

Administrative Penalty Director’s Decision

Named Party: Paramount Resources Ltd. (formerly Apache Canada Ltd.) **BA Code:** 0AW4

File No. 2016-018

Legislative Authority

Section 237 of the *Environmental Protection and Enhancement Act (EPEA)* and section 1 of the Schedule in the *Administrative Penalty Regulation*

Sections 70 through 75 of the *Responsible Energy Development Act (REDA)* and section 8.1 of *REDA General Regulation*

Preliminary Penalty Assessment

Total Number of Counts

Number of Counts Identified	Base Assessment Amount	Factor Variance(s) ¹
Count 1	\$5000	+ \$500 + \$2000
Count 2	\$3500	
Total Counts: 2	Total Base Assessment: \$8500	Total Variance: \$2500

¹ Under section 3(2) of the *Administrative Penalty Regulation*, section 171(4) of the *Public Lands Administration Regulation*, and section 8.3(2) of the *Responsible Energy Development Act General Regulation*, the AER may increase or decrease the amount of an administrative penalty after considering certain factors. However, per section 3(3) of the *Administrative Penalty Regulation*, section 171(5) of the *Public Lands Administration Regulation*, and section 8.3(3) of the *Responsible Energy Development Act General Regulation*, the maximum amount cannot exceed \$5000 for each day or part of a day on which a contravention occurs or continues.

Given the above, the amount of the administrative penalty associated with the relevant counts can only be increased to the maximum amount when applying the factor variances. In this case, \$1500 from the factor (e) variance assessment is applied to Count 2. The assessment of the factors and factor variance will remain as part of the preliminary administrative penalty assessment as the evidence supports the increased amounts described in the factors table.

Director's Decision Summary

On August 17, 2018, I, Mark R. Miller, Director, Environment and Operational Performance Branch of the Alberta Energy Regulator (AER), contacted and spoke with John Hawkins, Director, Asset Management for Paramount Resources Ltd. (Paramount) to discuss the Preliminary Administrative Penalty Assessment (PA).

Mr. Hawkins was sent the PA via email on August 17, 2018 for review, and to determine if Paramount would like to meet with the AER in person to discuss the facts on which the preliminary assessment was based, how the assessment was calculated, and provide an opportunity for Paramount to share with the AER any relevant information not previously submitted to be considered prior to making a final decision.

On August 23, 2018, I, Mark R. Miller received a voicemail, and a subsequent email from Mr. Hawkins, indicating that Paramount does not require a meeting to review the PA. Mr. Hawkins' voicemail further indicated that Paramount was accepting of the information provided and contained within the PA.

Accordingly, the following are the identified counts, with the associated base assessment and factor variances for the contraventions under the *Environmental Protection and Enhancement Act* and the *Pipeline Rules*:

Environmental Protection and Enhancement Act (EPEA)

COUNT 1

On or about September 17, 2016, in the province of Alberta, Paramount Resources Ltd. did release or permit the release from pipeline licence 39204 segment 22, located at LSD 10-33-115-06W6, into the environment of a substance in an amount, concentration, or level or at a rate that caused or may have caused a significant adverse effect contrary to section 109(2) of *EPEA*.

		BASE PENALTY TABLE		
		Type of Contravention		
Potential For Adverse Effect		Major	Moderate	Minor
	Major	5000	3500	2500
	Moderate	3500	2500	1500
	Minor to None	2500	1500	1000

Type of Contravention: Major

Protection of the environment is one of the primary purposes of *EPEA*. The prohibition against releasing a substance in an amount, concentration, or rate that causes or may cause a significant adverse effect is fundamental in fulfilling this purpose and considered a major contravention.

Potential for Adverse Effect: Major

The release of approximately 49 e³m³ of gas with a 17 per cent H₂S content is likely to cause a significant adverse effect to the environment, which includes living organisms. Paramount's initiation of emergency response activities including road blocks, air monitoring, and requiring workers to wear self-contained breathing apparatus prior to shutting in the pipeline demonstrates this. The death of 17 otherwise healthy

animals (adult grey wolf, American yellow goldfinch, American robin, three ravens, eight Lincoln’s sparrows, and eastern grey squirrel) in close proximity to the release with no adverse weather conditions or other point releases of an acutely fatal toxin to explain the fatalities demonstrates that the release most likely caused a significant adverse effect. Therefore, a classification of major on the potential for adverse effect is appropriate.

Base Assessment: \$5 000

Pipeline Rules

COUNT 2

On or about September 17, 2016, in the province of Alberta, Paramount Resources Ltd. did fail to meet the minimum requirements for the design, construction, testing, operation, maintenance, repair, and leak detection of pipeline licence 39204 segment 22, located at LSD 10-33-115-06W6, as set out in CSA Z662 sections 3.3.3, 6.1.5, and 10.4.2, contrary to section 9(3) of the *Pipeline Rules*.

BASE PENALTY TABLE				
Seriousness of Contravention				
Extent of actual or potential loss or damage		Major	Moderate	Minor
		Major	5000	3500
Moderate		3500	2500	1500
Minor to		2500	1500	1000
None		1000	600	250

Seriousness of Contravention: Moderate

As a minimum-expectation requirement, the retaining of records involves minimal effort. Records related to pipeline integrity or that aid in assessing a pipeline’s suitability for operations, especially in a sour service pipeline, is even more important. By not being able to review the field-applied coating records, the capacity to determine the pipeline’s operational suitability is severely reduced; therefore, this contravention is rated as moderate.

Extent of Actual or Potential Loss or Damage: Major

The release of approximately 49 e³m³ of gas with a17 per cent H₂S content is likely to cause potential loss or damage, including to wildlife resources. The death of 17 otherwise healthy animals (adult grey wolf, American yellow goldfinch, American robin, three ravens, eight Lincoln’s sparrows, and eastern grey squirrel) in close proximity to the release with no adverse weather conditions or other point releases of an acutely fatal toxin to explain the fatalities demonstrates that the release most likely caused noteworthy losses to wildlife resources. Therefore, a classification of major on the extent of actual or potential loss or damage is appropriate.

Base Assessment: \$3 500

Factors to be considered to vary the Assessment

Factors	<i>EPEA</i>	<i>REDA General Regulation</i>
(a)	the importance to the regulatory scheme of compliance with the provision;	the importance to the regulatory scheme of compliance with the provision that was contravened;
(b)	the degree of wilfulness or negligence in the contravention;	the degree of willfulness or negligence, if any, on the part of any person responsible for the contravention;
(c)	whether or not there was any mitigation relating to the contravention;	any steps taken by a person responsible for the contravention to avoid or limit the extent of any actual loss or damage that resulted or any potential loss or damage that may reasonably be expected to result from the contravention;
(d)	whether or not steps have been taken to prevent reoccurrence of the contravention;	any steps taken by a person responsible for the contravention to prevent its recurrence;
(e)	whether or not the person who receives the notice of administrative penalty has a history of noncompliance;	any previous contravention of a provision prescribed by section 8.1 by a person responsible for the contravention;
(f)	whether or not the person who receives the notice of administrative penalty has derived any economic benefit from the contravention;	whether a person responsible for the contravention derived or is likely to derive any economic benefit from the contravention;
(g)	any other factors that, in the opinion of the Director, are relevant.	any other factor that, in the opinion of the Regulator, is relevant.

Factors applicable to this case

Factor from above	Amount Varied	Description/Comments
(a)	+\$500	The prohibition against releasing substances into the environment in an amount, concentration or level or rate of release that causes or may cause a significant adverse effect is of critical importance in fulfilling the AER's mandate, including protecting the environment and providing for safe development of energy resources in Alberta.
(b)	Neutral	This factor is not applicable.
(c)	Neutral	This factor is not applicable.
(d)	Neutral	This factor is not applicable.
(e)	+\$2 000	<p>Apache was issued an administrative penalty on May 27, 2015, for a pipeline failure and release of a substance into the environment.</p> <p>Apache was prosecuted on May 26, 2016, and penalized \$190,000 due to a pipeline failure and release of a substance into the environment.</p> <p>Apache was issued an order on June 26, 2015, due to 12 high risk enforcement actions for noncompliances with the <i>Pipeline Act</i> and <i>Pipeline Rules</i>; as well as 6 pipeline failures which caused loss or damage to public lands and released substances to the environment which had the</p>

		potential to cause an adverse effect on the environment.
(f)	Neutral	This factor is not applicable.
(g)	Neutral	This factor is not applicable.

Final Penalty Decision

I, Mark R. Miller, Director, Environment and Operational Performance Branch of the AER, have fully considered all of the information collected in the investigation, including Paramount’s acknowledgement and acceptance of the PA findings and penalty calculation on August 23, 2018.

Accordingly, the total amounts in the base penalty for counts 1 and 2 in the PA are considered reasonable and remain the same.

The factors assessed in the PA are also reasonable however, given the regulatory maximum of \$5000 for each count; the variance factors are being applied to this maximum amount.

FINAL PENALTY ASSESSMENT: \$10 000

Date: September 13, 2018

Director’s Signature: *<original signed by>*

Mark R. Miller, Director, Environment and Operational Performance, AER