

Via Email

January 18, 2016

Canadian Natural Resources Limited

Calgary Head Office
Suite 1000, 250 – 5 Street SW
Calgary, Alberta T2P 0R4
Canadawww.aer.ca**Attention: Jeff Davidson**

Dear Counsel:

**Re: Request for Regulatory Appeal by Canadian Natural Resources Limited (CNRL)
Administrative penalties dated December 10, 2015
File No. 2013-044
Regulatory Appeal No. 1849424 (Regulatory Appeal)**

The Alberta Energy Regulator acknowledges receipt of CNRL's request for a regulatory appeal and stay dated January 8, 2016.

The AER has considered CNRL's request for a stay and has decided to deny the request. Below are the reasons for the decision of the AER.

CNRL sought a stay of two administrative penalty decisions that CNRL contravened section 227(e) of *EPEA* and section 36(1) of the *Water Act*.

Section 39(2) of REDA states: "The Regulatory may, on the request of a party to a regulatory appeal, stay the appealable decision or part of it on any terms or conditions that the Regulatory determines."

The common law test for granting a stay is set out in *RJR MacDonald v. Canada (Attorney General)* [1994] 1 SCR 11, and can be summarized as:

1. **The merits of the appeal** - Does the appeal raise a serious arguable question?
2. **Irreparable harm** – Would the party seeking the stay suffer irreparable harm if the application were refused?
3. **Balance of convenience** - Does the balance of convenience favour granting the stay?

Upon review of the regulatory appeal request, it appears CNRL meets the first part of the test. On the second part of the test CNRL argues that if it is successful on the regulatory appeal and is refunded the administrative penalties (totaling \$9,500) it will not be paid interest by the AER, and that this will harm CNRL. CNRL has not provided any information about what such interest could amount to and how it would be harmed by not receiving interest, even if it were entitled to interest. CNRL has not met this part of the test as CNRL failed established how it would be irreparably harmed by not receiving interest on those funds.

On the third part of the test, CNRL states it would be more convenient for it and the AER if CNRL does not pay the administrative penalties. CNRL does not describe how it would be inconvenienced by payment of the administrative penalties, other than the simple act of paying the penalties. Regarding the AER, the AER considers that any "administrative inconvenience" is minimal and does not warrant a stay.

inquiries 1-855-297-8311
24-hour
emergency 1-800-222-6514

The parties are requested to direct all communications relating to this matter to Helen Bowker of the AER Law Branch by e-mail RegulatoryAppeal@aer.ca.

Sincerely,

[original signed by:]

Renée Marx
Counsel, AER Law Branch

cc: AER Counsel for Environment and Operational Performance, Karen Lilly and Charlene Graham