

Administrative Penalty Director's Decision

Named Party: McLand Resources Ltd. **BA Code:** A6TW

File No. 2023-027

Preliminary Penalty Assessment

Number of Counts Identified	Base Assessment Amount	Factor Variance(s)	
Count 1	\$5 000	+\$500	
Count 2	\$5 000	+\$1 500	
Count 3	\$5 000	+\$2 000	
Total Counts: 3	Total Base Assessment: \$15 000	Total Variance:	+\$4 000¹

Preliminary Penalty Assessment: \$15 000

Director's Decision Summary

On January 20, 2025, I, Tyler Callicott, Director, Enforcement and Orphaning, for the Alberta Energy Regulator (AER), spoke with Wei Zheng, Production Engineer for McLand Resources Ltd. (McLand) to discuss the Preliminary Administrative Penalty Assessment (PA). Mr. Zheng agreed to meet via a virtual meeting to discuss the investigation findings and PA.

On January 27, 2025, I, Tyler Callicott, along with AER subject matter experts met with McLand representative Wei Zheng, Production Engineer, and Kevin Wang, Assistant to President/Translation.

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 McLand Resources Ltd. 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 contraventions and penalty assessments.

*Environmental Protection and Enhancement Act
(EPEA)*

CONTRAVENTION 1

On or about March 27, 2023, at 11-8-41-23W4M, near the hamlet of Tees, Alberta, a person, to wit: McLand Resources Ltd., who released or caused or permitted the release of a substance into the environment that may cause, is causing or has caused an adverse effect, did fail to report it to the Director as soon as McLand Resources Ltd. knew or ought to have known of the release, contrary to Section 110(1)(a) of the *Environmental Protection and Enhancement Act*.

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

Type of Contravention: Major

A licensee's duty to report releases to the environment that may cause, are causing, or have caused an adverse effect as soon as they ought to have known is a cornerstone to the legislative system under *EPEA* and crucial to protecting people and the environment. Timely reporting of a release is necessary to ensure the AER has the opportunity to provide regulatory oversight and that the licensee provides an appropriate response. Accordingly, the classification of major is appropriate.

The evidence demonstrates that McLand was aware of the release on March 27, 2023, and took measures to stop the release, but did not report the release to the Director [AER]. The AER became aware of the release only after a member of the public reported it to the Alberta Environmental and Dangerous Goods Emergencies (EDGE) reporting telephone line. The AER inspector contacted McLand after the incident rather than McLand making the report to the AER.

Potential for Adverse Effect: Major

The evidence demonstrates that concentration of H₂S in the gas that was released greatly exceeded the concentration that is immediately hazardous to life. McLand did not have a functioning callout system to notify their field operator of the tank rupture and subsequent release of sour gas so the release occurred for over three hours. The duration of the release allowed the sour gas to travel several kilometres downwind and become a concern and a nuisance to the individuals who reported it. The closer a person is to the release point, the less opportunity for dilution in the atmosphere, and the greater the risk of suffering an adverse effect.

As McLand did not report the release, the AER was unable to assess their emergency response and ensure the safety of the public. The potential for a severe adverse effect on human health, or even lethality, existed when the sour gas with an H₂S content of 108,500 ppm was released. If there would have been any individuals closer to the release location, the outcome may have been worse. Although no indication

that medical treatment was required by any individuals from this release was provided, the potential for adverse effect clearly existed. Accordingly, the classification of major is appropriate.

Base Assessment: \$5000

Oil and Gas Conservation Rules (OGCR)

CONTRAVENTION 2

On or about March 27, 2023, at 11-8-41-23W4M, near the hamlet of Tees, Alberta, a person, to wit: McLand Resources Ltd., did fail to, in the case of an

emergency, report the emergency to the Regulator and implement the Emergency Response Plan in accordance with *Directive 071*, and did thereby contravene section 8.006(b) of the *Oil and Gas Conservation Rules*.

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

Seriousness of Contravention: Major

An emergency at an oil battery producing sour gas has the potential to cause serious injury or even death to members of the public as well as its employees. The reporting of an emergency and implementation of an ERP is critical in ensuring the protection of human health and the environment. The reporting requirement allows for the AER to become engaged and to ensure the opportunity for oversight of the licensee's response. Implementation of an ERP during an emergency has a direct impact on the well-being and awareness of the public and employees alike.

The evidence demonstrates that McLand was aware of the release on March 27, 2023, and took measures to stop the release, but did not assess it as an emergency under *Directive 071* requirements. The AER became aware of the release only after a third party reported it to EDGE. As McLand did not activate their ERP, notifications were not made to individuals near the 11-8 battery during the emergency. Accordingly, the classification of major is appropriate.

Extent of Actual or Potential Loss or Damage: Major

The evidence demonstrates that the concentration of H₂S in the gas that was released greatly exceeded the concentration that is immediately hazardous to life. McLand did not have a functioning callout system to notify their field operator of the tank rupture and subsequent release of sour gas exceeding three hours. As a result, the duration of the release allowed the sour gas to travel several kilometres downwind and become a potential safety issue or a nuisance to the individuals who reported it. The closer a person is to the release point, the less opportunity for dilution in the atmosphere, and the greater the risk of an adverse effect.

As McLand did not report the emergency to the AER, there was no opportunity to provide oversight of their emergency response. As McLand did not implement their ERP, the residents in the area were unaware of the risks or whether protective measures were required. The potential for a severe adverse effect on human health existed when the sour gas with an H₂S content of 108,500 ppm was released. Although no indication that medical treatment was required by any individuals as a result of this release was provided, the potential for loss or damage clearly existed. Accordingly, the classification of major is appropriate.

Base Assessment: \$5000

Oil and Gas Conservation Rules

CONTRAVENTION 3

On or about March 27, 2023, at 11-8-41-23W4M, near the hamlet of Tees, Alberta, a person, to wit: McLand Resources Ltd., failed to prevent fugitive

emissions which must not result in H₂S odours outside the lease boundary, contrary to section 8.8(3) of *Directive 060* and did thereby contravene section 7.035 of the *Oil and Gas Conservation Rules*.

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

Seriousness of Contravention: Major

Responsible energy development in Alberta requires the compliance with all regulatory requirements to ensure protection of the environment and human health. Sour gas producing facilities require skilled operation and management to ensure the regulatory compliance and secure trust from the public. Failure to prevent the release of H₂S odours from going off lease is contrary to the regulatory requirements, is a threat to human health and safety, and erodes public trust. As H₂S has the potential to be lethal, it is critical that it is rigorously monitored and managed by the licensee. Accordingly, the classification of major is appropriate.

Extent of Actual or Potential Loss or Damage: Major

H₂S odours are only humanly detectable between certain concentrations and exposure to H₂S can produce a range of symptoms. The potential for an adverse effect on human health, or even lethality, existed when the sour gas with an H₂S content of 108,500 ppm was released for over three hours. In this case, no injuries requiring medical treatment nor any impacts to the environment were reported. However, due to the concentration of H₂S and the duration of the release, multiple complaints were documented and the potential outcome could have been much more significant. Accordingly, the classification of major is appropriate.

Base Assessment: \$5000

Factors to be Considered to Vary the Assessment

Factors	EPEA	OGCR
(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 wilfulness 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 non-compliance;	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)	+\$1 500	Adherence to the requirements to immediately report releases as soon as the responsible party ought to have known and during an emergency are vitally important to the AER's regulatory framework and mandate. McLand did not report the release even after they received several calls to their own emergency reporting line. (\$500 added for both contravention 1 and 2) Preventing fugitive emissions from extending outside the lease boundary is required to ensure people do not experience impacts to health or nuisance odours. The relatively high concentration of H ₂ S released and the duration of the release are aggravating factors. (\$500 added for contravention 3)

(b)	+\$1 500	McLand had a design flaw in the setup of the oil battery that was not addressed prior to the release (\$500 added for contravention 3), an absence of alarm sensors or emergency shut down system to identify and stop this release (\$500 added for contravention 3), and a lack of a functioning call out system at an oil battery producing a relatively high concentration of H ₂ S (\$500 added for contravention 3).
(c)	+\$1 000	McLand received several calls to their emergency line about H ₂ S odours but did not contact the complainants till the following day (\$500 added for contravention 2). The field operator notified McLand's head office about the release but neither party seemed to be aware of the requirement to activate the ERP. McLand demonstrated an overall lack of clarity on formal emergency response procedures at an oil battery that produces a relatively high concentration of H ₂ S (\$500 added for contravention 2).
(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 January 27, 2025 meeting, an AER investigator summarized the investigation's findings and I, Tyler Callicott, summarized the PA calculation, including the base penalty calculations.

I asked McLand whether they had any questions about the investigation findings or the PA findings and calculations. McLand said they had no questions and the investigation summary was factual. McLand went on to say that at the time of the incident, no one at McLand knew how to use the ERP and that there was no site specific ERP. McLand said they have since created a site specific ERP and created a quick reference guide for their operators to follow. McLand said they got lucky with this incident and it was a wake-up call.

McLand was asked if they had any further information to provide or wanted to make any additional submissions prior to making my final decision. McLand said they did not have any additional information to provide for consideration and they agree with the assessment.

Final Penalty Decision

I, Tyler Callicott, Director, Enforcement and Orphaning, for the AER, have fully considered all of the information collected in the investigation and the verbal submission presented to me by McLand in the January 27, 2025 meeting.

I am of the opinion that the contraventions described above did occur, are supported by the evidence, and that there was a lack of due diligence on the part of McLand.

McLand did not dispute the investigation findings and agreed with the assessment.

I find the total base penalty amount for contraventions 1, 2 and 3 in the PA reasonable, and they remain the same. The factors assessed in the PA are reasonable; however, given the regulatory maximum of \$5000 for each contravention, the variance factors will not be applied.

Final Penalty Assessment

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Count 2	\$5 000	+\$1 500	
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Total Counts: 3	Total Base Assessment: \$15 000	Total Variance:	+\$4 000¹

Final Penalty Assessment: \$15 000

Date: February 13, 2025

Director's Signature: < original signed by >
Tyler Callicott, Director, Enforcement and Orphaning, AER

¹ Under section 3(2) of the *Administrative Penalty Regulation* and section 8.3(2) of the *Responsible Energy Development Act General Regulation (REDA 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* and section 8.3(3) of the *REDA General Regulation*, the maximum amount cannot exceed \$5000 for each day or part of a day on which a contravention occurs or continues. Given this, the factor variance amounts are applied only up to the \$5000 maximum with the assessment of the factors and factor variances remaining in the preliminary administrative penalty assessment and Director's Decision as the evidence supports the increased amounts described in the factors table.