

PAUSE ON RENEWABLE PROJECT APPROVALS

CANADIAN ASSOCIATION OF LAND AND ENERGY
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PAUSE ON RENEWABLE PROJECT APPROVALS

Contributors: Dennis P. Langen, Taylor Sakon & Barrett Schultz of
Stikeman Elliott LLP

Part 1: [August 10, 2023] The topic of renewable energy in Alberta recently made major headlines across the province and country due to a surprise announcement from Alberta's Minister of Affordability and Utilities ("Minister").^[1] On August 3, 2023, the Minister announced that the Alberta Utilities Commission ("AUC") was being directed to immediately pause the issuance of approvals for new renewable electricity projects, citing a need to review policies and procedures currently in place relating to development of these projects ("Policies") (Creating certainty for renewable projects | alberta.ca). The approval of power plants and hydro developments that produce renewable electricity and are greater than one megawatt in project capacity are paused until February 29, 2024 ("Approval Pause"). The Approval Pause and pending policy review is a direct result of a letter written to the Alberta government from the AUC ^[2], expressing concerns from municipalities and landowners regarding the rapid pace of renewable development and responsible land use.

The Approval Pause was implemented under the new Generation Approvals Pause Regulation ("Regulation"). This legislation removed the ability of the AUC to approve any projects referred to in sections 9 or 11 of the Hydro and Electricity Energy Act which produce renewable energy. The Regulation applies to projects



that have a planned project capacity of over one megawatt, but does not apply to small power plants, isolated generating units or micro-generation generating units.

During the Approval Pause, the AUC will conduct a review of the Policies for renewable electricity development. Upon completion of the review, and by no later than March 29, 2024, the AUC is to submit a report to the Minister. The review will focus on the use of agricultural and public land for wind and solar projects, land reclamation of renewable sites and the role of municipal governments in choosing the land for project development. Specifically, the AUC is to inquire into the following issues:

1. Development of power plants on specific types or classes of agricultural or environmental land;
2. The impact of power plant development on Alberta's pristine viewscape;
3. Mandatory reclamation security requirements for power plants;
4. Development of power plants on lands held by the Crown; and
5. The impact of the increasing growth of renewables on Alberta's generation supply mix and electricity system reliability.[3]



“ The review will focus on the use of agricultural and public land for wind and solar projects, land reclamation of renewable sites and the role of municipal governments in choosing the land for project development.

Shortly following the Minister's announcement, the AUC confirmed it will initiate an inquiry (2023-08-03-Announcement (auc.ab.ca)) to consider these issues. First, however, the AUC is seeking stakeholder input into how the AUC should address applications for renewable electricity projects that are currently before the AUC and that are impacted by the Approval Pause. Specifically, the AUC has asked stakeholders to comment on three options for how the pause should be implemented:

1. Complete abeyance: The AUC does not accept new applications during the pause period and all existing excluded applications will be placed in abeyance during the pause period with the AUC taking no further steps to complete their record or issue decisions.
2. Partial abeyance: The AUC does not accept new applications during the pause period. For all existing applications with an incomplete record, the AUC process will proceed to the point where the written evidence is complete, applications will then be placed in abeyance until the pause period expires. The AUC will not hold any public hearings for these applications during the pause period. Existing applications with a complete record will be placed in abeyance until the pause period expires.
3. Approval hold only: The AUC continues to fully process new and existing excluded applications without issuing any approvals until after the pause period.

Stakeholders have until August 18, 2023, to provide comments on the options and propose any other potential options they suggest using during the Approval Pause.[4]

Timing of the Approval Pause

The timing of Alberta's decision to implement the Approval Pause is a surprise given the rapid growth and future outlook of the province's renewable energy sector. Very recently, in July 2023, Alberta received \$160 million of renewable funding from the Federal government. This funding was earmarked to build nine solar energy projects resulting in 163 megawatts of solar power and 48 megawatts of battery storage capacity.[5]

Pending AUC Inquiry and Uncertainty

The issues raised for consideration and related policy review in the pending AUC inquiry are far reaching.

Each of land use; municipal planning; environmental and visual impacts; Crown land use; reclamation security; and the growing share of renewable electricity in Alberta's supply mix and related impacts to system reliability, are individually important and material issues that will likely see a wide range of views presented to the AUC by an equally wide range of stakeholders. In the result, the challenge facing the AUC will be to consider and weigh the diversity of issues and views so as to provide findings to assist the Minister in policy development for renewable electricity projects going forward.[6] The timeline the AUC has been provided to complete this important work is equally challenging.

Although the Approval Pause may result in welcome regulatory direction and certainty for some stakeholders going forward. The uncertainty created by the Approval Pause, associated upcoming AUC inquiry and related report, as well as what steps or policies the Minister may implement following receipt of the AUC inquiry report, is obvious and has serious implications for continued renewable energy development in Alberta. Particularly in light of Alberta, up until the Approval Pause, being viewed as a positive and strong renewable energy development environment.

Stikeman Elliott's regulatory team will continue to monitor developments related to the Minister's announcement and pending AUC inquiry. If you have any questions regarding how this pause will impact Alberta's renewable electricity sector, please contact a member of our team involved in this blog.

Part 2: AUC Launches Inquiry into Renewable Electricity Development

Contributors: Dennis P. Langen, Amy Barrington & Taylor Sakon of Stikeman Elliott LLP

[September 12, 2023] On September 11, 2023, the Alberta Utilities Commission ("AUC") formally launched an inquiry into the ongoing economic, orderly, and efficient development of electricity generation in the province ("Inquiry").

This comes over a month after the provincial government's surprise announcement to pause the approval of new power plants and hydro developments that produce renewable electricity greater than one

megawatt in project capacity until February 29, 2024 ("Approval Pause").

The Inquiry is taking place during the Approval Pause, with a final Inquiry report to be delivered to the Minister of Affordability and Utilities ("Minister") by March 29, 2024.

The Inquiry

On September 11, 2023, the AUC released details of its "[I]nquiry into the ongoing economic, orderly and efficient development of electricity generation in Alberta." The Inquiry will culminate in a report to be delivered to the Minister and will proceed in two modules. Module A will consider the following:

1. Development of power plants on specific types or classes of agricultural or environmental land;
2. The impact of power plant development on Alberta's pristine views;
3. Implementing mandatory reclamation security requirements for power plants; and
4. Development of power plants on provincial Crown land.

Interested parties will be able to participate via online survey, through written submissions, or through oral submissions during in-person sessions, with dates and locations to be determined.

The AUC is retaining experts to prepare reports related to the specific inquiry topics, which will be made publicly available. An oral hearing will be scheduled in December 2023, allowing the AUC to ask questions of parties on their pre-filed submissions.

The AUC has established the following preliminary process schedule:

- AUC notice with additional updates/participant information – Mid-September 2023
- Oral submissions (in-person) – Late October to mid-November 2023
- Written submissions – Mid- to late November 2023
- Reply submissions – Early December 2023
- Oral hearing – Mid-December 2023
- Deadline to submit report to the Minister – March 29, 2024

The AUC will also be launching Module B to review the impact the increasing growth of renewables has to both generation supply mix and electricity system reliability, with further details to be announced shortly.

Background

Following on the heels of the Approval Pause, the Inquiry is the next step in the government's policy review, which was launched in response to a July 21, 2023 letter from the AUC to the Minister. In its letter, the AUC indicated that two broad policy issues "have come to the forefront of the Commission's public interest considerations: the development of power plants on high value agricultural lands and the lack of mandatory reclamation security requirements for power plants." The AUC further stated that the current process for reviewing renewable electricity projects is ill-suited to address these issues, and that a period of engagement followed by government direction was required.

On August 3, 2023, the Minister announced the concurrent Approval Pause and policy review, the latter to inform government policy decisions around the development of electricity generation in the province.

The same day, the AUC made a similar announcement, inviting stakeholder feedback by August 18, 2023 on how it should implement the Approval Pause.

On August 22, 2023, the AUC announced that, during the Approval Pause, it would continue to process applications up to the approval stage for new renewable electric generation projects. The AUC further indicated that it planned to introduce new interim information requirements relating to agricultural land, viewscales, and reclamation security to supplement Rule 007: *Applications for Power Plants, Substations, Transmission Lines, Industrial System Designations, Hydro Developments and Gas Utility Pipelines*.

In a September 6, 2023 Bulletin, the AUC announced the new interim information requirements for power plant applications filed after August 2, 2023 to supplement Rule 007. They require applicants to provide further information regarding the following:

- Agricultural land
 - agricultural capability of soils intersecting the project footprint;
 - descriptions of all soil series within the project and all potential impacts to soil quality, quantity and hydrology, including proposed mitigations;
 - planned earthworks, including methods used, proposed mitigations to protect soil quality, quantity, and hydrology;

- the potential for co-locating agricultural activities; and
- the qualifications of the agrologist(s) who prepared or reviewed the responses regarding agricultural land.
- Municipal land use
 - whether the project complies with the applicable municipal planning documents and other municipal by-laws;
 - justification for non-compliance with applicable municipal planning documents and other municipal by-laws; and
 - the applicant's engagement with potentially affected municipalities to modify the project or mitigate any of its potential adverse impacts.
- Viewscales
 - pristine viewscales (including national parks, provincial parks, culturally significant areas, and recreation and tourism areas) on which the project will be imposed; and
 - available mitigations to minimize project impacts.
- Reclamation security
 - the reclamation standard upon decommissioning;
 - how reclamation security will be calculated;
 - frequency with which the reclamation security amount will be updated;
 - when the reclamation security will be in place;
 - form the reclamation security will take (e.g., letter of credit, surety bond, other);
 - beneficiaries to whom the reclamation security will be committed; and
 - how the beneficiary can access the security and any constraints on such access.

The Inquiry and Uncertainty

When the Approval Pause was announced, we commented that the policy review and pending Inquiry are far reaching and that the Inquiry was likely to see a wide range of views presented by an equally wide range of stakeholders.

In structuring the Inquiry into two modules, with Module A addressing certain potential project development impacts (i.e. impacts to agricultural lands as well as viewscales) and issues (i.e. municipal land

use and reclamation security), and Module B addressing impacts of renewable generation on the Alberta Interconnected Electric System (i.e. growth of renewables in the supply mix), the AUC has made a clear effort to efficiently address the anticipated diversity in stakeholders and views on the issues it is tasked with considering. However, the uncertainty arising from the Approval Pause and Inquiry we discussed previously, remains.

Stikeman Elliott's regulatory team will continue to monitor developments related to the Approval Pause and Inquiry. If you have any questions regarding how the pause and Inquiry will impact Alberta's renewable electricity sector, please contact a member of our team involved in this blog.

These article were first published on Stikeman Elliott LLP's Knowledge Hub and originally appeared at www.stikeman.com. All rights reserved.

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Endnotes:

- [1]<https://www.alberta.ca/release.cfm?xID=887605547987E-EABF-5E23-DFF2C9F72DB845E6>
- [2]<https://www.alberta.ca/external/news/AUC-Letter-to-Minister-Neudorf-July-21-2023.pdf>
- [3] OIC 171/2023.
- [4] Instructions for providing submissions can be found in the AUC announcement dated August 3, 2023: <https://media.www.auc.ab.ca/prd-wp-uploads/News/2023/2023-08-03-Announcement.pdf>
- [5]<https://www.canada.ca/en/natural-resources-canada/news/2023/07/minister-wilkinson-announces-over-160-million-for-9-alberta-solar-energy-projects-that-will-create-hundreds-of-good-jobs.html>
- [6] The AUC most recently conducted a similar inquiry in relation to hydrogen blending in Alberta natural gas distribution systems ([HydrogenInquiryReport.pdf](#) (auc.ab.ca)).

Dennis Langen practices regulatory law and litigation and has an in-depth knowledge of the energy industry.

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Amy Barrington is an associate in the Energy Group. Her practice focuses on energy regulatory and Indigenous law.

Stikeman Elliott is a global leader in Canadian business law, offering creative solutions to clients across Canada and around the world. The firm provides the highest quality counsel, decisive advice, and workable solutions through offices located in Montréal, Toronto, Ottawa, Calgary, Vancouver, New York, London and Sydney.

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OUR IMPACT



Over the past year, we have aimed to make a difference and have a positive impact in our community!

Our annual golf tournament was a great success. Between our contribution, and those from our sponsors and partners, a total of \$8,980 was donated to Love for Lewiston.

Additionally, during the 2023 Canadian Energy Conference, we donated \$5,000 to Mamas for Mamas.

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ANOTHER SPOTLIGHT ON TIAC

Update to the Tenure Industry Advisory Committee ("TIAC")

The TIAC committee consists of representatives from CALEP, CAPLA, CAPP, EPAC, Alberta Energy Regulator, and Alberta Energy and Minerals. The committee Terms of Reference has recently been updated. More information can be found on CALEP's website.

Current topics the TIAC Committee is reviewing include: carbon sequestration activity, geothermal activity and applications, the gas royalty arrears default letter process, AEM continuation response times, and the execution of Ministerial Transfers from a dissolved/struck company.

The next TIAC meeting will be held in November, 2023.



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REMINDER: P. LAND AND PSL RENEWALS

All CALEP designation holders (P. Land & PSL) must complete their recertification requirements by December 31, 2023, to retain their designations for another five years. Section 8 of the CALEP Professionalism Procedure details the recertification requirements and should be reviewed by the designation holder. There are numerous paths to recertification, but here are the most common questions we receive.

How many credits do I need to recertify?

- 50 credits

What is the timeframe for obtaining credits?

- All employment, education, and volunteering must occur between January 1, 2019, and December 31, 2023. Anything before this timeframe will not be approved for credits.

How do I obtain credits?

- Full-time employment as a landman is five credits per year for the years between January 1, 2019, to December 31, 2023.
- Attendance at education sessions (30 of the 50 credits must be education – this is the equivalent of 1 full-day course over the previous five years)
- Semester course – 24 credits
- 2-day course – 12 credits
- 1-day course – 6 credits
- Half-day course – 3 credits
- Luncheon – 1 credit

If I volunteer for CALEP or other industry association committees, will that earn me credits?

- Yes, 15 of the 30 required education credits can be earned through active volunteering. Refer to section 8. A. (vi) of the procedure to review the applicable credits.

Do the education courses need to be CALEP courses?

- No, courses can be taken outside of CALEP. Courses need to be related to your work as a landman.

Do I need to take an ethics course?

- Yes, an ethics course must be taken within the previous five-year period.
- The ethics course credits do not count toward the 30 education credits.

2023 CALEP CANADIAN ENERGY CONFERENCE

a Recap

When we selected Kelowna as the site for the 2023 CALEP Conference and set the date as the first weekend in September after the Labor Day long weekend, I had three goals in mind:

- Take the conference to a place where every attendee would have some fun, enjoy a great program, and get far enough away from Calgary that they could let their hair down – **CHECK**
- Provide the conference delegates and guests with some fabulous fun in a variety of ways, all centered on Lake Okanagan, the beautiful countryside (golf course, lakefront winery, Kettle Valley Rail trail), and in hopefully wonderful weather – **CHECK**
- Challenge the delegates and guests with a thought-provoking program and entertainment, one that would go down as one of the most memorable conferences – **CHECK**

From the opening act of the live Gord Bamford performance on the Manteo patio to the final dinner featuring one of Canada's premier sports commentators, Ron Maclean, it was non-stop entertaining, thought-provoking, and lesson-learning in many different ways. From Manjit Minhas' entrepreneurial stories to the war stories from our bankers, the important, intense, and humorous indigenous partners' panel, to learning all about what we should know about marketing our products and better ways to keep our marketers in check, to knowing how to have "the conversation" about the future of energy with our school-aged children and their teachers, to re-discovering the F-bomb being used in critical thinking from the always enlightening Brett Wilson to learning how to turn professional sports careers in hockey and golf into successful business careers, we were educated, challenged, and entertained.

And then we celebrated, either on the dance floor, in a costume as any great Canadian, and finally at the Chairman's Dinner, where we had the privilege of listening to Ron Maclean and being treated to the reveal of the date and location of next year's Conference.

I would be remiss not to thank and congratulate the Dream Team – Rob Heynen (Activities), Craig Stayura (Program), Aaron Giovaneto (Marketing), Bret Suchan (Operations) and Kim King and Bonnie Moroz (Finance), and all of their hard-working committee members– and of course, to thank Spryng Kubicek, our CALEP Executive Director, for her invaluable help. The Eldorado Manteo Resort also deserves our thanks for accommodating our large and enthusiastic group throughout the conference. And finally, I want to thank all of our CALEP members and guests for coming to Kelowna, filling up the Resort, participating wholeheartedly in the program, and playing along at all the activities and social events.

In closing, I think (one man's opinion) that our 2023 CALEP Conference in Kelowna was the best CAPL/CALEP conference there ever was, the best there is, and the best there will ever be!! Time will tell...

-Pat Burgess, Chair 2023 CALEP Conference



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CANADIAN ENERGY
THE BEST THERE IS. THE BEST THERE WAS. THE BEST THERE WILL EVER BE.

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COURSE	DATE	TIME	LOCATION
JV - 101 - Compare and Contrast	OCT 19, 2023	9:00am - 4:00pm	CALEP Office
Overcoming the Five Dysfunctions of a Team	OCT 26, 2023	9:00am - 4:00pm	CALEP Office
Evaluation of Canadian Oil & Gas Properties for Landmen by Sproule	NOV 14-15, 2023	9:00am - 4:00pm	CALEP Office
I Will NOT Be Your Friend	NOV 16, 2023	11:30am - 1:00pm	CALEP Office
Surface A & D (PSL) Afternoon	NOV 21, 2023	1:00pm - 4:00pm	CALEP Office
Professional Ethics: Theory and Application	NOV, 23 2023	9:00am - 4:00pm	CALEP Office
Surface Rights Law (PSL) Afternoon	Dec 19, 2023	1:00pm - 4:00pm	CALEP Office

For more information, or to register, please see the CALEP course schedule in its entirety [here](#).

SAVE THE DATE

This year, CALEP, CAPLA, and IRWA 48 have joined forces to spread the Christmas spirit to all!

Please mark your calendars for our upcoming Christmas Party, aptly named "Three Cheers For A Merry Tri-Fecta."

December 7, 2023

Time: 4:00pm - 8:00pm

Location: National on 10th

Stay tuned for more details in the coming weeks, and let's look forward to a grand celebration!



SAVE THE DATE

CALEP is bringing the 2024 Conference to the iconic **Banff Springs November 17-20, 2024**. CALEP's first conference was in Banff in 1962 and 62 years later, we return again to this majestic natural setting.

Located in the heart of Banff National Park, a UNESCO World Heritage Site, the world-famous Fairmont Banff Springs is a landmark in the picturesque alpine town of Banff, Alberta. Canada's "Castle in the Rockies" has been providing legendary hospitality to guests since 1888. Expect to be ensconced in luxury at Fairmont Banff Springs; from cozy rooms tucked away in quiet corners to spacious suites with sweeping views, the Fairmont Banff Springs is the perfect setting for a conference and a getaway in the Rocky Mountains.

The theme of the 2024 CALEP Conference is Moving Mountains. Our association has been Moving Mountains since its inception, evolving as professionals in a dynamic energy sector. The conference will provide relevant information, targeted networking, and create business opportunities in energy exploration and development. We look forward to seeing you in November 2024!

Marah Graham – Conference Chair
Dave Balderston – Program Chair
Steve Brisebois – Finance Chair
Colin Page – Activities Chair
Doug Perry – Operations Chair
Ashlee Rowland – Marketing Chair



GENERAL MEETINGS

November General Meeting

Start your November off on a high note and join us back at the Petroleum Club for the next CALEP General Meeting and panel discussion.

Recent Transactions in the Land of Oil and Gas – A Panel Discussion

- Craig Tyler, Woodland Development Corp. - Vice President, Land
- Kristin Rennie, Tundra Oil and Gas Limited - Vice President, Land
- Leanne Juneau, Cygnet Energy Ltd. - SVP Corporate Development

NOVEMBER 2, 2023

11:30am - 1:00pm

Calgary Petroleum Club - Devonian Room



[Register here.](#)

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A FRIENDLY INTRODUCTION

I am very excited to join CALEP as Executive Director. I have over 30 years of experience in management, with the last twenty focusing on non-profit professional associations. I look forward to applying my experience in association, event, and membership management in my role at CALEP and continued learning, development, and improvement of processes and procedures. In addition, the day-to-day operations of the office have been very engaging and educational.

It has been a busy start to the year! So far, we have provided 18 in-class courses, hosted a very successful conference in Kelowna, organized the Stampede Dustup, held three general meetings, and many committee meetings. There is still plenty to come for the remainder of the year. The lineup includes additional courses, a General Meeting - Panel discussion on November 2, Three Cheers For A Merry Tri-Fecta on December 7, and membership renewal will soon be upon us on December 31.

In my spare time, I am the VP of Elite for Girls Hockey Calgary and the treasurer of a condo Board. I believe volunteers are the key component of the success of any organization.



I love to meet our members and volunteers – if you are downtown, stop by the office for coffee and say hi!

-Spryng Kubicek, Executive Director

ROSTER UPDATES

NEW MEMBERS

ACTIVE NEW MEMBERS

Jill Lemon, ROK Resources Inc.

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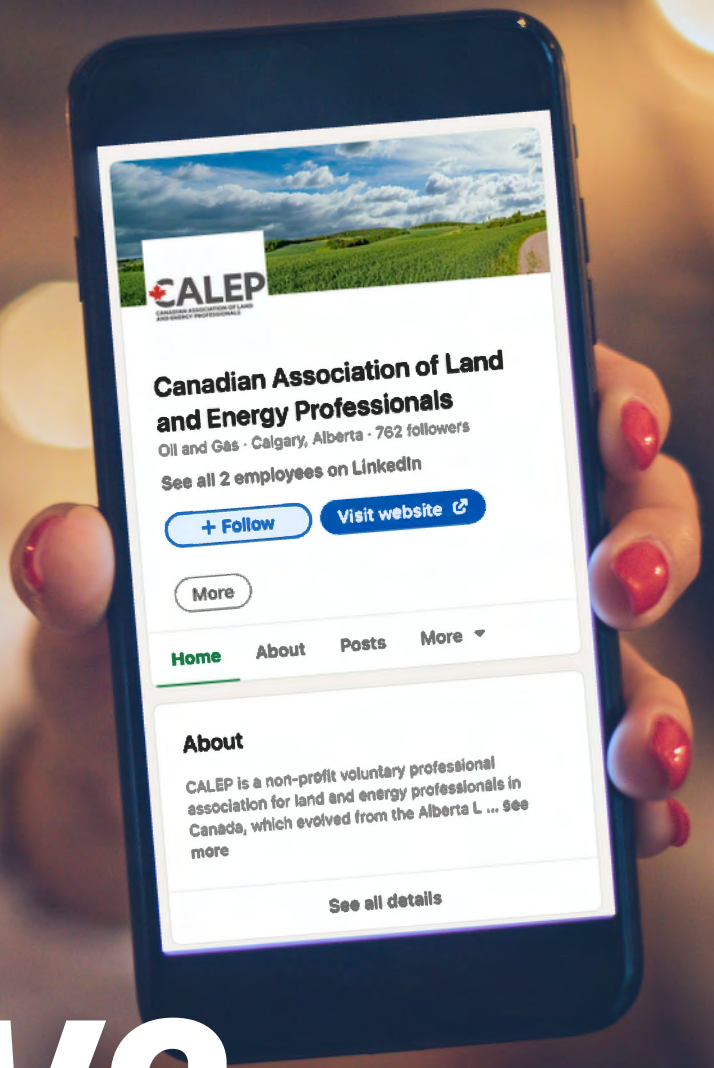
Beverly Robertson
Elizabeth Zyluk
Marty Staples

ON THE MOVE

Celestine Karst	Trans Mountain Corporation to ATCO Energy Solutions
Andrew Webb	Crescent Point Energy Corp. to Storm Development Corp.
Jason Svenningsen	Progress Land Services Ltd. to Independent
Garrett Zokol	Lexterra Land Ltd. to Freehold Royalties Ltd.
Brendon Grande	Canada West Land Services Ltd. to Aim Land Services Ltd.
Leslee Laverdure	ORLEN Upstream Canada Ltd. to TAQA North Ltd.
John Levson	Secure Energy Services Inc. to Canadian Natural Resources Limited
Margot McNeil	Canadian Natural Resources Limited to Cenovus Energy Inc.
Janice Redmond	Action Land & Environmental Services Ltd. to Canada West Land Services Ltd.

Nathan Biluk	KUFPEC Canada Inc. to Sinopec Canada
Michael Ftichar	ATCO Energy Solutions to Tundra Oil and Gas Limited
Wayne Ellis	Spartan Delta Corp. to Logan Energy Corp
Andrew Hansen	Whitecap Resources Inc. to Anova Resources Inc.
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Connor Matzelle	Canpar Holdings Ltd. to Independent
Brady Roy	Rife Resources Ltd. to Independent
Elizabeth Burke-Gaffney	ISH Energy Ltd. to Finjay Enterprises Inc.
Tanya Bednarz	Shell Canada Energy to Crescent Point Energy Corp.
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