



Administrative Monetary Penalty / Sanction administrative pécuniaire
NOTICE OF VIOLATION / AVIS D'INFRACTION

REFERENCE NUMBER / N° DE RÉFÉRENCE: AMP-001-2018

Information for Pipeline Company / Third Party / Individual:
Information pour la société pipelinière / une tierce partie / un particulier :

Name / Nom :	Canadian Natural Resources Ltd. (CNRL)	TOTAL PENALTY AMOUNT / MONTANT TOTAL DES PÉNALITÉS:
Contact / Contactez:	Tim McKay	
Title / Titre:	President	40,000
Address / Adresse:	Suite 2100, 855 - 2 Street SW	Date of Notice / Date de l'Avis:
		25 June, 2018
		Regulatory Instrument # / N° de l'instrument réglementaire:
		XG-C357-09-2010
City / Ville:	Calgary	
Province / State / État	Alberta, T2P 4J8	
Telephone / Téléphone:	██████████	
Fax / Télécopieur:	██████████	
E-mail / Courriel:	████████████████████	

On / Le Feb 1, 2017

Canadian Natural Resources Ltd.

was observed to be in violation of a NEB regulatory requirement. This violation is subject to an administrative monetary penalty, as outlined below.

a commis une infraction aux exigences réglementaires de l'ONÉ, sujet à la sanction administrative pécuniaire ci-dessous.

1. VIOLATION DETAILS / RENSEIGNEMENTS SUR L'INFRACTION

Date of Violation / Date d'infraction :		Has compliance been achieved? / La situation est-elle rétablie? <input checked="" type="radio"/> Yes / Oui <input type="radio"/> No / Non If no, a subsequent NoV may be issued. Si non, un autre avis d'infraction pourrait être envoyé.
(from / du): Feb 1, 2017	(to / au): Feb 1, 2017	
Total Number of Days / Nombre total de jours: 1		

Location of Violation / Lieu de l'infraction:

e.g. Facility/plant/head office or nearest geographical point or lat/long / ie: usine/siege central/lieu géographique Ojay Pipeline Project transporting sweet natural gas from British Columbia to Alberta.

Short Form Description of Violation / Description abrégée de l'infraction (Refer to Schedule 1 of the AMP Regulations) / (Voir l'annexe 1 du Règlement)	Provision and Short-form Description / Disposition et Sommaire
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<i>Choose an item / Choisir</i>
Choose an item / Choisir

<input type="checkbox"/>	<i>Contravention of an Order or Decision made under the Act (ss. 2(2) of the AMP Regulations) / Dérogation à une ordonnance ou à une décision rendue sous le régime de la Loi (paragraphe 2(2) du Règlement sur les sanctions administratives pécuniaires)</i>
<input checked="" type="checkbox"/>	<i>Failure to comply with a term or condition of any certificate, licence, permit, leave or exemption granted under the Act (ss. 2(3) of the AMP Regulations) / Manquement à une condition d'un certificat, d'une licence, d'un permis, d'une autorisation ou d'une exemption accordé sous le régime de la Loi (paragraphe 2(3) du Règlement sur les sanctions administratives pécuniaires)</i> Condition 15 of Order XG-C357-09-2010, as amended.

2. RELEVANT FACTS / FAITS SAILLANTS

Briefly describe reasonable grounds to believe a violation has occurred / Décrire brièvement les motifs raisonnables de croire qu'une infraction a été commise

As per condition 15 of Order XG-C357-09-2010, as amended, CNRL failed to conduct environmental post-construction monitoring in 2016, and submit to the National Energy Board (the Board) their Post-Construction Environmental Monitoring Report (PCEMR) for the sixth growing season. The PCEMR was due on 31 January 2017 for the Ojay Pipeline Project (the Project).

Condition 15 of Order XG-C357-09-2010, as amended by AO-001-XG-C357-009-2010, AO-002-XG-C357-009-2010 and AO-003-XG-C357-009-2010 reads:

"On or before 31 January after each of the first, [fourth] and [sixth] complete growing seasons following the commencement of operation of the Project, [CNRL] shall file with the Board a post-construction environmental monitoring report that:

- describes the methodology used for monitoring,
- the criteria established for evaluating success and the results found;
- assesses the effectiveness of the mitigation measures applied during construction against the criteria for success;
- identifies any deviations from plans and alternate mitigation applied as approved by the Board;
- identifies locations on a map or diagram where corrective action was taken during construction and the current status of corrective actions; and
- provides proposed measures and the schedule [CNRL] shall implement to address any unresolved concerns."

Background:

On 18 November 2009, Canadian Forest Oil Ltd. (CFOL) filed an application pursuant to section 58 of the NEB Act to construct the Ojay Pipeline Project. The Ojay Pipeline consists of an eight inch (219mm) sweet natural gas pipeline that transports gas from British Columbia to Alberta, and measures approximately 12.1km (12,077 metres) in length, covering 13.7 hectares (33.8 acres). The pipeline route crosses the Mistanusk Creek, Compass Creek, and an unnamed tributary in British Columbia. There are no permanent residents living within the vicinity of the project lands.

On 4 May 2010, the Board approved the Project by Order XG-C357-09-2010.

On 20 October 2011, the Board approved a name change from Canadian Forest Oil Ltd. to Lone Pine Resources Canada Ltd. (Lone Pine) by Amending Order AO-001-XG-C357-009-2010.

On 7 August 2014, NEB approved and issued Amending Order AO-002-XG-C357-009-2010 to vary Condition 15 of Order XG-C357-09-2010. The filing schedule for the subsequent reports was extended to on or before 31 January after each of the fourth and sixth complete growing seasons following the commencement of operation of the Project.

On 12 August 2014, Lone Pine sold the Ojay Pipeline asset to CNRL.

On 8 October 2014, CNRL (new owner) submitted its fourth year PCEMR.

On 10 October 2014, the NEB received an application from Lone Pine for the transfer of ownership and s. 21 request under the NEB Act for a variance to the Order.

On 9 December 2014, the Board approved a transfer of ownership of the Ojay Pipeline from Lone Pine to CNRL, and issued amending order AO-003-XG-C357-009-2010.

On 31 January 2017, as per condition 15 of the amended Order XG-C357-009-2010, the sixth year PCEMR was due. CNRL failed to submit the Year 6 PCEMR by the required due date.

On 2 February 2017, NEB staff followed up with CNRL via email inquiring about the Year 6 PCEMR. On 14 February 2017, CNRL responded that it had not been completed and requested an extension in order to get the work done in the summer. NEB staff advised them to submit a formal request to the Board to vary the condition requirement, and to include the reason(s) for not undertaking the post-construction monitoring as specified by the condition requirement, and dates for planned implementation of the condition.

On 21 March 2017, CNRL submitted an application to vary timing of the Year 6 PCEMR. They stated that they were unable to submit the Year 6 PCEMR in 2016 due to flooding that occurred in the Tumbler Ridge area, creating very wet conditions and limiting ROW access to conduct the post-construction environmental monitoring activities. Since post-flood efforts were focused on identifying and rectifying any exposed pipelines, CNRL stated that the year 6 PCEMR will be completed in June or July 2017 to see full vegetative growth conditions. CNRL expected to have the monitoring report completed and submitted to the Board by the end of August 2017.

On 18 April 2017, the Board approved the request for a variance and issued Amending Order AO-004-XG-C357-009-2010, which directed CNRL to file its post-construction environmental monitoring reports on or before the 31st of January after the seventh complete growing season following commencement of operation of the Project (due 31 January 2018).

On 26 October 2017, CNRL submitted the 7th Year PCEMR, which was reviewed by NEB staff on 27 November 2017. CNRL did not remove construction matting as committed to in the NEB inspection CV1415-346 dated 23 September 2014, and the CNRL Post Construction Environmental Monitoring Report Year 4 - filed with the Board on 8 October 2014. As a result, a Notice of Non-Compliance was issued with corrective action for CNRL to remove the matting at 3 locations as per their Environmental Protection Plan.

On 7 March 2018, CNRL requested relief from NNC requirement to remove construction matting at 2 of the 3 locations due to the detrimental effect it would cause to the environment as per the environment assessment conducted.

On 23 April 2018, the Board granted a variance to Order XG-C357-09-2010 and relief from NNC requirement to leave construction mats in place at 2 locations given the supporting documentation. However, the Board did note that, given the passage of time, removal of the construction waste would be more detrimental to the environment, but that CNRL failed to follow up on the commitments made in their 4th Year PCEMR pursuant to condition 15 of the Order, in which construction waste was to be removed.

The requirement to submit a PCEMR requires the company to be on site to assess the environmental landscape post-construction and monitor the growth conditions of the reclaimed project and return the site to pre-construction conditions. CNRL failed to properly address construction waste in a timely manner as committed to in their 4th Year PCEMR, rendering that commitment more difficult with the passage of time. Notwithstanding the weather conditions that may have prevented CNRL from conducting environmental assessments in 2016, the company did not take appropriate measures to notify the Board on a timely basis that it considered itself unable to complete the year 6 PCEMR, and to request an extension to Condition 15 in advance of the due date.

3. PENALTY CALCULATION / CALCUL DES SANCTIONS

(a) BASELINE PENALTY (Gravity Value = 0) / PÉNALITÉ DE BASE (côte de gravité = 0)

Category / Catégorie	(Type A)	Individual / Personne physique	Any Other Person / Autre Personne
		<input type="checkbox"/> \$1,365	<input type="checkbox"/> \$5,025
	(Type B)	<input type="checkbox"/> \$10,000	<input checked="" type="checkbox"/> \$40,000

[Refer to [AMP Regulations](#), Subsection 4(1) / Voir le [Règlement](#), paragraphe 4(1)]

(b) APPLICABLE GRAVITY VALUE / COTE DE GRAVITE GLOBALE APPLICABLES

[Refer to [AMP Regulations](#), Subsection 4(2) / Voir le [Règlement](#), paragraphe 4(2)]

	Mitigating / Atténuer			Aggravating / Aggravantes		
	-2	-1	0	+1	+2	+3
<input checked="" type="checkbox"/> Other violations in previous seven (7) years / Autres infractions au cours des sept (7) années précédentes	--	--	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	--
CNRL received a Notice of Violation in May 2014, AMP-002-2014, for non-compliance with ss. 25(1) of the Onshore Pipeline Regulations (OPR), which requires direct supervision of a company or its appointed agent during pressure testing.						
<input checked="" type="checkbox"/> Any competitive or economic benefit from violation / Avantages concurrentiels ou économiques découlant de l'infraction	--	--	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	--
N/A						
<input checked="" type="checkbox"/> Reasonable efforts to mitigate / reverse violation's effect / Efforts raisonnables déployés pour atténuer ou annuler les effets de l'infraction	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	--
N/A						
<input checked="" type="checkbox"/> Negligence on part of person who committed violation / Négligence de la part de la personne ayant commis l'infraction	--	--	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	--
CNRL operates the Ojay Pipeline pursuant to AO-003-XG-C357-009-2010 that contains specific deadlines for post-construction monitoring and reporting. If CNRL was unable to meet the reporting deadline of January 31, 2017, the reasonable course of action was to inform the Board of why it was unable to meet the deadline, and seek a variance to the amending order, well before the deadline passed. In failing to do so, CNRL was negligent.						
<input checked="" type="checkbox"/> Reasonable assistance to Board with respect to violation / Collaboration raisonnable avec l'Office en ce qui a trait à l'infraction	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	--
When notified of the non-compliance on 2 February 2017 by Board staff, CNRL responded and submitted a request under s. 21 of the Act to vary their Order to extend the timing of the Condition 15 requirement.						
<input checked="" type="checkbox"/> Promptly reported violation to Board / Infraction signalée sans délai à l'Office	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	--
N/A						
<input checked="" type="checkbox"/> Steps taken to prevent reoccurrence of violation / Mesures prises pour prévenir les récidives	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	--

N/A							
<input checked="" type="checkbox"/>	Violation was primarily reporting / record-keeping failure / Infraction reliée principalement à la production de rapports ou à la tenue des dossiers	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	--	--	--
This is the final PCEMR required by condition 15 of the amending order.							
<input checked="" type="checkbox"/>	Any aggravating factors in relation to risk of harm to people or environment / Facteurs aggravants pouvant causer du tort au public ou à l'environnement	--	--	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
N/A							
(c) TOTAL GRAVITY VALUE / COTE DE GRAVITÉ GLOBALE						0	
(d) DAILY PENALTY / SANCTIONS QUOTIDIENNES (The baseline penalty, adjusted for the final gravity level) (Pénalité de base d'après la côte de gravité)						\$ 40,000	
(e) NUMBER OF DAYS OF VIOLATION / DURÉE DE L'INFRACTION (If more than one day, then the justification must be provided.) (Si plus d'une journée, prière de justifier.)						1	
Notes to explain decision to apply multiple daily penalties, or "Not Applicable" / Notes pour expliquer la décision d'appliquer des pénalités multiples quotidiennes, ou «sans objet»							
4. TOTAL PENALTY AMOUNT / MONTANT TOTAL DE LA PÉNALITÉ						\$ 40,000	
Note: The total penalty amount shown is based on the period described in Step 1 above. If compliance has not been achieved, a subsequent Notice of Violation may be issued. Le montant total de la pénalité est calculé d'après la période décrite à l'étape 1 ci-dessus. Si la situation n'a pas été rétablie, un autre avis d'infraction pourrait être envoyé.							
5. DUE DATE (30 days from receipt of Notice of Violation) DATE LIMITE (30 jours à compter de la réception de l'Avis d'infraction)						30 July, 2018	

Notes

You have the right to make a request for a review of the amount of the penalty or the facts of the violation, or both, within 30 days after the Notice of Violation was received.

If you do not pay the penalty nor request a review within the prescribed period, you are considered to have committed the violation and you are liable for the penalty set out in the Notice of Violation. The penalty is due on the date indicated above.

The unpaid penalty amount is a debt due to the Crown and may be recovered by collection procedures stipulated in the [Financial Administration Act](#).

The information regarding the violation may be posted on the NEB website:

- a) 30 days from the date this Notice of Violation was received
- or;
- b) upon issuing a decision following a Request for Review.

To Make Payment:

You may remit your fee payment by Electronic Funds Transfer (EFT) or by cheque payable to the order of Receiver General for Canada.

EFT payments can be arranged by contacting the Director of Financial Services, Monday to Friday, from 09:00 to 16:00 Mountain Time:

Telephone: 403-919-4743 / 800-899-1265
Fax: 403-292-5503 / 877-288-8803

Cheques should be made out to the "Receiver General for Canada" and mailed to:

National Energy Board
Attention: Finance
Centre 10, 517 – 10th Avenue SW
Calgary, Alberta
T2R 0A8

Your completed *Payment* form should be enclosed with your payment.

Notes

Vous disposez de 30 jours après la signification de l'Avis d'infraction pour demander une révision du montant de la pénalité, ou les faits rapportés, ou les deux.

Si les sanctions ne sont pas acquittées et qu'aucune révision n'est demandée, vous êtes considérés comme coupable de l'infraction et vous devez payer les sanctions précisées dans l'Avis d'infraction. Les sanctions sont payables à la date indiquée ci-dessus.

Un défaut de paiement constitue une créance envers l'Etat et peut être recouvré en utilisant tous les recours prévus dans la [Loi sur la gestion des finances publiques](#).

L'information concernant l'infraction pourrait également être affichée sur le site Web de l'ONÉ:

- a) 30 jours après la date de réception de l'Avis;
- b) dès qu'une décision a été rendue à la suite d'une Demande de révision.

Paiement:

Vous pouvez payer le montant dû par transfert électronique de fonds (TEF) ou par chèque établi à l'ordre du Receveur général du Canada.

Pour se prévaloir du service de transfert électronique, communiquer par téléphone avec le Directeur, Service des finances, du lundi au vendredi, de 9 h à 16 h, heure des Rocheuses :

Telephone: 403-919-4743/ 800-899-1265
Telec. : 403-292-5503/877-288-8803

Les chèques doivent être établis à l'ordre du Receveur général du Canada et postés à l'adresse suivante:

Office national de l'énergie
Service des finances
Centre 10, 517 – 10e Avenue S.-O.
Calgary (Alberta)
T2R 0A8

Le formulaire de *paiement* dûment rempli doit accompagner le paiement.

To Request a Review

Pursuant to the NEB Act, Section 144, you may file a request for a review of this Notice of Violation by the Board.

The date of filing is the date on which the document is received, as indicated by the date on an e-mail submission or the stamped on the document by a NEB employee.

If you elect to make a request for a review, complete and submit the attached *Request for Review* form to:

Administrative Monetary Penalty - Reviews
National Energy Board
Centre 10, 517 – 10th Avenue SW
Calgary, Alberta
T2R 0A8

For more information on reviews, please see the Administrative Monetary Penalties Process Guide available on the NEB's [website](#).

If you have any questions regarding this matter, please contact the undersigned.

Sincerely,

Demande de révision

En vertu de l'article 144 de la Loi sur l'ONE, vous pouvez présenter à l'Office une *Demande de révision* de cet Avis l'infraction.

La date du dépôt correspond à la date de réception du document, qui apparaît sur l'envoi électronique ou le timbre apposé sur le document par un employé de l'ONE.

Si vous voulez demander une révision, veuillez remplir et soumettre le formulaire de Demande de révision à l'adresse suivante :

Sanction administrative pécuniaire - Révision
Office national de l'énergie
Centre 10, 517 – 10e Avenue S.-O.
Calgary (Alberta)
T2R 0A8

Pour de plus amples informations sur le processus de révision, prière de consulter le Guide sur le processus relatif aux sanctions administratives pécuniaires sur le [site Web](#).

Pour toute question à ce sujet, veuillez communiquer avec la personne soussignée.

Sincères salutations,

Robert Steedman

Designated Officer
Administrative Monetary Penalties

Fonctionnaire désigné
Sanctions administratives pécuniaires

1-800-899-1265 or 403-292-4800