

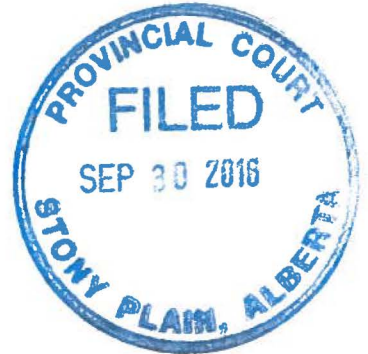
IN THE PROVINCIAL COURT OF ALBERTA  
CRIMINAL DIVISION

BETWEEN:

HER MAJESTY THE QUEEN

-and-

APACHE CANADA LTD.



BEFORE THE HONOURABLE  
ASSISTANT CHIEF JUDGE  
C. D. GARDNER  
AT STONY PLAIN,  
ALBERTA

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On Friday, the 30<sup>th</sup> day  
of September, 2016.

**SENTENCING ORDER**

**WHEREAS** Apache Canada Ltd. stands convicted of an offence contrary to the  
*Pipeline Act*, to wit:

**Count 7:** On or between the 17th day of April 2013 and the 25th day of October 2013, at or near Zama City, in the Province of Alberta, did fail to design, construct, maintain or operate a pipeline in accordance with Clause 13.1.2.14(f) of CSA Standard CSA Z662-11 by failing to protect a reinforced composite pipeline that was part of an aboveground piping system installation, from unintended contact and mechanical damage, contrary to section

9(3) of the Pipeline Rules and did thereby commit an offence contrary to s. 52(2)(a) of the *Pipeline Act*, evidence of the offence having first come to the attention of the Regulator on October 25th, 2013.

**AND WHEREAS** in addition to a fine of \$19,922.50 as against Apache Canada Ltd., imposed under the *Pipeline Act*, inclusive of victim fine surcharge, and having regard to the nature of the offence and circumstances surrounding its commission;

**AND WHEREAS** the Crown and Defence counsel have made a joint submission to this Honourable Court for a creative sentencing project to provide funding to Alberta Innovates, Technology Futures to allow Dr. Dani Degenhardt and Christina Small to complete an independent research project entitled: "Use of Seed Priming and Biochar to Improve the Reclamation Performance of Alberta Native Species in Salt-Affected Soils";

**AND WHEREAS** the Crown submits that this project falls within the Guidelines for Creative Sentencing Projects, as it meets these key criteria:

1. There is a **geographic connection** as the project would address remediation of salt-affected soils throughout Alberta including North West Alberta;
2. The project will **benefit the environment** by improving understanding of how and what salt-affected soils can be remediated more effectively through the use of native plants in lieu of sending all salt-affected soils to a landfill and replacing the same soil with clean topsoil, a finite resource;
3. This project will **benefit the public** as industrial incidents, especially produced water pipeline breaks throughout Alberta, appear to frequently

occur within Alberta. The resulting salt-affected soils must be remediated. The project will help to ensure that less clean topsoil, a finite resource, will be necessary to remediate such soils in the future and that remediation sites, where possible, can be remediated with native Alberta grasses and shrubs; and

4. There is **no reasonably apprehended conflict of interest** between the recipients of the funds (Alberta Innovates, Technology Futures), and either Apache Canada Ltd., the Crown or the investigating agency.

**AND WHEREAS** the total cost of the Sentencing Projects is \$305,077.50 of which \$140,077.50 will be funded via this Order;

**IT IS HEREBY ORDERED** that Apache Canada Ltd. shall comply with the following conditions:

1. That Apache Canada Ltd. hereby irrevocably instructs Miller Thomson LLP to forward \$140,077.50 that Miller Thomson LLP holds in trust for Apache Canada Ltd. to the Alberta Energy Regulator on or before October 7, 2016. The \$140,077.50 will be unconditionally forwarded to the Alberta Energy Regulator in trust for the sole purpose of funding the AER Service Agreement as detailed and described in Schedule "A" hereto. The specific address to which the funds should be forwarded is: Alberta Energy Regulator, Attention: Karen Lilly, Legal Counsel, Suite 1000, 250 – 5 Street SW, Calgary, Alberta, T2P 0R4.;
2. All of the reports produced in accordance with the project described in paragraph 1 will be available to the public and may be posted on the website of the Alberta Energy Regulator or elsewhere.

3. The Alberta Energy Regulator will only forward any of the funds held in trust as ordered in paragraph 1 to Alberta Innovates, Technology Futures pursuant to this Order according to the terms of Schedule "A" or as further contemplated by the terms of Schedule "A". The Alberta Energy Regulator will not forward any funds pursuant to this paragraph until Schedule "A" has been fully executed by all parties.
4. If any conditions or requirements of this Order cannot be met, counsel for the Alberta Crown Prosecution Service, the Alberta Energy Regulator, Alberta Innovates, Technology Futures, and Apache Canada Ltd. can resolve any resulting issues by agreement, failing which the parties hereto shall appear before this Honourable court for further direction.
5. The term of this Order is for three years from the date hereof to allow sufficient time for completion of the project described herein.
6. If, following the expiry of this Order, any of the funds described in paragraph 1 continue to be held in trust by the Alberta Energy Regulator, those funds are to be used to pay any outstanding amounts pursuant to the terms of Schedule "A" or as further contemplated by the terms of Schedule "A". If any funds continue to be held in trust after such payments, counsel for the Alberta Energy Regulator will provide a written report detailing the same to the Alberta Crown Prosecution Service, Specialized Prosecutions Branch and Alberta Innovates, Technology Futures. The letter will be sent to Alberta Innovates, Technology Futures according to the terms and procedures set out in Schedule "A". If Alberta Innovates, Technology Futures does not dispute that the funds held in trust are properly payable to Alberta Innovates, Technology Futures within 60 days, the trust will cease and the funds will thereafter become the property of the Alberta Energy Regulator. If Alberta Innovates, Technology Futures advises that some or all of the funds held in trust are payable to Alberta Innovates, Technology Futures pursuant to

Schedule "A", then either: (a) the Alberta Energy Regulator can pay any such outstanding amount and any remaining amount after such payment still held in trust will cease to be held in trust and will thereafter become the property of the Alberta Energy Regulator; or (b) the parties can appear before this Honourable Court for further direction.

7. This Order may be consented to in counterpart, by facsimile or otherwise.

DATED this 30<sup>th</sup> day of September, 2016, in Stony Plain, in the Province of Alberta.

C.D. Gardner

Judge of the Provincial Court of Alberta

APPROVED AS TO FORM AND CONTENT BY:

Craig A. Kallal  
 Solicitor for the Specialized Prosecutions Branch  
 of the Alberta Crown Prosecution Service

David J. Cichy  
 David J. Cichy, Q.C.  
 Solicitor and Agent for Apache Canada Ltd.

Alison Kopy  
 for Karen Lilly  
 Solicitor for the Alberta Energy Regulator