

IN THE MATTER of a CONTRAVENTION  
of the *ENERGY RESOURCE ACTIVITIES ACT*

[SBC 2008] Chapter 36

before

The BRITISH COLUMBIA ENERGY REGULATOR

Case File 2022-0137

BETWEEN

The British Columbia Energy Regulator

AND

Canadian Natural Resources Limited

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ADMINISTRATIVE FINDING

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Before

Executive Director, Compliance &  
Enforcement, Dax Bourke

Representing the British Columbia Energy  
Regulator (formerly the Oil and Gas  
Commission)

Manager, Enforcement, R.A. Workman

Representing Canadian Natural Resources  
Limited

Vice President, Production, West, Ken Imlach

Decision Date

April 17, 2024

## **Introduction**

1. Between March 3, 2022, and October 4, 2022, Canadian Natural Resource Limited (CNRL) lost hydraulic isolation for an injection well located at D-083-D/094-A-16 (WA 1749). WA 1749 is also subject to a Special Project Order 66-09-001 (the Order) issued under section 75 of the *Oil and Gas Activities Act*.
2. On September 1, 2023, the name of the *Oil and Gas Activities Act* was changed to the *Energy Resource Activities Act* (the Act).
3. The Order allowed for the development and production of petroleum and natural gas from a pool using a pressure maintenance waterflood enhanced recovery method utilizing the injection of water into the formation to promote production.
4. A Contravention Report (the Report) was sent to me on July 5, 2023, alleging that CNRL failed to comply with an Order issued under section 75 of the Act (OGAA), thereby contravening section 82 of the Act.
5. The British Columbia Energy Regulator (Regulator) sent CNRL a letter and the Report on November 8, 2023, informing CNRL that I was considering making a finding that it contravened section 82 of the Act. The letter informed CNRL of its opportunity to be heard in written form and advised that a finding of contravention could result in the Regulator imposing an administrative penalty in accordance with section 63 of the Act.
6. CNRL provided a response in a letter dated January 5, 2023 (the Response).
7. The Commissioner of the BC Energy Regulator has delegated me authority under sections 62 and 63 of the Act. I will be making a determination with regards to: whether CNRL contravened section 82 of the Act; whether to impose an administrative penalty under section 63 of the Act; and the amount of the penalty, if any. I have reviewed the Report and CNRL's Response. In making a determination, I rely on these documents, and the applicable legislation.

## **Applicable Legislation**

8. Section 82 of the Act states that a person to whom an order under this Act applies must comply with the order.
9. Maximum penalties for specific violations are set by regulation. Section 2(5) of the Administrative Penalties Regulation provides that a person who contravenes section 82 of the Act in relation to an order under the Act not referred to in subsection (1) or (3) of this section is liable to an administrative penalty not exceeding \$20,000.
10. Section 62(1) of the Act states that, after providing an opportunity to be heard to a person who is alleged to have contravened a provision of the Act, the regulations, a permit, an authorization or an order, the Regulator may find that the person has contravened the provision.

11. Section 62(5) of the Act states, in part, that the Regulator may not find that a person has contravened a provision of the Act or the regulations if the person demonstrates to the satisfaction of the Regulator that they exercised due diligence to prevent the contravention or if the actions were the result of officially induced error.
12. Section 63(1) states that, if the Regulator finds that a person contravened a provision of the Act or its regulations, the Regulator may impose an administrative penalty. Section 63(2) of the Act sets out the factors that must be considered when determining whether to impose an administrative penalty under section 63(1) and the amount of the penalty. These include:
  - (a) previous contraventions by, administrative penalties imposed on, or orders issued to the person;
  - (b) the gravity and magnitude of the contravention;
  - (c) the extent of harm to others resulting from the contravention;
  - (d) whether the contravention was repeated or continuous;
  - (e) whether the contravention was deliberate;
  - (f) any economic benefit derived by the person from the contravention;
  - (g) the person's efforts to prevent and correct the contravention; and
  - (h) other prescribed matters.

### **Background**

13. CNRL was the permit holder for Special Project Pressure Maintenance Waterflood Order 66-09-001 Amendment #8, issued January 16, 2020.
14. As part of the Order, CNRL was required to cease injection for the well and notify the Regulator immediately if hydraulic isolation was lost in the wellbore or formation.
15. Section 75 (1) of the Drilling and Production Regulation required CNRL to submit a monthly injection or disposal statement indicating the quantity of fluid injected or disposed of, the maximum wellhead injection or disposal pressure, and the total monthly operating hours.
16. On October 4, 2022, CNRL conducted a packer isolation test on WA 1749. The test revealed a loss of hydraulic isolation on the packer.
17. CNRL immediately shut in the well and reported its findings to the BCER.

### **Issues**

18. The issues which I will decide are:
  - Did CNRL fail to comply with an order issued under the Act?
  - Did CNRL exercise due diligence in its efforts to comply with the order?
  - Was any noncompliance due to an officially induced error?
  - Did CNRL contravene section 82 of the Act?
  - If CNRL is found to have contravened section 82 of the Act what if any, administrative penalty to impose?

Did CNRL fail to comply with an order issued under the Act?

19. Special Project Pressure Maintenance Waterflood Order 66-09-001 Amendment #8 was issued January 16, 2020, and required CNRL to cease injection and notify the Regulator immediately if hydraulic isolation is lost in the wellbore or formation.
20. According to the Report, casing pressure data provided by CNRL shows a lack of hydraulic isolation starting in late 2021 with the loss of isolation becoming very clear on March 3, 2022.
21. The Report shows that CNRL lost isolation in WA 1749 in March 2022 and continued to inject fluids until September 2022 through submissions made by CNRL as required by section 75(1) of the Drilling and Production Regulation.
22. In their Response, CNRL does not deny that hydraulic isolation was lost and immediately shut in the well and notified the Regulator once the loss of isolation was identified through a packer isolation test on October 4, 2022.
23. As the data used to determine when isolation was first lost was provided by CNRL, I find that failing to immediately cease injection and notify the Regulator by March 3, 2022, CNRL failed to comply with the Order.

Did CNRL exercise due diligence in its efforts to comply with the order?

24. Pursuant to section 62(5) of the Act, I may not find that CNRL contravened section 82 of the Act if CNRL demonstrates to my satisfaction that it exercised due diligence to prevent the contravention. The test to be applied is whether CNRL has demonstrated that it took all reasonable steps to prevent the contravention. CNRL is not required to show that it took all possible or imaginable steps to avoid the contravention. The standard is not one of perfection, but rather of a reasonable person in similar circumstances.
25. CNRL has not raised the defense of due diligence. Regardless, I must consider whether CNRL demonstrated due diligence in their actions.
26. In the Response, CNRL stated that '[p]rior to the discovery of the WA 1749 casing pressure exceedance and loss of hydraulic isolation a formal procedure for data review and validation had not yet been finalized and put into practice.'
27. Both the Report and Response state that CNRL had installed continuous casing pressure transmitters throughout the Peejay field in April 2021, which exceeded requirements at the time. I accept that the installation of continuous casing pressure transmitters exceeded regulatory requirements of the time; however, without a data review and validation process in place the data collected failed to identify the initial loss of hydraulic isolation.
28. CNRL utilized the regulatory requirement of conducting an annual packer isolation test (PIT) as their sole mechanism of ensuring hydraulic isolation within the wellbore and formation being injected into.

29. Given that CNRL was required by regulation to collect and submit monthly data related to injection it would have been reasonable for CNRL to have a process in place to review the collected data to further ensure hydraulic isolation was being maintained.

30. CNRL has failed to satisfy me that it took all reasonable steps to prevent the contravention.

Was any noncompliance due to an officially induced error?

31. I have no evidence before me that indicates officially induced error.

Did CNRL contravene section 82 of the Act?

32. I find that CNRL has failed to comply with section 82 of the Act. I am not satisfied that CNRL exercised due diligence to prevent the contravention. As such, I find that CNRL contravened section 82 of the Act.

If CNRL is found to have contravened section 82 of the Act what if any, administrative penalty is to be imposed?

33. Section 63 of the ERAA sets out factors that the Regulator must take into consideration when determining whether or not to impose an administrative penalty. In the following paragraphs, I consider the applicability of those factors to this contravention.

34. There have five previous contraventions issued to CNRL, and sixteen previous Orders issued to CNRL.

35. The gravity and magnitude are low given no harm to the environment, individuals, or property.

36. There is no evidence of harm to others as a result of the contravention.

37. The contravention was repeated, and continuous as hydraulic isolation was lost in March 2022 with CNRL continuing the injection of fluids March to September

38. There is insufficient evidence the contravention was deliberate.

39. CNRL did not benefit economically from the contravention.

40. Once CNRL became aware of the loss of hydraulic isolation resulting from the packer isolation test in October 2022, they shut in the well immediately and reported to the Regulator.

## Conclusion

41. I have found CNRL contravened section 82 of the Act. Based on the above discussion of the various factors set out in section 63(2), I am imposing an administrative penalty of \$3,100.



Dax Bourke  
Executive Director, Compliance & Enforcement  
BC Energy Regulator

Date: April 17, 2024