

Via Email only

March 9, 2023

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Attention: Lars Olthafer

**Attention: Jeremy Barretto
Liv Desaulniers**

Dear Sirs and Mesdames:

**RE: Section 45(5) Stay Request file by Canadian Natural Resources Limited (Canadian Natural)
Greenfire Resources Operating Corporation (Greenfire Resources)
Approval No.: 13122A (Approval)
Well Licence No.: 503326
Location: 100/02-15-084-11W4**

The Alberta Energy Regulator (AER) has considered the January 27, 2023 request of Canadian Natural, under section 45(5) of the *Responsible Energy Development Act (REDA)* for a stay of Approval No. 13122A issued to Greenfire Resources on July 19, 2022. The AER has also considered the response submission of Greenfire Resources and the final reply submission of Canadian Natural.

Section 45(5) of the *REDA* states:

45(5) A decision of the Regulator takes effect at the time prescribed by the decision, and its operation is not suspended by any appeal to the Court of Appeal or by any further appeal, but the Regulator **may suspend** the operation of the decision or part of it, when appealed from, on any terms or conditions that the Regulator determines until the decision of the Court of Appeal is rendered, the time for appeal to the Supreme Court of Canada has expired or any appeal is abandoned. (emphasis added)

Canadian Natural has filed a permission to appeal application with the Alberta Court of Appeal requesting the court grant the following:

- (a) permission to appeal a decision of the AER dated December 19, 2022 denying Canadian Natural's request for an extension to file a request for regulatory appeal of the July 19, 2022 AER Approval No. 13122A outside of the deadline prescribed in section 30(3)(m) of the *AER Rules of Practice*;

- (b) permission to appeal the AER's denial in the AER Decision of a Stay of Approval No. 13122A pending resolution of the matters contained in and arising from the AER Decision; and
- (c) an interim Stay of the Approval pending a decision by the Court of Appeal.

The AER does not have the authority under section 45(5) of the *REDA* to grant a stay of Approval No. 13122A. The provision provides the AER with the authority to suspend the operation of the decision appealed from. In this case, the decisions being appealed by Canadian Natural are (a) the decision not to grant an extension in order for Canadian Natural to file its request for regulatory appeal of the Approval outside of the deadline prescribed in section 30(3)(m) of the *Rules of Practice*, and (b) the related decision that Canadian Natural's stay request would not be processed under section 39(2) of the *REDA* given the absence of a regulatory appeal before the AER. Canadian Natural did not seek permission to appeal the AER's issuance of Approval No. 13122A, which it could have done.¹ Hence, the AER cannot suspend the operation of Approval No 13122A under section 45(5) of the *REDA*.

Furthermore, Canadian Natural has already filed an interim Stay of Approval No. 13122A with the Court of Appeal. In the AER's view, in the absence of compelling circumstances, the Court of Appeal of Alberta is the proper decision maker to whom a party appealing an AER decision to that court should apply for a suspension or stay of the appealed decision. The reasons of the Court of Appeal of Alberta in *Phillips v. Avena*, 2005 ABCA 405 (CanLII) inform the AER's approach to section 45(5) applications.

For these reasons, the AER has decided not to suspend the operation of Approval No. 13122A under section 45(5) of the *REDA*.

Sincerely,

<Original signed by>

Sean Sexton
Executive Vice President, Law
and General Counsel

¹ See Section 45(2) of the *REDA*.