

November 6, 2025

Mine 14: It's Worse Than We Thought

By: Nigel Bankes

Matter Commented On: Responsive Records to Access to Information Requests re Mine 14 Decision-Making

An [earlier ABlawg post](#) described the manner in which Rob Morgan, the Chief Executive Officer (CEO) of the Alberta Energy Regulator (AER) unlawfully intervened in the Mine 14 adjudicative process then under the conduct of AER Hearing Commissioners. At the time we suggested that the CEO's decision might have been the result of political pressure brought to bear on Mr. Morgan. The access to information requests discussed in this post strengthen that supposition and also provide evidence of improper communication between Mr. Morgan (and others at the AER) with Vitor Marciano the Chief of Staff of Brian Jean, Minister of Energy and Minerals.

In light of Mr. Morgan's unprecedented decision, the Alberta Wilderness Association (AWA) and the Northern Alberta chapter of the Canadian Parks and Wilderness Society (CPAWS-NAB) [filed access to information requests](#) with the AER seeking:

1. All written communications between AER CEO, Robert Morgan and the office of the Minister of Energy and Minerals, Brian Jean concerning Summit Coal Inc., AER Proceeding 449, and/or Valory Resources Inc. between July 23, 2025 to August 21, 2025.
2. All written communications between AER CEO, Robert Morgan and AER staff members concerning Summit Coal Inc., AER Proceeding 449, and/or Valory Resources Inc. between July 23, 2025 to August 21, 2025.

AWA and CPAWS-NAB have been kind enough to share the responses with me. The key file can be accessed [here](#). While the responses contain significant redactions as well as the repetitive reproduction of material that is already in the public record (such as Valory/Summit's notice of motion to the AER to have the CEO intervene), the record also reveals that Valory's efforts prompted the AER to communicate with the Minister's office in immediate response to Valory's Mine 14 filings.

What Do We Know?

The paper trail begins on August 6, 2025 when Summit filed its [Notice of Motion](#) with the AER asking Mr. Morgan as the CEO of the AER to intervene in the proceedings then under the conduct of the Hearing Commissioners and reconsider and overturn a decision made by those Hearing Commissioners. Later that day Mr. Morgan sent an email entitled "Summit" to Mr. Marciano:

Vitor, hoping to get your input on a discussion Duncan, Sean and I just had.

If you could let us know when would be convenient.

“Duncan” is Duncan Au the chair of the board of the AER, and “Sean” is Sean Sexton, the AER’s General Counsel. Mr. Marciano replies, copying Larry Kaumeyer, the Deputy Minister of Energy and Minerals indicating that Vitor would participate subject to approval from Mr. Kaumeyer.

At around the same time, Mr. Marciano sends an email to Mr. Morgan and Brittany Tobias, Executive Liaison and Chief of Staff with the AER, indicating that Mr. Marciano has the Summit Notice of Motion. Significantly, that email attached correspondence from earlier in the day from Glenn Vassallo, Head of Corporate and Project Finance, Valory Resources to Minister Jean and Mr Marciano. The email is addressed to “Brian and Vitor”, encloses Summit’s Notice of Motion to the AER, and describes the Notice as “the win/win/win for everyone.”

A subsequent email indicated that Mr. Kaumeyer had approved Mr. Marciano’s participation in the proposed call. The paper trail suggests that the parties were able to schedule a meeting on the following morning, August 7. That’s the end of the paper trail. Everything after that is redacted on the basis of a claim to privilege under s 32(1)(a) of the *Access to Information Act*, [SA 2024, c A-1.4](#).

In sum, receipt of Summit’s Notice of Motion triggered Mr. Morgan to arrange a meeting with the Minister’s Chief of Staff. The Deputy Minister approved of Mr. Marciano’s participation in the meeting. Mr. Marciano evidently knew what the meeting would be about. Mr. Morgan’s email to Marciano was entitled “Summit” and Mr. Marciano in turn indicated that he had Summit’s Notice of Motion and even shared Valory’s win/win/win correspondence with Mr. Morgan. That, at the very least, should have given Mr. Morgan and the AER’s legal advisor, Mr. Sexton, cause for concern if they were not already alerted.

What Don’t We Know?

We don’t yet know whether the anticipated meeting actually occurred or who might have attended. Neither do we know (assuming the meeting occurred) what was discussed, although we do know that the meeting was triggered by receipt of Summit’s Notice of Motion. But what could possibly be the purpose of the meeting? The Notice of Motion was directly addressed to Mr. Morgan as CEO of the AER. Why would Mr. Morgan see the need, and as a matter of apparent urgency, to seek a meeting with the Minister’s Chief of Staff unless it was to seek the Minister’s views (or in Mr. Morgan’s words “input”) as to how to handle the Motion?

We also don’t know if this attempt by the CEO of the AER to seek the input of the Minister’s office (or even the reverse, i.e. the Minister’s office initiating contact with the AER) is out of the ordinary or a routine matter with any contentious application.

In my view, any attempt by the CEO to seek input from the Minister’s office about a live application is improper and unlawful, and lays waste to any claim that the AER is an independent decision-maker. The CEO can surely consult their own staff about the disposition of an application (assuming it is properly before them) but to reach beyond the AER to consult with senior political staff is inconsistent with the rules of procedural fairness and affords a third party a role that the legislation does not contemplate. Valory Resources may have thought that their Notice of Motion was a win/win/win for “everyone”, but that everyone certainly did not include CPAWS-NAB,

AWA or the numerous Albertans with concerns about coal development in the Rocky Mountains. In sum, even if, Mr. Morgan had the jurisdiction to reconsider and overturn a decision of Hearing Commissioners in a matter with which they were still seized (which I do not accept, as detailed in our earlier [ABlawg post](#)), his decision is tainted by the involvement of political staff. The question of whether Mr. Morgan had the jurisdiction to intervene in a matter under active consideration by Hearing Commissioners comes before the Court of Appeal on November 6, 2025 on a permission to appeal application brought by AWA and CPAWS-NAB. Stay tuned.

This post may be cited as: Nigel Bankes, “Mine 14: It’s Worse Than We Thought” (6 November 2025), online: ABlawg, http://ablawg.ca/wp-content/uploads/2025/11/Blog_NB_Mine14AER.pdf

To subscribe to ABlawg by email or RSS feed, please go to <http://ablawg.ca>

Follow us on Twitter [@ABlawg](#)

