

# Administrative Penalty Director’s Decision

**Named Party:** Canadian Natural Resources Limited **BA Code:** 0HE9

**File No.** 2022-057

## Preliminary Penalty Assessment

Number of Counts Identified	Base Assessment Amount	Factor Variance(s)	
Count 1	\$380 000	(a) +\$1 000	(b) +\$2 500
		(c) -\$2 500	
<b>Total Counts: 1</b>	<b>Total Base Assessment: \$380 000</b>	<b>Total Variance:</b>	<b><sup>1</sup>+\$1 000</b>

## Director’s Decision Summary

On May 30, 2024, I, Tyler Callicott, Director, Enforcement & Orphaning, for the Alberta Energy Regulator (AER), spoke with Fred Kuzmic, Environment Manager, Oil Sands Mining, and Scott Wtrychowski, Regulatory Manager-Oilsands Mining Operations, for Canadian Natural Resources (CNRL) to discuss the Preliminary Administrative Penalty Assessment (PA), with a follow-up email from Mr. Kuzmic on June 4, 2024. Mr. Kuzmic agreed to meeting in person to discuss the investigation findings.

On June 10, 2024, I, Tyler Callicott, along with AER subject matter experts, met with CNRL representatives Fred Kuzmic, Environment Manager, Oil Sands Mining; Scott Wtrychowski, Regulatory Manager-Oilsands Mining Operations; Trevor Wagil, Senior VP Oil Sands Mining and Upgrading; and Ryan Brenton, Plant Operations/Maintenance Manager, Mining.

---

<sup>1</sup> Under section 3(2) of the *Administrative Penalty 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*, 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 amounts of the administrative penalty associated with the relevant counts cannot be increased by any factor variance. 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.

The purpose of the meeting was to review the facts on which the PA was based, how the PA was calculated, and provide an opportunity for CNRL to share with the AER any relevant information not previously submitted to be considered prior to making a final decision.

The PA identified the following count and penalty assessment.

*Environmental Protection and Enhancement Act*

**COUNT 1**

On or before May 21, 2022, and continuing until August 4, 2022, in the Province of Alberta, CNRL did fail to store a hazardous substance in a manner that ensured that the hazardous substance did not directly or indirectly come into contact with any animals, contrary to section 155 of the *Environmental Protection and Enhancement Act (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**

The primary purpose of the *EPEA* is the protection of the environment (Section 2), which includes living organisms. As part of this purpose, the Act recognizes the importance of preventing and mitigating the environmental impact of development (e.g., energy resource activities). The requirement to ensure that a hazardous substance does not contact animals is fundamental to achieving the *EPEA*'s purpose. The risk to the environment is greatly increased if timely and appropriate action is not taken. Accordingly, an assessment of "Major" is appropriate.

**Potential for Adverse Effect: Major**

CNRL identified the emergence of an island in the spring of 2021 in their Horizon oilsands mining operation tailings facility. Due to a lack of bird nests being established on the island, CNRL's approach was to continue with bird deterrent activities until the island eventually submerged by rising water in this area of the tailings facility. No efforts were made to eliminate the island or manage the level of water in this area to prevent its re-emergence. In the spring of 2022, the island re-emerged which became a habitat and nesting site for birds as well as predators such as wolves and coyotes that could access the island. This tailings facility contains process affected water and bitumen, a substance with known toxicity to wildlife, including the potential impacts of other animals ingesting oiled birds. Bitumen mat on the surface of the tailings facility could trap the waterfowl that land on it and the birds will eventually sink with the bitumen. As bitumen contamination increases, birds lose buoyancy and the insulating effect of feathers. There is a loss of the feathers' waterproofing, potentially leading to hypothermia or drowning. Birds may ultimately lose their ability to fly. A heavily oiled bird will almost certainly die. Birds that attempt to preen bitumen from their feathers and those that forage on the shores of the island may ingest bitumen which is toxic to

them. Even a light oiling can interfere with a bird's reproductive abilities. CNRL reported 411 bird fatalities at or near the tailings facility over the duration of the incident as well as coyotes and wolves accessing the island through the water of the tailings facility. Accordingly, an assessment of "Major" is appropriate.

On May 21, 2022, CNRL first discovered the presence of 271 California gull nests and 1 Canada goose nest on the island. On June 7, 2022, CNRL first notified the AER of the formation of the island and identified a number of mitigation measures that CNRL was taking to prevent birds from coming into contact with the tailings facility. These, and subsequent, mitigation measures were not effective in preventing animals from coming into contact with a hazardous substance.

On July 12, 2022, CNRL first notified the AER of evidence that CNRL had contravened section 155 of the *EPEA* when CNRL reported that California gull chicks were discovered to be oiled. This contravention continued until August 4, 2022, when the California gull chicks became flight capable and left the island.

Section 72 of the *Responsible Energy Development Act* allows the AER to impose a daily administrative penalty amount for each day or part of a day on which the contravention occurs or continues. In this count, the contravention occurred and continued for 76 days. Accordingly, the administrative penalty will be imposed for each of the 76 days on which the contravention occurred or continued.

**Base Assessment:** \$5 000 X 76 days = \$380 000

### **Factors to be Considered to Vary the Assessment**

- (a) the importance to the regulatory scheme of compliance with the provision;
- (b) the degree of wilfulness or negligence in the contravention;
- (c) whether or not there was any mitigation relating to the contravention;
- (d) whether or not steps have been taken to prevent reoccurrence of the contravention;
- (e) whether or not the person who receives the notice of administrative penalty has a history of non-compliance;
- (f) whether or not the person who receives the notice of administrative penalty has derived any economic benefit from the contravention;
- (g) any other factors that, in the opinion of the Director, are relevant.

## Factors Applicable to this Case

Factor from above	Amount Varied	Description/Comments
(a)	+\$1 000	Part of the AER’s mandate includes providing for the safe and environmentally responsible development of energy resources in Alberta which includes the protection of the environment. CNRL’s lack of timely and appropriate actions jeopardizes the integrity and effectiveness for ensuring the protection of the environment through individual actions.
(b)	+\$2 500	<ul style="list-style-type: none"> <li>• CNRL failed to remove the island prior to 2022 after it first emerged in 2021, even though CNRL had established a history of island removal practices at Horizon.</li> <li>• CNRL did not take any specific actions to control water levels in 2021 and 2022 to prevent the emergence of the island.</li> <li>• CNRL’s <i>EPEA</i> approval for Horizon required CNRL to participate in and report on their participation in the Oil Sands Bird Contact Monitoring Program, which included a report by CNRL and other oilsands operators that provided multiple examples of other oil sands mines demonstrating the importance of timely island removal in reducing the attractiveness of their tailing facilities.</li> <li>• CNRL’s 2016, 2021, and 2022 Wildlife Mitigation and Monitoring Plans did not include any explicit procedures or processes for conducting risk analyses for identified islands, assigning risk levels for islands identified at Horizon, or actions that CNRL would take or not take based on the risk classification of an identified island at Horizon.</li> <li>• CNRL took multiple steps to attempt to prevent California gulls from nesting on the island and prevent the birds from coming into contact with the island once the nests were established on the island. However, given CNRL’s assessment that gulls are hard to haze, CNRL ought to have foreseen that it would be difficult to prevent the gulls from landing and nesting on the island.</li> </ul>

(c)	-\$2 500	<ul style="list-style-type: none"> <li>• Relocation of the boom in the Tar River Valley to cover the tailings pour area on the east bank.</li> <li>• Place additional deterrent along the haul road to encourage flight capable birds to go towards Horizon Lake instead of the External Tailings Facility.</li> <li>• Installation of snow fencing around the Tar River Valley perimeter to deter predators from accessing the island and driving the birds to the water.</li> <li>• Soft oil absorbent boom deployed close to the island to reduce the oiling risk around the island.</li> <li>• Installation of electric fence to prevent predator entry.</li> </ul>
(d)	Neutral	Factor not applied in this case
(e)	Neutral	Factor not applied in this case.
(f)	Neutral	Factor not applied in this case.
(g)	Neutral	Factor not applied in this case.

## Discussion

At the June 10, 2024, meeting, an AER investigator provided a summary of the investigation’s findings related to the contravention. An AER senior specialist, compliance assurance, discussed the PA calculation, including the base penalty and variance factors.

CNRL had the following questions/clarification requests:

- CNRL questioned why the “Date of Contravention” at the beginning of the PA was July 12, 2022, yet the start date for the count was May 21, 2022.
  - AER response: The proper Date of Contravention is May 21, 2022, and is supported by the evidence.
    - CNRL first notified the AER on June 7, 2022, that CNRL had discovered the presence of 271 California gull nests and 1 Canada goose nest on the island on

May 21, 2022. Although CNRL only notified the AER on July 12, 2022, that California gull chicks were being oiled, the evidence supports that CNRL did not ensure that animals, including but not limited to the gull chicks, were coming into contact with bitumen before that date.

- On May 21, 2022, CNRL's evidence is that there were animals that were already nesting on the island and the AER's investigation supports that these birds would come into contact with bitumen. Animals may have come into contact with bitumen before this date, but this date was chosen based on information submitted by CNRL.
- CNRL indicated that they would not have known that the predators could cross over to the island and therefore would not have thought of setting up a perimeter fence.
  - AER response: It was reasonable for CNRL to assess the area immediately after observing the nests. Had CNRL done this, they would have identified the shallow strip of water connecting to the island which allowed the predators to cross over to the island.
- CNRL disagreed with the AER wildlife biologist's statement related to predator impacts and wanted recognition that there was no evidence to demonstrate that predators were impacted.
  - AER response: The investigation did not focus on impacts to predators; however, the evidence supports an inference that predators were impacted because the predators were able to cross through the water and onto the island. CNRL agreed that predators walked through the water and killed oiled birds.
- CNRL had concerns regarding dates that the AER tailings engineer indicated when tailings were deposited into the Tar River Valley.
  - AER response: The evidence supports that tailings (including bitumen) were deposited in the Tar River Valley in 2021.
- CNRL noted that due to the *Migratory Bird Convention Act*, there was little they could do once the nests were in place as CNRL was to minimize disturbance of the birds.
  - AER response: The AER accepts CNRL's submission regarding the *Migratory Bird Convention Act*. However, as discussed further below, the evidence still supports that there were actions that were reasonable for CNRL to do.

CNRL requested an opportunity to provide a written submission to the AER, with an agreed upon deadline of June 20, 2024. CNRL emailed their written submission to the AER at 2:22 p.m. on June 20, 2024.

## CNRL Written Submission and AER Response

### Key Facts:

- Paragraphs 2 through 7, and 9 through 13 provided a chronology of events related to the contravention.
  - AER response: This information was documented in the PA and was not new information.

### Clarification and Due Diligence:

- Paragraphs 14, 15, 17, 18, 19, and 20 discussed CNRL’s view that the island had a low-risk classification and thus, CNRL determined that the appropriate response was to focus on wildlife deterrents instead of options to remove the island.
  - AER response: The evidence supports that it was unreasonable for CNRL to assess the island as a low-risk classification and that it was unreasonable for CNRL to determine that the appropriate response was to focus on wildlife deterrents instead of options to remove the island.
  - Based on the evidence, CNRL did not have explicit procedures or processes for conducting risk analyses for identified islands, assigning risk levels for islands identified at Horizon, or actions that CNRL would take or not take based on the risk classification of an identified island at Horizon.
  - The evidence supports that wildlife deterrents were not enough to ensure that bitumen did not come into contact with animals on the island. Despite CNRL’s deterrent efforts, animals did come into contact with bitumen.
- Paragraph 21 submits that CNRL “took reasonable steps to prevent the commission of the contravention, using a risk-based approach to island management that applied site-specific information.” CNRL submits that it should not be held to standard of perfection and that it is not required to show it took all possible or imaginable steps. “The standard is one of reasonableness in the circumstances.”
  - AER response: The AER agrees that the standard is reasonableness in the circumstances, but the evidence supports a finding that CNRL did not take all reasonable steps to avoid liability. To show due diligence, CNRL must show the existence of a “proper system” and “reasonable steps to ensure the effective operation of the system”.

- The evidence supports that CNRL’s “risk-based approach” was not a “proper system” nor did CNRL take reasonable steps to ensure effective operation of the “system”.

### **Restrictions on CNRL Imposed Under Federal Legislation**

- Paragraphs 24 to 32 discussed that CNRL had legislative restrictions under the *Migratory Birds Convention Act* and *Migratory Birds Convention Regulations* and thus, CNRL did not have any reasonable legal alternatives to the actions it took.
  - AER response: The evidence supports that once CNRL discovered that birds were nested on the island, CNRL did not conduct a new assessment of the situation and did not consult a specialist regarding reasonable legal alternatives. These would have been reasonable actions for CNRL to take.
  - Further, the evidence supports that CNRL could have taken reasonable steps to ensure that the actions that were in fact taken by CNRL were more effective.

### **Incorrect Number of Days Counted and Adjustment to Base Penalty**

- Paragraphs 33 to 48 discussed CNRL’s arguments in the alternative, should the AER decide to issue a final administrative penalty:
  - CNRL submitted that the AER’s assessment that the contravention occurred and continued for 76 days, from May 21, 2022, to August 4, 2022, is not supportable.
    - AER response: As above, the Date of Contravention of May 21, 2022, is supported by the evidence. The duration until August 4, 2022, is also supported by the evidence.
  - CNRL submitted that the contravention could not have commenced prior to July 12, 2022, because “the oiling of the birds [...] is an essential element of the offence”.
    - AER response: July 12, 2022, is the date on which evidence of the contravention first came to the notice of the AER, but it is not the first date of the contravention. The evidence supports an inference that once the birds were nested on the island, it was likely or inevitable that they would come into contact with bitumen. Thus, CNRL did not ensure that animals would not come into contact with a hazardous substance.
  - CNRL submitted that a key requirement of section 155 is that the “animal(s) must actually “come into contact with” the hazardous substance.”



- AER response: The full text of section 155 is:
  - 155 A person who keeps, stores or transports a hazardous substance or pesticide shall do so in a manner that ensures that the hazardous substance or pesticide does not directly or indirectly come into contact with or contaminate any animals, plants, food or drink.
- CNRL’s submission ignores the word “ensures” in the text of section 155. Per above, the evidence supports an inference that once the birds were nested on the island, it was likely or inevitable that they would come into contact with process affected water and bitumen, thus CNRL did not ensure that animals would not come into contact with a hazardous substance.
- CNRL submitted that “It cannot be said that an animal came into contact with or was contaminated by a hazardous substance if there is no evidence of an oiling having occurred.”
  - AER response: Circumstantial evidence supports an inference that an animal came into contact with or was contaminated by a hazardous substance on or before when the nesting birds were discovered on May 21, 2022.
- CNRL submitted that the PA does not give proper weight to the variance factors.
  - AER response: The AER has considered CNRL’s submissions and made changes per the Final Penalty Decision below.

## Final Penalty Decision

I, Tyler Callicott, Director, Enforcement & Orphaning, for the AER, have fully considered all the information collected in the investigation, the verbal submissions presented to me by CNRL in the June 10, 2024, meeting, and the written submission sent to me from CNRL on June 20, 2024.

I am of the opinion that the contravention described above did occur and is supported by the evidence. I find that there was a lack of due diligence on the part of CNRL as follows:

- Following the re-emergence of the island in 2022 and prior to the nests being identified on May 21, 2022, by CNRL:
  - Based on CNRL’s submissions they have relied on their bird deterrent system and hazing activities to keep the birds away from the island.
  - CNRL had identified prior to the incident that California gulls are an intelligent nuisance species that are incredibly difficult to haze, and that they often nest on islands.

- CNRL reported that for numerous days (May 11 to 15, 2022) they unsuccessfully attempted to haze the birds away from the island.

I am of the opinion from CNRL's submissions that they relied on their bird deterrent system, managing the water level of the Tar River Valley, history of no previous issues with this island, and their assessment of the island as low risk, as the basis for not taking additional actions to address the island.

- Based on CNRL's submissions, CNRL did not take measures to manage the water level to prevent the re-emergence of the island or predict its re-emergence.
  - CNRL submitted that it did not have explicit procedures or processes for conducting risk analysis for identified islands, assigning risk levels for islands identified at Horizon, or actions that CNRL would take or not take based on the risk classification of an identified island at Horizon. However, in CNRL's 2021 Bird Protection Plan for Horizon submitted to the AER on September 30, 2021, including the supplemental information request responses provided by CNRL on December 9, 2021, and authorized by the AER for implementation on December 9, 2021, CNRL discussed a number of items pertaining to the management and removal of islands at Horizon:
    - "In addition to vegetation removal, small water-filled depression areas identified throughout the bird season as being attractive to birds and wildlife (using data-driven weekly heat maps) are filled in, and potential islands (soil piles and windrows) are spread out and flattened on an ongoing basis." "Liquid Impoundment Facilities (LIF) are designed to minimize potential 'islands' by reviewing LIF bottom contours to determine if pinnacles or elevated plateaus exist. Next, the tailings deposition schedules and associated water elevations are modelled to determine if any exposed islands would be present during the open water bird season. If they are identified, then efforts will be made to remove these structures prior to LIF filling. Should any 'islands' emerge, water levels are managed to prevent exposed surfaces where possible or alternatively, operational controls like hand shoveling or utilizing a floating excavator to remove the island are employed..."

From CNRL's submissions they are stating that the External Tailings Facility and Tar River Valley are high risk facilities and they have assessed the island to be low risk. I believe it was not reasonable for CNRL to assess that the island was low risk due to the following:

- The island was an attractive habitat for birds.
  - The island was located in the External Tailings Facility that is identified as a high-risk area by CNRL.

- The island was located within the southern area of the Tar River Valley close to the area where CNRL had deposited tailings in 2021 and within the area where CNRL used a hard boom to contain the bitumen to the southeastern area of the Tar River Valley.
- Although CNRL was fortunate to not have birds nest on the island in 2021, this should not have been relied upon to say the island was low risk.
- I am of the opinion that a reasonable person in similar circumstances would have:
  - Taken additional action to address the island in 2021.
  - Predicted and prevented re-emergence of the island in 2022.
  - Taken additional action to address the island once it re-emerged in 2022.
- I am of the opinion that if CNRL had taken any of the above steps they likely could have prevented the contravention from occurring. CNRL failing to take these actions is the primary cause of this incident, and not taking additional steps to address an attractive habitat located in their high-risk External Tailings Facility allowed for the conditions that led to the contravention.

Following CNRL discovering the nests on the island on May 21, 2022:

- CNRL stated in its submission that “Based on the lack of floating bitumen and improved water quality it was determined that there was no immediate risk to the any of the birds.”
  - CNRL has not provided details on how this was determined. Based on their submission I am unsure how CNRL determined there was no floating bitumen.
  - CNRL did not provide information on how they did or did not monitor for bitumen on an ongoing basis.
  - CNRL later submitted a photo of the Tar River Valley that appears to show floating bitumen.

I am of the opinion that CNRL’s opinion that there was no immediate risk to the birds was incorrect for the following reasons:

- The birds had made the island their habitat.
- The island was located within the Tar River Valley which has deposited tailings and contained bitumen.
- The birds frequently swam in the water surrounding the island.
  - Based on CNRL’s submissions to the AER, once they became aware that the birds had nested, CNRL took a number of additional steps to protect the birds prior to the gull

chicks hatching; however, in a later submission CNRL indicates that they were unable to take additional steps once the birds had nested:

- Based on CNRL's submissions there is no evidence that CNRL conducted a new risk assessment of the situation or consulted any specialists for an opinion on how to deal with the new situation.
- CNRL's submissions do not state exactly when each action was taken and in two instances when asked, they clarified that actions they said they took prior to the California gulls hatch date in fact occurred after the chicks hatched (fence installation around perimeter of the Tar River Valley).

In my opinion the speed in which CNRL undertook activities to protect the birds on the island and protect the gull chicks prior to hatching would have been important to reduce the potential impact as much as possible and minimize the disturbance of the birds.

- I am of the opinion that a reasonable person in similar circumstances would have taken additional measures, including:
  - Conducting a new risk assessment of the situation.
  - Consulting a specialist to assess the situation and obtain advice on what actions could be taken.
  - Placing a barrier to prevent the gull chicks from walking into the water once they had hatched.
  - Proactively fencing the area to protect the birds from predators and to prevent predators from coming in contact with the hazardous substance.

Based on the above, I am of the opinion that CNRL did not take all reasonable steps to prevent wildlife from coming into contact with the process affected water and bitumen, minimize the bird nesting habitat, minimize habituation of birds, and that CNRL failed to store a hazardous substance in a manner that ensured that the hazardous substance did not directly or indirectly come into contact with any animals. First, and most importantly, by not addressing the island in 2021 and 2022, additionally by not taking all reasonable steps once they ought to have realized their measures to deter and haze were not adequate, and again once the birds had nested on the island.

In my opinion based on the information I have received through the investigation, due process meeting and CNRL's written submission, CNRL was in contravention with section 155 of the *EPEA* from the time the birds nested on the island and made it their habitat. From that point forward until the birds left the island, CNRL did not ensure that the hazardous substance did not directly or indirectly come into contact with any animal:

- Once the adult birds made the island their habitat, they were at continual risk of coming into contact with the hazardous substance by swimming and walking in the water, and this likely did occur.
- Once the gull chicks hatched, they were in continual risk of coming into contact with the hazardous substance either indirectly from the other birds or directly by swimming or walking in the water.
- The presence of the birds on the island also put predators at risk of coming in contact with the hazardous substance by acting as attractive prey. Once the predators began preying on the birds it was difficult to manage and prevent this from continuing. It is likely that predators did come into contact with the hazardous substance while walking through the External Tailings Facility.

### **Base Assessment**

I find the base penalty amount of \$5,000 reasonable and shall remain the same.

### **Factors Adjustment**

Factor (a): no change. Protection of the environment is extremely important to the regulatory scheme. Here, CNRL's contravention had a direct and severely negative effect on wildlife. Living animals were killed and euthanized due to the contravention. There can be no more serious effect on wildlife.

Factor (b): change from +\$2,500 to +\$1,000; Based on the evidence, the AER considers the following factors as relevant to the degree of willfulness or negligence in the contravention:

- CNRL failed to remove the island prior to 2022 after it first emerged in 2021, even though CNRL had established a history of island removal practices at Horizon.
- CNRL did not take any specific actions to control water levels in 2021 and 2022 to prevent the emergence of the island.

Factor (c): change from -\$2,500 to -\$2,000; At the time of writing the PA, the AER was not aware of the timing of installation of the electric fence to prevent predator entry. After the due process meeting, CNRL confirmed that the electric fence was installed between August 11 and 12, 2022, after the California gull chicks were flight capable and left the island.

Factor (d): change from Neutral to -\$2,000; In CNRL's Tar River Valley Island Management Action Plan submitted to the AER on September 7, 2022, and CNRL's subsequent presentation of the plan to the AER on September 14, 2022, CNRL identified several actions they would implement to prevent future incidents, including:

- When islands are discovered, developing an action plan within the week, obtaining specialty equipment within 3 to 6 weeks, and then removing the island in the following weeks,

- Maintaining the Tar River Valley water level using water from Horizon Lake,
- Removing floating muskeg mats and islands on the External Tailings Facility, and
- Levelling removed islands off to a minimum of 1 meter below the water level.

Factors (e) and (f): no change.

Factor (g): Change from Neutral to -\$100,000: CNRL did not take all steps that a reasonable person in a similar circumstance should have taken, and did not establish due diligence between May 21, 2022, and August 4, 2022. However, once CNRL installed the perimeter snow fence around the Tar River Valley, on July 16, 2022, the deleterious effects on wildlife were limited but not eliminated due to this good faith effort at containment. In consideration of this, I am reducing the total penalty by \$100,000.

This is based on the days between July 16, 2022 (once the fence was installed) to August 4, 2022 (the day that the last gull chicks became flight capable) = 20 days.

### FINAL PENALTY ASSESSMENT

Number of Counts Identified	Base Assessment Amount	Factor Variance(s)	
Count 1	\$380 000	(a) +\$1 000	(b) +\$1 000
		(c) -\$2 000	(d) -\$2 000
		(g) -\$100 000	
<b>Total Counts: 1</b>	<b>Total Base Assessment: \$380 000</b>	<b>Total Variance:</b>	<b>-\$102 000</b>

### FINAL PENALTY ASSESSMENT: \$ 278 000

**Date:** July 11, 2024

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

---

Tyler Callicott, Director, Enforcement & Orphaning, AER