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Peter Doyle, Director and Chief Executive Officer

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**Montem Resources Alberta Operations Ltd. Tent Mountain Mine - Environmental Impact
Assessment Report Required**

Dear Mr. Doyle:

Further to your correspondence of November 16, 2020, I wish to advise you that the AER has determined that Montem Resources Alberta Operations Ltd. (Montem)'s proposal to conduct mining at the previously abandoned Tent Mountain Mine constitutes either a new development or a change to an activity that is of a substantial nature pursuant to ss. 39(e)(i) & (iii) and 67(1) of the *Environmental Protection and Enhancement Act (EPEA)* and is therefore a "proposed activity" within the meaning of s. 39(e) of *EPEA* and a mandatory activity pursuant to Schedule 1(g) of the *Environmental Assessment (Mandatory and Exempted Activities) Regulation*. Montem is required, pursuant to section 44(1)(a) of *EPEA*, to prepare and submit an environmental impact assessment (EIA) report for this project. The EIA report is to be prepared in accordance with the provisions of Division 1 of Part 2 of *EPEA*.

Background

Montem proposes to mine coal at the Tent Mountain minesite. Mining at Tent Mountain has not occurred since 1983. Montem is asking to 'reinstate' active mining pursuant to an existing approval in order to produce 1.8 million tonnes of coal per year.

Montem holds *EPEA* Approval No. 0004769-02-00 for the Tent Mountain Mine, which currently only allows monitoring and closure operations at the minesite, as there are no active mining licences. All operating licences associated with the Tent Mountain Mine were rescinded by Abandonment Approvals. Consequently, Montem's *EPEA* Approval requires an amendment "before creating any new disturbance to the land surface of the mine, undertaking any new construction or refurbishing an existing portion of

the mine to operational status.” (see s. 3.1.1). Actual mining is expressly prohibited by Montem’s *EPEA* Approval (see s. 4.1.1).

In theory, the reinstatement of a *temporarily* suspended activity with no changes to the activity itself, the manner in which it is conducted, or the equipment used, would only entail the restoration of the suspended operational terms and conditions of the *EPEA* Approval. However, Montem’s proposal is not merely the “resumption” of active mining after a temporary suspension. Active mining on this site has not occurred since 1983 and all of the previously operated mine pits are abandoned.

Given the extent of time (*i.e.* 38 years) that has passed since the Tent Mountain Mine operated, Montem’s application involves more than a mere reinstatement of prior approval conditions. This will entail entirely new disturbances of the land surface and new construction. The previously disturbed pits were fully abandoned by the previous operator and abandonment approvals were issued. Therefore, this is a new activity that is a proposed activity within the meaning of s. 39(e)(i) of *EPEA*.

If mining by Montem on the Tent Mountain Mine constitutes the resumption of previous mining activity and is therefore deemed to have commenced for the purposes of *EPEA*, the changes proposed by Montem are of a substantial nature, thereby rendering Montem’s proposal a proposed activity within the meaning of s. 39(e)(iii) of *EPEA*.

These are changes that must be considered pursuant to s. 67 of *EPEA*:

Changes requiring approval

67(1) No person shall, with respect to an activity that is the subject of an approval, make any change to

- (a) the activity,
- (b) the manner in which the activity is carried on, or
- (c) any machinery, equipment or process that is related to the carrying on of the activity unless an approval or an amendment to an approval authorizing the change is issued by the Director.

Any amendment that is required to authorize the changes listed in s. 67 triggers the question of whether or not the change is a proposed activity within the meaning of s. 39(e) of *EPEA*:

39(e) “proposed activity” means

- (i) an activity that has not been commenced,

(ii) an activity that is being carried on and for which an approval or registration, other than a renewal, is required but has not been obtained,

(iii) a change to an activity where the change is one to which section 67(1) applies and, in the Director's opinion, is of a substantial nature, and

(iv) in the case of an activity that is the subject of an approval or registration and is carried out in stages, those stages of the activity that are not yet covered by the approval or registration. (emphasis added)

Whether or not a change to an activity is of a “substantial nature” is a matter of the AER’s discretion. There is no definition of that phrase in *EPEA*. The question turns on the nature, extent and anticipated effects of the change(s) to the activity being proposed.

Montem maintains it will be conducting the same activities that were carried out in 1983: “As previously approved, this includes activities such as: open-cut mining using truck and shovel, waste rock movement and disposal, coal recovery, coal processing, coal storage and transport.”

However, *EPEA* requires the AER to determine what changes Montem is introducing to

- (a) the activity,
- (b) the manner in which the activity is carried on, or
- (c) any machinery, equipment or process that is related to the carrying on of the activity.

The AER must then also determine whether any of these changes are of a substantial nature.

Substantial Change to the Activity

Montem intends to produce 1.8 million tonnes of coal per year at the Tent Mountain Mine. This is a change of a substantial nature, as it represents a doubling of coal production over that of the previous operator of the Tent Mountain Mine. The records of the AER indicate that the previous operator of the Tent Mountain Mine produced approximately 900,000 tonnes of coal per year pursuant to rescinded AER Licenses C 74-12 (issued August 1974) and C 74-16 (issued April 1975).

Substantial Change to the Manner of the Activity

Mining has changed considerably in nearly 40 years. For instance, Montem does not propose to operate five days a week, which was the previous operator’s work schedule. Current mining operations typically conduct mining seven days a week. This is a substantial change.

Substantial Changes to the Machinery, Equipment or Process

Given the AER's review of records pertaining to the mining and equipment related to carrying out the mining activity at Tent Mountain Mine circa 1983, the AER has limited means of discerning all of the changes proposed by Montem and must rely primarily on professional judgement. However, it cannot reasonably be doubted that mining equipment has significantly changed since 1983. Current mining operations typically employ a fleet of 200 to 240 tonne trucks matched with loading equipment with bucket sizes ranging from 35 to 44 cubic yards, as opposed to the approved 85-ton truck fleet and 15 cubic yard shovel of the previous operator. To facilitate operation of updated equipment the overall mine design would require substantial technical modifications (*i.e.* road width, berm heights and bench configurations) to accommodate the increased equipment sizes.

In the circumstances, the AER is of the view substantial changes in the machinery, equipment or process that are related to the carrying on of mining activity will result from recommencing mining after a nearly forty-year hiatus.

As a consequence, Montem's project is a proposed activity within the meaning of s. 39(e)(iii) of *EPEA*.

Mandatory Activity

The AER is of the opinion that the potential environmental impacts of this proposed activity warrants further consideration under the environmental assessment process.

Pursuant to s. 39(c) of *EPEA* and Schedule 1(g) of the *Environmental Assessment (Mandatory and Exempted Activities) Regulation* the construction, operation or reclamation of a surface coal mine producing more than 45 000 tonnes per year is a "mandatory activity". As Montem intends to produce 1.8 million tonnes of coal per year at the Tent Mountain Mine, the project meets the threshold of a mandatory activity. Proponents of mandatory activities are required pursuant to s. 44(1)(a) of *EPEA* to provide an EIA report. Therefore, Montem is required to provide an EIA for its proposed mining at the Tent Mountain Mine.

Montem has not provided any historic EIA report for activities previously conducted on the Tent Mountain Mine. Montem did provide a portion of an interim report (Volume 2) to the AER on August 5, 2020, which was prepared by the previous operator to outline the impacts related to their operations at Tent Mountain Mine at that time. That report does not adequately describe the baseline or impact assessment required for Montem's proposed project under current legislation. Neither the environmental impacts of this activity nor the technology to be employed in the project are well understood.

In the absence of a current EIA report, the AER cannot know whether consequences from the activities proposed in this project can be predicted and the impacts can be addressed. The environmental, social, economic and cultural impacts of this activity have the potential to be significant. An EIA report is required to understand the impact, mitigation measures and monitoring programs of the proposed project under current requirements, to decide whether the project is in the public interest and to determine the conditions under which it should be approved.

There are known unique environmental and socioeconomic characteristics of the project location that warrant preparation and consideration of an EIA report. Tent Mountain Mine is adjacent to Provincial Parks and is located within the South Saskatchewan Regional Plan area, in a basin closed to new water licences. Montem does not currently have any *Water Act* approval or License(s). In addition, there are a number of specific species of interest that are now listed as Endangered, Threatened, at Risk or of Special Concern within the vicinity of the Mine. Finally, the AER has received many concerns expressed by the public about coal mining activities in this area. As a consequence, the potential environmental impacts of the proposed recommencement of coal mining at the Tent Mountain Mine warrant further consideration under the environmental assessment process and require that further assessment of the proposed activity be undertaken.

If you have any questions or require further direction about the environmental assessment process, please e-mail AEREnvironmental.Assessment@aer.ca.

Montem should also note that the Government of Alberta's Indigenous consultation policies and guidelines may apply to this project. For more information, please contact the Aboriginal Consultation Office.

Sincerely,



Steven Van Lingen
Director, Mining, Regulatory Applications
(Designated Director under *EPEA*)

SVL/jm

cc: Camille Almeida, Alberta Energy Regulator
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