

ments of this policy, lease rentals and work requirements on affected Crown properties would be suspended until development was authorized.

3.20 Supply for Canadian Markets Beyond Alberta

The Government recognizes that Alberta's coal resources will play an increasing important role in meeting essential energy demands in other parts of Canada. The Government will therefore be prepared under the provisions of The Coal Conservation Act to consider proposals for development of new coal mining and processing facilities that may from time to time be needed in order to help meet Canadian demands.

Developments to meet Canadian markets beyond Alberta will be authorized only if they meet all normal requirements, are in the Alberta public interest and provided that they are compatible with the protection of Alberta's present and future requirements.

To ensure stability of supply and avoid unduly rapid depletion of a particular grade of coal, or of a particular coal deposit, preference may be given to projects designed to produce and market an appropriate blend of different coals.

3.21 Supply to Foreign Markets

Where it appears to be in the Alberta public interest, the Government will consider proposals for new coal mining and processing development from which thermal and metallurgical coal can be supplied to foreign markets under suitable contractual arrangement. These will be considered under the provisions of The Coal Conservation Act.

Developments for foreign markets will also have to meet all normal requirements as described elsewhere and be compatible with the protection of Alberta's present and future requirements.

3.22 Pricing and Marketing

It is not the Government's intention at this time to intervene in prices or other marketing arrangements determined by contract between the producer and buyer of coal, provided they are compatible with overall government policy and the provision of applicable legislation, regulations and orders. The Government will however require that provision be made, in all future contracts for the sale of coal for delivery outside the province, for price review and possible redetermination at two-year intervals. The Government will arrange for a regular confidential monitoring by the Department of Energy and Natural Resources or the Energy Resources Conservation Board of the prices of coal sold under contract for markets outside Alberta. Should a situation develop where in the Government's view a fair price is not being received for coal shipped from Alberta, the Government will intervene as appropriate.

3.23 Manpower Training

In order to enable Albertans to avail themselves of employment and career opportunities in coal exploration and development activities, and to alleviate potentially serious shortages of qualified manpower the Government will keep itself informed on the projected manpower needs for the industry and take such measures as may be required to assure the adequacy of training facilities.

The Government will expect the coal industry and related enterprises to develop or expand on-the-job training programs and to afford employees suitable opportunities of skill-upgrading programs.

3.24 Research and Development

The Government recognizes that efficient development and use of Alberta's coal resources will depend on continued and increased research and on the exchange of scientific and technical information with the coal industry and government agencies elsewhere.

To help generate up-to-date information on the location, extent and characteristics of Alberta's coals, and to assist the development of new or improved technologies for extracting, processing, transporting and using the various kinds of coal found in the province, the Government will therefore continue to support resource appraisal programs by the Energy Resources Conservation Board and coal-related research projects at the Alberta Research Council. Through detailed discussions with industry, the Government will also assess what additional investigations and test facilities may from time to time be required to meet Alberta's needs and, where desirable, participate in specific studies and in the establishment of additional facilities.

The Government will take steps to ensure that Alberta is an active party to current and future international technology exchanges, and that relevant scientific and technical advances made elsewhere are available for detailed assessment and possible use in Alberta.

4. Administrative Procedures

4.1 Acquisition of Exploration Rights

Subject to the overall policy guidelines discussed in Section 3.12 rights to explore for coal underlying public lands may be granted, whether or not an applicant has the leasehold right to produce coal, following:

1. application under The Public Lands Act to enter on the surface;
2. application under The Coal Conservation Act for approval of the exploration program if it involves the drilling of holes 500 feet or greater in depth or the driving of adits;
3. application under The Land Surface Conservation and Reclamation Act and The Water Resources Act where applicable;
4. application to the appropriate Local Authority for the use of public roads or road allowances.

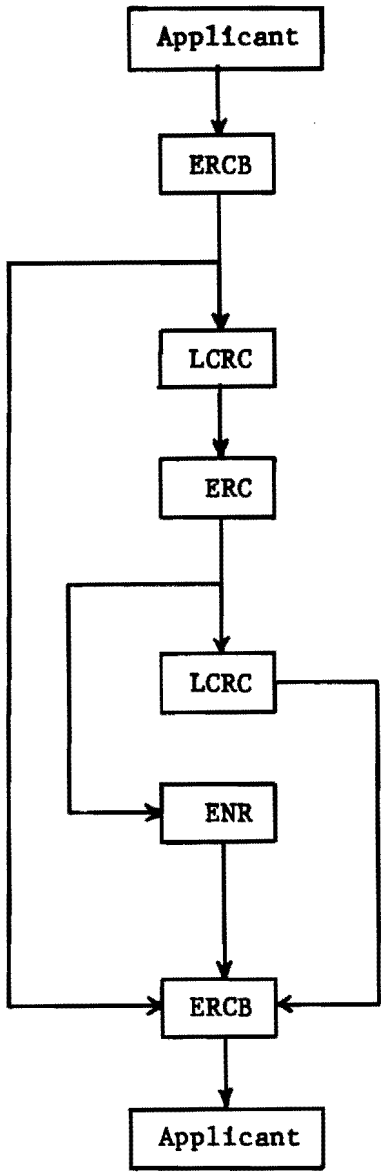
Compliance with the provisions of The Geophysical Regulations of The Mines and Minerals, The Public Lands, The Forest, and The Public Highways Acts is required for any exploration program which involves geophysical testing.

A procedure which permits a co-ordinated review by the Energy Resources Conservation Board and the departments most directly concerned has been developed over the past several years. This will be continued. The Energy Resources Conservation Board will continue to issue the consolidated approvals. The approvals will be subject to terms and conditions designed to meet the individual circumstances. A security deposit will be required for each program to ensure satisfactory reclamation of disturbed sites.

The overall procedure is indicated in Chart 1.

Approval to explore for coal underlying private lands requires the consent of the surface owner to enter the lands or, where the rights to the

coal are held by the explorer, the consent of the owner of the surface or an authorizing order of the Surface Rights Board. Applications as described under items 2, 3 and 4 above are also required. The procedure for handling the applications is the same as that for public lands, as described in Chart 1, except that no application is required under The Public Lands Act.



- makes application to Energy Resources Conservation Board.
- supplies copies of application to Land Conservation and Reclamation Council; considers application from technical viewpoint.
- distributes copies of applications to members of Exploration Review Committee.
- reviews application and makes recommendation re entry on public lands where they are involved and on all environmental matters; defines field inspection service.
- reviews and approves environmental conditions; approves amount of security deposit.
- issues right to enter on public lands where they are involved. (This is co-ordinated with environmental approval and security deposit.)
- issues consolidated approval for overall program.
- proceeds with exploration program.

ABBREVIATIONS

ERCB	*Energy Resources Conservation Board*
LCRC	*Land Conservation and Reclamation Council*
ENR	*Department of Energy and Natural Resources*
ERC	*Exploration Review Committee representing Departments of Energy and Natural Resources, Environment, Recreation, Parks and Wildlife, the Energy Resources Conservation Board and others.*

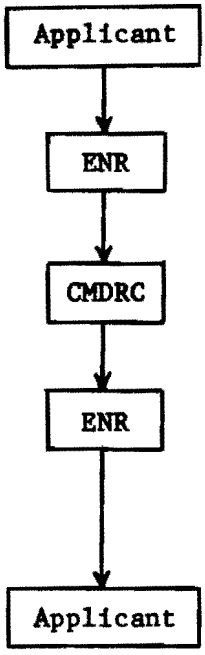
CHART 1

PROCEDURE FOR OBTAINING AUTHORIZATION TO CONDUCT EXPLORATION FOR COAL

4.2 Acquisition of Leases of Crown Coal Rights

Applications for leases of Crown coal rights, which convey the right to produce coal from Crown lands, subject to all applicable legislation and regulations, are made to the Department of Energy and Natural Resources under the provisions of The Mines and Minerals Act. When the rights applied for are available for disposition and their granting conforms with the general policy on leasing described in Section 3.12, the Department would, as now, refer the application for a recommendation to a Crown Mineral Disposition Review Committee representing the Department, the Energy Resources Conservation Board, the Department of the Environment and other concerned departments. The Department reviews the recommendation, and subject to any appropriate restrictions on exploration or development activities on the lands, may issue the lease in conformance with the provisions of The Mines and Minerals Act. Should there be wide interest in the acquisition of available rights the Department may establish a system of competitive bidding for them.

The procedure is illustrated in Chart 2.



- makes application to Department of Energy and Natural Resources.
- refers application to members of Crown Minerals Disposition Review Committee.
- reviews, submit recommendations including any restrictions or conditions.
- considers recommendations, decides upon application; if favourable issues lease with restrictions or conditions as appropriate.
- receives lease.

ABBREVIATIONS

ENR	*Department of Energy and Natural Resources*
CMDRC	*Crown Minerals Disposition Review Committee representing the Energy Resources Conservation Board, the Departments of Energy and Natural Resources and Environment, and other concerned Departments.*

CHART 2

PROCEDURE FOR OBTAINING LEASE OF CROWN COAL RIGHTS

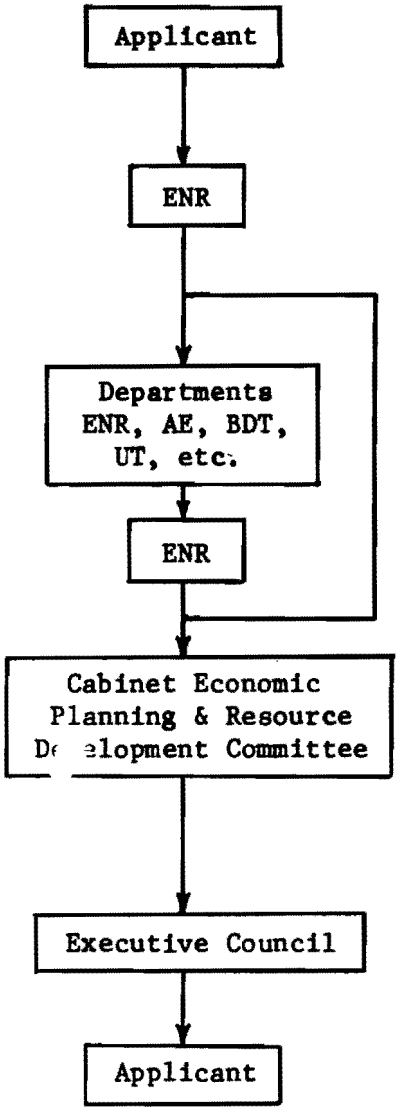
4.3 Authorization for Development

4.31 Preliminary Disclosure of Development Plan to Government

The Government recognizes the long lead time between the initial formulation of a plan to develop a coal mine and the first commercial production from it. It is also aware that a good portion of the lead time relates to the preparation and consideration of applications to government departments and agencies and finally to the decision of the Government on the overall aspects of the project. There is little which can be done to shorten the time for the necessary detailed consideration of applications by departments and agencies of the Government. On the other hand the Government believes that it could be helpful to potential developers if, on the basis of a preliminary disclosure of the development plan, the Government were to indicate whether it had objections in principle to the plan, its timing or any of its essential features; or alternatively whether it found the plan generally satisfactory providing it could meet the various tests of the departments and agencies. Accordingly the Government is prepared to receive, review and comment upon a Preliminary Disclosure. The Preliminary Disclosure in no way supplants the need for the Disclosure to the Public (Section 4.32) or the formal applications under the controlling legislation (Section 4.33). The purpose of the Preliminary Disclosure is to indicate whether, assuming all departmental and agency requirements were met, the Government would give consideration to the project in the general form and at the time proposed.

Where the Government rejects a development proposal following the Preliminary Disclosure, it will be prepared to buy back the Crown leases affected on the basis discussed in Section 3.15. If the Government requires that the project be deferred it will waive lease rentals and any work requirements during the period of the deferral.

An outline of the procedure for submission and consideration of a preliminary disclosure is given in Chart 3.



- submits preliminary disclosure of project indicating scope, timing, overview of environmental impact, benefit to Alberta, etc.

- distributes disclosures and requests comments from deputy ministers on broad features of the proposal subject to later consideration of detail.

- submits comments.

- prepares summary of comments and recommendation, submits.

- reviews comments and recommendations, advises Executive Council whether (a) inappropriate for applicant to proceed at all, (b) appropriate for applicant to defer, or (c) appropriate for applicant to proceed with necessary applications.

- makes decision; informs applicant and, if (a) or (b), informs public.

- makes appropriate business decision whether and if so when to proceed with formal application.

ABBREVIATIONS

ENR	*Department of Energy and Natural Resources*
AE	*Alberta Environment*
BDT	*Department of Business Development and Tourism*
UT	*Department of Utilities and Telephones*

CHART 3

PROCEDURE OF PRELIMINARY DISCLOSURE

4.32 Disclosure to Public

After receiving the Government views following the Preliminary Disclosure, a potential developer is required to make a fairly detailed disclosure of his proposed project to the general public at a suitable convened meeting. This must be done after the Preliminary Disclosure to Government is made and at least 45 days before the formal hearing of an application and supporting material by the Energy Resources Conservation Board. It may suitably be done at the same time as the filing of the detailed technical applications referred to in Section 4.33. Further it may appropriately be supported by much the same documents as are required in support of the technical applications. The supporting documents would be made available to all interested persons well in advance of the meeting.

The public disclosure will be scheduled by, and suitable notice of it will be given by the company after approval of the Deputy Minister of Energy Resources. The Deputy Minister after consultation with the company will select the Chairman of a Public Disclosure Meeting at which representatives of the proposed developer will describe the project and answer questions from the public. No decisions will result from the public disclosure. Its purpose is to provide information to the public so that any interested person will be in a position to later submit his views to the Department of the Environment, the Energy Resources Conservation Board or the Minister of Energy and Natural Resources or other appropriate Minister for consideration at the time of decision-making.

4.33 Detailed Technical Application to the Energy Resources Conservation Board for Permit and Licence under The Coal Conservation Act and Applications to the Department of the Environment for Approvals under Environmental Legislation

Applicants are required to file the following material with the Energy Resources Conservation Board:

1. A detailed technical application under the provisions of The Coal Conservation Act as described in the Regulations;
2. For all major proposed developments, a detailed Cost-Benefit and Social Impact Analysis;
3. For all major or environmentally sensitive proposed developments, an Environmental Impact Assessment under the provisions of The Land Surface Conservation and Reclamation Act and guidelines agreed to by the appropriate departments;
4. A Development and Reclamation Plan under the provisions of The Land Surface Conservation and Reclamation Act as described in the regulations.

Copies of this material are forwarded to the Department of the Environment which then arranges for appropriate interdepartmental review and assessment of the Environmental Impact Assessment and the Development and Reclamation Plan.

For any major or environmentally sensitive development the Board will call a public hearing at which the views of any interested person will be considered. Where important environmental issues are involved, a senior officer of the Department of the Environment will sit as an Acting Member of the Board in the hearing. At the hearing the applicant must be prepared to deal with questions related to the technical aspects of the application, the Cost-Benefit and Social Impact Analysis, the Environmental Impact Assessment and the Development and Reclamation Plan.

Following the hearing the Board reviews the evidence, makes its own analysis as appropriate and comes to its decision on the technical aspects of the application. With respect to the Cost-Benefit and Social Impact Analysis, the Department of Energy and Natural Resources will convene an interdepartmental-agency group representing the Board and appropriate departments of the Government. This group will appraise the Cost-Benefit and Social Impact Analysis. The Board will not make decisions related to the Environmental Impact Assessment or the Development and Reclamation Plan but will advise the Department of the Environment of any views it may have reached on the matter as a result of the hearing and its own technical appraisal.

Where the Board decides that a permit and licence should be issued under The Coal Conservation Act, the Board determines the conditions related to conservation, safety, efficiency and those environmental matters which could affect conservation, safety and efficiency, which should be attached to the permit and licence. Any permit or licence which may be issued by the Board is subject to any further conditions related to matters affecting the environment that may be required by the Minister of the Environment. For projects involving an annual production of over 50,000 tons of coal, the permit and licence of the Board is issued only with the approval of the Lieutenant Governor in Council and such approval may be made subject to further terms and conditions.

The Environmental Impact Assessment and the Development and Reclamation Plan will be considered by the Departments of the Environment, Energy and Natural Resources and all other concerned departments along with any evidence related to it which resulted from the public hearing and any comments on it forwarded by the Energy Resources Conservation Board. The Department of

the Environment will co-ordinate the review and conclusions concerning the environmental aspects of the matter. These take the form of:

(a) possible conditions proposed in connection with the approval of the Minister of the Environment of any permit or licence proposed to be issued by the Energy Resources Conservation Board;

(b) permits, subject to the specific conditions, issued under:

The Clean Air Act

The Clean Water Act

The Land Surface Conservation and Reclamation Act

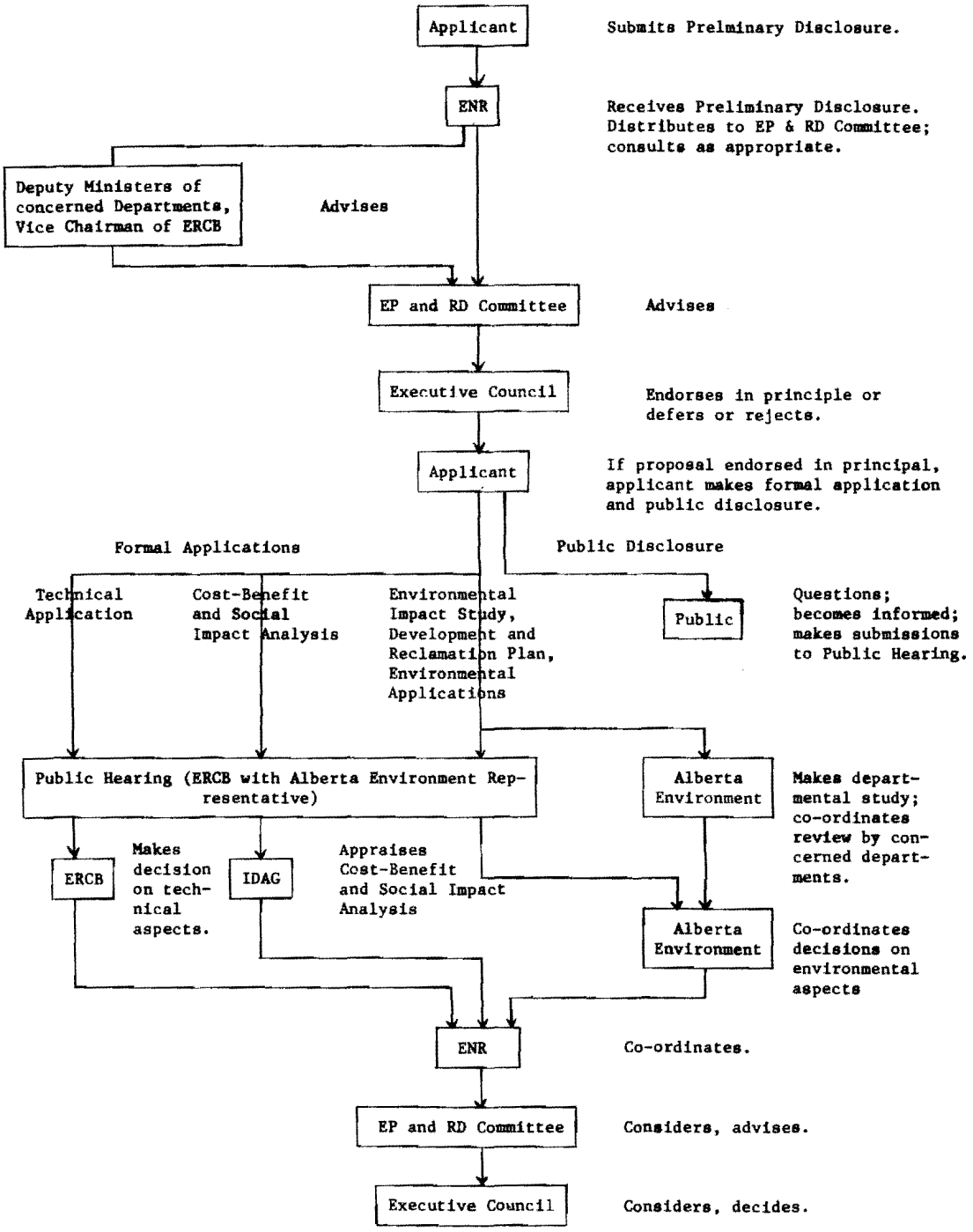
The Water Resources Act where applicable.

(c) the requirement of a suitable security deposit to be fixed in each individual case (depending upon location, topography, overburden and other features) in the range of $0.25 to $2.00 per ton of marketable coal produced subject to some appropriate limit on the total deposit. The portion of the deposit deemed as guarantee for normal land surface reclamation may be accepted in the form of promissory notes, bonds or other like security; any further deposit which may be required because of special features of the situation including the need for any special investigations or field operations may be required in the form of cash or securities.

4.34 Final Approval of Government

To ensure a properly co-ordinated consideration of all aspects of an application by the Government, the decision of the Energy Resources Conservation Board on the technical aspects of a matter, the views of the interdepartmental-agency group on the Cost-Benefit and Social Impact Analysis, and the conclusions of the Department of the Environment will be brought together by the Department of Energy and Natural Resources for the consideration of the appropriate cabinet committees and of the Cabinet itself. The review by the Cabinet Committees and the Cabinet will consider not only the matters dealt with in the formal applications and supporting material but any other matters considered relevant. The Cabinet may decide to approve the project on the terms and conditions set out by the Energy Resources Conservation Board and the Department of the Environment; it may approve it subject to further conditions; or it may not approve it.

The overall procedure for the authorization of a major coal development is shown graphically in Chart 4.



ABBREVIATIONS

EP and RD Committee	*Economic Planning and Resource Development Committee*
ENR	*Department of Energy and Natural Resources*
ERCB	*Energy Resources Conservation Board*
IDAG	*Interdepartmental-agency Group co-ordinated by the Department of Energy and Natural Resources*

CHART 4

PROCEDURE FOR CO-ORDINATED CONSIDERATION OF PROPOSALS FOR MAJOR DEVELOPMENTS

APPENDIX 1

ROYALTY FORMULA FOR COAL PRODUCED FROM ALBERTA CROWN LEASES

EFFECTIVE JULY 1, 1976

The royalty formula is:

$$X = K\left(1 - \frac{C}{R}\right)^2 \text{ or } 5.0 \text{ or whichever is greater.}$$

Where

X = normal royalty rate expressed as percent of total products or of gross revenues;

C = allowed annual direct and indirect costs including depreciation at allowed rate;

R = annual gross revenue from the sale at the point of production of all products;

K = a project characterizing factor defined by the equation:

$$K = \frac{50}{1 + \frac{C}{R}\left(0.30\,\frac{I}{C} - 1\right)}$$

in which I = allowed cumulative investment including working capital.

Allowed investment and costs including depreciation will be defined in regulations. Table 1 and Figure 1 illustrate the range of the royalty rate X for the full range of $\frac{C}{R}$ and part of the range of $\frac{C}{I}$.

Regulations will provide that, under special circumstances including where it is so recommended by the Energy Resources Conservation Board in the interest of conservation and the prevention of waste or loss of recovery of coal, the Minister may waive the requirement of a minimum royalty of 5.0 percent, in which case the royalty would be determined by the formula alone.

Royalty is payable monthly, on actual revenue, 15 days in arrears at a rate of X percent based on estimated values of C, R and I for the calendar year. Royalty adjustment for a calendar year is payable April 30th following, and is based upon the lessee's verified values of C, R and I for the year, the royalty thereupon due, and the royalty actually paid. Shortfalls in payment carry a penalty at an appropriate interest rate. Overpayments will be credited to the royalty due in subsequent months.

RATIO OF ANNUAL COSTS TO TOTAL INVESTMENT, $\frac{C}{I}$	RATIO OF ANNUAL COSTS TO ANNUAL GROSS REVENUE, $\frac{C}{R}$								
	0.1	0.2	0.3	0.4	0.5	0.6	0.7	0.8	0.9
0.1	33.7	22.9	15.3	10.0	6.3	5.0 (3.6)	5.0 (1.9)	5.0 (0.8)	5.0 (0.2)
0.2	38.6	29.1	21.3	15.0	10.0	6.2	5.0 (3.3)	5.0 (1.4)	5.0 (0.3)
0.3	40.5	32.0	24.5	18.0	12.5	8.0	5.0 (4.5)	5.0 (2.0)	5.0 (0.5)
0.4	41.5	33.7	26.5	20.0	14.3	9.4	5.5	5.0 (2.5)	5.0 (0.6)
0.5	42.2	34.8	27.8	21.4	15.6	10.5	6.2	5.0 (2.9)	5.0 (0.8)
0.6	42.6	35.6	28.8	22.5	16.7	11.4	6.9	5.0 (3.3)	5.0 (0.9)
0.7	43.0	36.1	29.6	23.3	17.5	12.2	7.5	5.0 (3.7)	5.0 (1.0)
0.8	43.2	36.6	30.2	24.0	18.2	12.8	8.0	5.0 (4.0)	5.0 (1.1)
0.9	43.4	36.9	30.6	24.5	18.7	13.3	8.4	5.0 (4.3)	5.0 (1.3)
1.0	43.5	37.2	31.0	25.0	19.2	13.8	8.8	5.0 (4.5)	5.0 (1.4)

Table 1

New Royalty Rates (per cent) applicable to Gross Revenue from Coal Production from Alberta Crown Leases effective July 1, 1976. Figures are approximate only - Formula is to be used for exact figures.

Bracketed numbers below entries for minimum royalty of 5 per cent are royalty rates computed from formula.

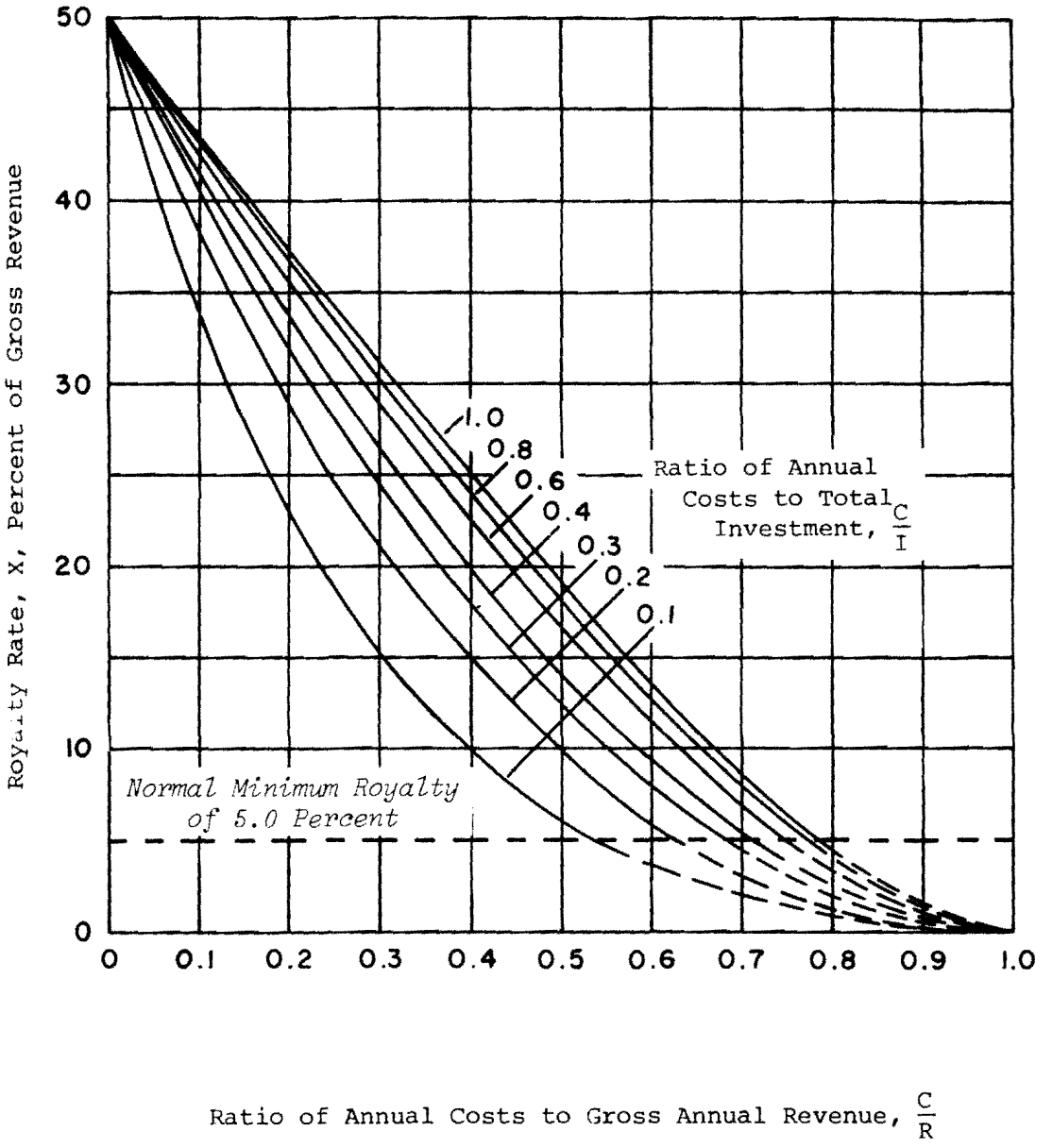


Figure 1

New Royalty Rates Applicable to Coal Production from Alberta Crown Leases effective July 1, 1976. Figures are approximate only - Formula is to be used for exact figures.

APPENDIX 2

ALBERTA LAND CLASSIFICATION FOR PURPOSES OF COAL EXPLORATION AND DEVELOPMENT

Details of the land classification system are shown on Maps 1 and 2. Map 1 is a small scale map of Alberta indicating:

(a) the Settled regions;

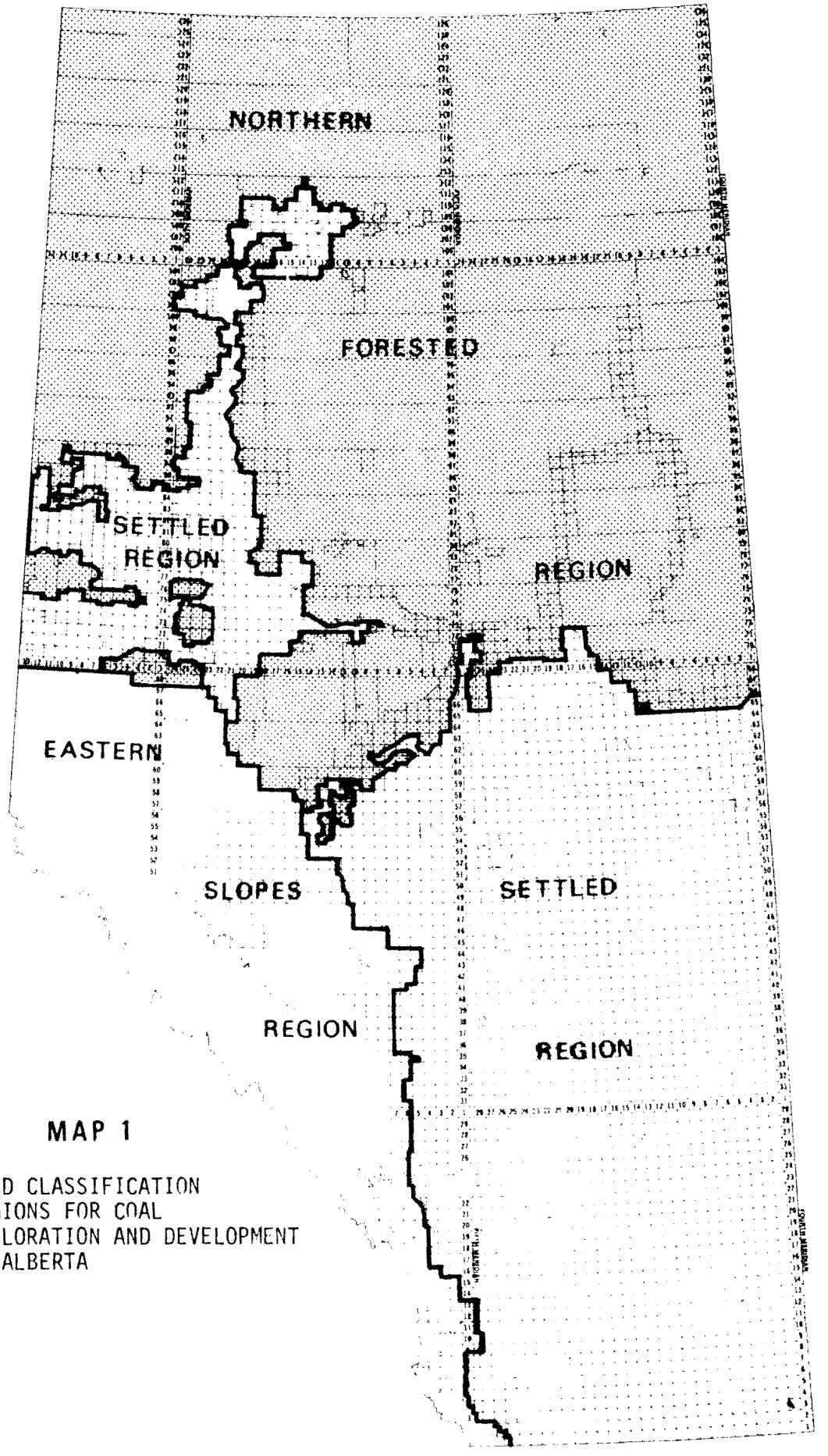
(b) the Northern Forested region; and

(c) the Eastern Slopes region defined by an arbitrary boundary on the east.

The Settled regions include local areas of Category 1 for reasons discussed in Section 3.13 but otherwise are classed as Category 4.

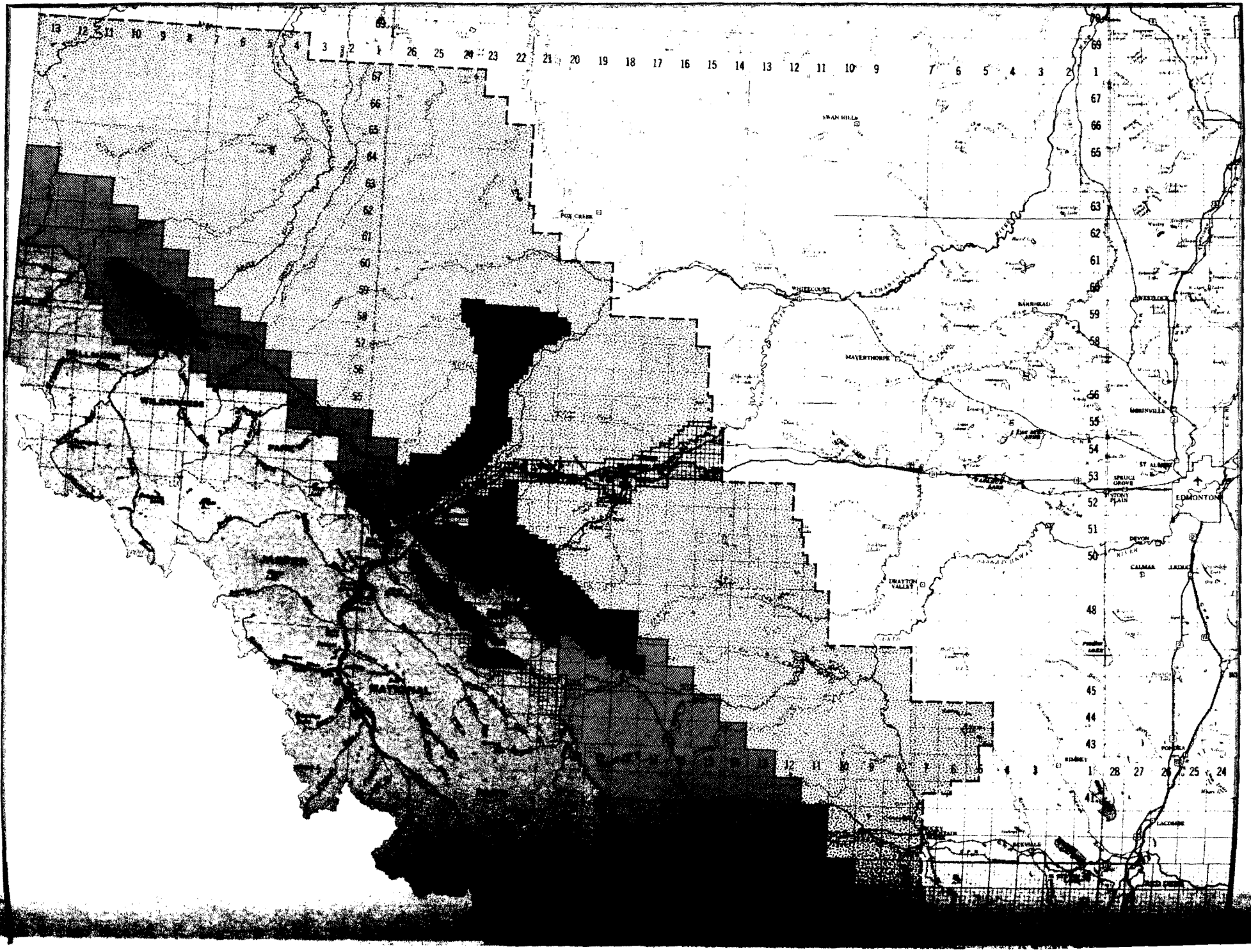
The Northern Forested region also includes local areas of Category 1 but for the most part falls into Category 3.

The lands within the Eastern Slopes region include large areas in Category 1, areas in Categories 2 and 3 and some areas in Category 4. Lands between the true physiographic eastern limit of the Foothills and the arbitrary eastern boundary of the Eastern Slopes region are placed in Category 3. Details of these are given on Map 2.



MAP 1

LAND CLASSIFICATION
REGIONS FOR COAL
EXPLORATION AND DEVELOPMENT
IN ALBERTA


SWAN HILLS
FOX CREEK
WHITECOURT
MAYERTHORPE
BARRHEAD
ST ALBERT
SPRUCE GROVE
STONY PLAIN
EDMONTON
DEVON
CALMAR
DRAYTON VALLEY
RIMBEY
LACOMBE

MAP 2

Alberta

LAND CLASSIFICATION FOR COAL EXPLORATION AND DEVELOPMENT IN THE EASTERN SLOPES OF ALBERTA

- CATEGORY 1*
- CATEGORY 2
- CATEGORY 3
- CATEGORY 4
- OPERATING UNDERGROUND MINE
- OPERATING OPEN PIT MINE
- BOUNDARY OF EASTERN SLOPES

* NOTE: This map identifies only the general areas of Category 1. Reference should be made to the report for a complete listing of the types of lands included in Category 1.

MILES

12 9 6 3 0 36

JUNE, 1976

ALBERTA ENERGY AND NATURAL RESOURCES
ALBERTA ENERGY RESOURCES CONSERVATION BOARD
ALBERTA ENVIRONMENT
CARTOGRAPHY BY AERIAL SURVEYS AND MAPPING BRANCH
BASE MAP PROVIDED BY ALBERTA TRANSPORTATION