

Action No.: B301-276975
E-File Name: CVK26BLUESKY
Appeal No.: _____

IN THE COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE OF CALGARY

IN THE MATTER OF THE BANKRUPTCY AND INSOLVENCY ACT,
RSC 1985 c B-3, AS AMENDED

AND IN THE MATTER OF THE NOTICE OF INTENTION
TO MAKE A PROPOSAL OF BLUE SKY RESOURCES LTD.

P R O C E E D I N G S

Calgary, Alberta
January 26, 2026

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1 Proceedings taken in the Court of King's Bench of Alberta, Courthouse, Calgary, Alberta

2
3
4 January 26, 2026

Morning Session

5
6 The Honourable Justice M.H. Bourque
7 (remote appearance)

Court of King's Bench of Alberta

8
9 A. Mersich (remote appearance)

For Blue Sky Resources Ltd.

10 E. Paplawski (remote appearance)

For Canadian Natural Resources Limited

11 H. Aminnejad (remote appearance)

For Canadian Natural Resources Limited

12 K. Whitelaw (remote appearance)

For Alberta Energy

13 E. Larsen (remote appearance)

For Alberta Energy

14 A. Teasdale (remote appearance)

For Cenovus Energy Inc.

15 K. Bourassa (remote appearance)

For Ovintiv Canada ULC

16 D. Smith (remote appearance)

For Indian Oil and Gas Canada

17 K. Lensink (remote appearance)

For Minister of Energy and Minerals

18 D. Segal (remote appearance)

For Canada Revenue Agency

19 C. Luda (remote appearance)

For Municipal Creditors including Clear Hills
County, Flagstaff County and Wheatland County

20
21 K. Millier

Court Clerk

22
23
24 THE COURT:

Are you able to hear me?

25
26 THE COURT CLERK:

Yes, I am able to hear you.

27
28 **Decision**

29
30 THE COURT:

Okay, perfect. All right, so I'm just going to read
my decision with respect to the application by Canadian Natural Resources Limited, and
I'll call them CNRL, seeking declaratory relief against Alberta Energy.

31
32
33
34 So, this application by CNRL arises in the context of Blue Sky Resources, and I'll call them
35 Blue Sky, restructuring proceedings under section 50.4(1) of the *Bankruptcy and*
36 *Insolvency Act*, and I'll refer to that as the NOI proceedings or the insolvency proceedings.
37 The date of Blue Sky's notice of intention to make a proposal was September 24, 2025.
38 KSV Restructuring is the proposal trustee. And on November 21, 2025, Justice Johnston
39 granted a sale and investment solicitation process, and I'll refer to that as a SISP, which
40 authorized and directed KSV and Sayer Energy Advisors to undertake the SISP. The
41 deadline for receipt of non-binding letters of intent is January 29, 2026, definitive

1 agreements by February 20th, 2026, and the outside closing date for definitive agreements
2 reached through the SISP is March 20th, 2026. I also understand that Blue Sky has
3 scheduled some time during the week of March 2nd for approval of any sale transactions.
4

5 Assuming definitive agreements are made, Blue Sky's insolvency proceedings may be
6 relatively short-lived. In the fourth report the proposal trustee advises that the SISP is
7 progressing favourably with a large number of interested purchasers who have signed
8 confidentiality agreements and requested access to the data room. So, it looks promising.
9

10 Among Blue Sky's indebtedness, it's not disputed that its gas royalty account with Alberta
11 Energy had, as of the commencement of the NOI proceedings, an arrears balance of just
12 under \$1.9 million, as set out in a September 23, 2025 letter from Alberta Energy to Blue
13 Sky. That letter is, in effect, a demand letter identifying Blue Sky as the debtor, the amount
14 owed as \$1,870,455.37, and demanding payment by October 22nd, 2025.
15

16 On September 25, 2025, the day after Blue Sky filed its notice of intention, Alberta Energy
17 issued a leaseholder recourse default letter to Blue Sky ceasing several energy companies,
18 including, but not limited to, CNRL, Cenovus Energy Inc., and Ovintiv Canada ULC, all
19 of whom spoke in support of the application, and they did so, presumably, on the basis that
20 those companies are co-lessees with Blue Sky on some of the leases in respect of which
21 Blue Sky is in arrears. None of CNRL, Cenovus, or Ovintiv disputes that if Blue Sky's
22 liability is not satisfied in these NOI proceedings or the insolvency proceedings, they may
23 be liable for some or all of the shortfall by operation of section 20(2.1) of the *Mines and*
24 *Minerals Act* provided they are a lessee under a Crown lease in respect of which Blue Sky's
25 royalty arrears arise.
26

27 Upon receipt of the leaseholder recourse default letter, correspondence was exchanged
28 between CNRL and Alberta Energy, through their respective legal counsel, in which CNRL
29 expressed the view that, among other things, the leaseholder recourse default letter and
30 efforts to collect contravene the stay of proceedings in the NOI proceedings in the single
31 proceeding model. Alberta Energy's legal counsel at Alberta Justice disagreed advising
32 that notwithstanding the NOI proceedings, it would not stay enforcement against Blue
33 Sky's co-lessees.
34

35 By October 31, 2025, CNRL, Cenovus, Ovintiv, and others remitted the amounts claimed
36 by Alberta Energy in respect of Blue Sky's royalty arrears under protest. Given that the
37 statutory remedies available to Alberta Energy, including the cancellation of effected
38 leases, the refusal to issue new agreements and the suspension of electronic transfer
39 systems privileges, the exercise of one or several of which it may reasonably be inferred,
40 might cause them irreparable harm.
41

1 The question before me is whether the stay of proceedings precluded Alberta Energy from
2 recovering outstanding royalties owing by Blue Sky from its co-lessees until the insolvency
3 proceedings are complete, and I would answer that question in the affirmative. And I reach
4 this affirmative answer as follows: Upon the filing of a notice of intention, all creditor
5 remedies are stayed against the insolvent person or the insolvent person's property; and,
6 and I underline, no creditor may commence or continue any action, execution, or other
7 proceedings for the recovery of a claim provable in bankruptcy. A claim provable in
8 bankruptcy has three requirements. One, there must be a debt, liability, or an obligation to
9 a creditor, two, the debt, liability, or obligation must be incurred before the debtor becomes
10 bankrupt, three, it must be possible to attach monetary value to the debt, liability, or
11 obligation.

12
13 Now, Blue Sky's approximately \$1.9 million debt for unpaid Crown royalties easily meets
14 these requirements. It is an amount owed by Blue Sky to Alberta Energy, it represents a
15 debt that was incurred by Blue Sky before Blue Sky -- Blue Sky filed its notice of intent,
16 and Alberta Energy has attached a monetary value of approximately \$1.9 million to the
17 debt. So, it's subject to the stay, statutory stay.

18
19 This court in these proceedings are subject to the well-recognized court tenet of Canadian
20 insolvency law that stakeholders' rights are enforced through a centralized judicial process.
21 That process allows for the efficient adjudication of creditor remedies and claims within a
22 single proceeding by minimizing the multiplication of actions. The single proceeding
23 model is particularly apt for resolution of Alberta Energy's claims against Blue Sky, given
24 the underlying nature of the debt and Alberta Energy's privileged position to recover its
25 unpaid royalties through these proceedings. First, Alberta may refuse to transfer any leases
26 until all of the Blue Sky royalty arrears are paid in full, and second, if a party seeks the
27 approval of transaction involving the transfer of Crown leases with unpaid royalties, this
28 court may not make the order transferring or assigning of the leases unless it is satisfied
29 that all monetary defaults in relation to the lease will be remedied on a date fixed by the
30 court, generally, I suppose, is the closing date.

31
32 Bypassing the single proceeding model through the recovery of unpaid royalties from
33 co-lessees upsets the delicate balancing of creditor rights within the NOI proceedings. This
34 is particularly so because of the special treatment afforded to cure costs. Blue Sky's
35 insolvency proceedings have thus far operated as one might expect the proceedings of any
36 energy company. Commencement of proceedings followed shortly by a SISP to allow for
37 investment or sale of the insolvent company's assets, including by the assignment or
38 transfer of leases or exploration rights. Then follows the court approval process which, as
39 I mentioned, requires the court to deal with cure costs, including unpaid royalties, such as
40 those claimed by Alberta Energy, by requiring them to be paid by a certain date.

1 Shortcutting the single proceeding model, as Alberta Energy has done by collecting unpaid
2 royalties, introduces unnecessary uncertainty within the proceedings in several ways. First,
3 there is no assurance that any co-lessee who has paid Blue Sky's unpaid royalties will
4 recover those amounts in full through the statutory cure costs mechanism upon the
5 assignment of the insolvent person's leases. Their recovery may only come as an unsecured
6 creditor sharing in what might be left over upon the conclusion of the insolvency
7 proceedings, which may be cents on the dollar, if anything. In that regard, I note the
8 proposal trustees caution that if the co-lessees claims are treated as unsecured claims:
9

10 It is possible additional funds from the SISP may be available to
11 all other stakeholders because it is reasonable to assume that
12 purchasers in determining their purchase price would deduct the
13 amount of cure costs payable, and if those costs are no longer
14 payable, this would reflect an increased purchase price assuming
15 all other things remain equal.
16

17 In other words, Alberta Energy's actions unnecessarily upset the delicate balancing of
18 interests among creditors within the insolvency proceedings.
19

20 Second, the co-lessees may not otherwise be parties interested in the NOI proceedings and,
21 as such, may not be required to participate. Through Alberta Energy's actions in collecting
22 Blue Sky's unpaid royalties, co-lessees without any interest in these proceedings are then
23 obligated to participate in the proceedings at high costs, both monetary and through the
24 deployment of human resources to monitor these proceedings. In the instant NOI
25 proceedings, the exact number of co-lessees affected by Alberta Energy's recovery actions
26 is not entirely clear, but their September 25, 2025 leaseholder recourse default letter has
27 32 energy companies listed as cc's. So, on its face, that introduces 32 additional parties to
28 this litigation, parties who might otherwise have not -- parties who might otherwise not
29 have had a stake in its resolution, potentially 32 involuntary, unsecured lenders.
30

31 Given the progress of the SISP, the March outside closing date for definitive agreements,
32 and the proposal trustee's positive report about the number of parties interested in the SISP,
33 there seems at least at this preliminary stage to be a relatively positive outlook in terms of
34 the likelihood that some or all of Alberta Energy's unpaid royalties will be addressed by
35 the SISP and through any sale approval and vesting order applications that may be heard
36 in early March. It will be incumbent on Alberta Energy to -- to be proactive in these
37 proceedings and use the cure costs mechanism afforded by the *Bankruptcy and Insolvency*
38 *Act* to recover any unpaid royalties in respect of leases that are the subject matter of -- of
39 any proposed transaction.
40

41 I might add that nothing in these reasons should be interpreted as limiting Alberta Energy's

1 ability to recover any unpaid royalties through the section 20(2.1) mechanism in the *Mines*
2 *and Minerals Act* upon the conclusion of Blue Sky's insolvency proceedings. Indeed, all
3 of the energy companies making submissions on this application acknowledge their
4 liability in that regard in the event that the unpaid royalties are not fully recovered through
5 these proceedings.

6
7 The *Mines and Minerals Act*, including the *Natural Gas Royalty Regulations*, set up a
8 mechanism that ensures that the Crown's royalty share is paid in the first instance by the
9 party who took the Crown's share of the production. Paragraph 20(2.1)(b) implies an
10 ordering of the Crown's avenues of relief between the party responsible for payment of the
11 Crown's royalty share in the first instance, and a co-lessee who may be called upon to
12 satisfy that party's liability in the event of default. The words:

13
14 A judgment in favour of the Crown against one or more of those
15 lessees, or a release by the Crown in favour of one or more of those
16 lessees, clearly relate to the party in default of its obligation to pay
17 the Crown's royalty share.

18
19 Those words are then followed by the phrase authorizing the Crown to obtain judgment
20 against the other lessees, which would only be required if the Crown's royalty share
21 remained unpaid by the party responsible for its payment in the first instance.

22
23 So, for these reasons the declaratory relief sought in paragraph 1 of CNRL's application is
24 granted. With respect to paragraph 2 of the application, at the hearing Alberta Energy
25 indicated that it would consent to an order requiring the return of the amounts paid by the
26 co-lessees, and if there are any difficulties regarding the wording of that order, the parties
27 have leave to contact me to resolve any dispute.

28
29 With respect to CNRL's application for a direction that Alberta Energy provide CNRL and
30 any other interested party:

31
32 A comprehensive and detailed accounting of all Blue Sky royalty
33 arrears claimed in the royalty default letter, including, without
34 limitation, the PNG leases under which such Blue Sky royalty
35 arrears are claimed, and the amount of Blue Sky royalty arrears
36 claimed under each PNG lease.

37
38 I find that wording to be overbroad in some respects, but it would seem appropriate to me
39 that each co-lessee be provided information identifying the Crown lease with royalty
40 arrears, the amount of the arrears claimed against each co-lessee, and if the royalty arrears
41 relate to more than one period, the period during which the arrears relate.

1
2 Alberta Energy raised statutory confidentiality concerns, but those were not fully laid out,
3 if at all, in the parties' briefs. So, if the confidentiality concerns still arise, then I would
4 direct Alberta Energy to provide me within 10 days a three-page written submission
5 outlining the statutory basis for the concerns and their position. And CNRL and, if
6 necessary, Oviniv and Cenovus, they may also reply with a three-page written submission.
7 I did note that Alberta Energy indicated at the hearing that the information had already
8 been provided, there was reference to a spreadsheet in one of the affidavits. Hopefully the
9 companies and Alberta Energy can sort this out without the need for additional
10 submissions.

11
12 If the parties are unable to resolve the matter of costs, they may also provide me with
13 written submissions, not to exceed two pages.

14
15 And that concludes my reasons.

16
17 MS. PAPLAWSKI: Thank you very much, Justice Bourque. I just
18 have one clarifying question?

19
20 THE COURT: Sure.

21
22 MS. PAPLAWSKI: In the form of order we had sought we had
23 included interest on the arrears that had been paid, are you ordering interest or should we
24 cross that out?

25
26 THE COURT: I didn't know if -- if the -- either the Regulation
27 or the *Mines and Minerals Act* provided for the payment of -- of refund interest or -- I
28 assume that it does.

29
30 MS. PAPLAWSKI: It -- it provides for the payment of interest on
31 overpaid royalties, so obviously this is a little bit of a unique situation than what would
32 usually be --

33
34 THE COURT: Okay.

35
36 MS. PAPLAWSKI: -- addressed by that, because --

37
38 THE COURT: Okay.

39
40 MS. PAPLAWSKI: So, we had included section 37 of the *Natural*
41 *Gas Royalty Regulation* which provides for the payment of interest, but...

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THE COURT: I mean, it would seem to me that, you know, interest should be payable, but, you know, and I don't recall that we had a big debate about the interest at the hearing, so perhaps what we can just do is if you're -- if -- if there remains a dispute with respect to -- to refund interest, same thing, a couple of pages of submissions from the parties, and I'll decide the issue.

MS. PAPLAWSKI: Okay. Thank you very much.

THE COURT: Okay. Okay. All right. That concludes our time today, and have a good day.

MS. PAPLAWSKI: Thank you, you too.

THE COURT: We're adjourned.

PROCEEDINGS CONCLUDED

1 **Certificate of Record**

2
3 I, Kessa Millier, certify that this recording is the recording made of the evidence in the
4 proceedings in Court -- in Court of King's Bench held in courtroom 1204, virtual courtroom
5 02, at Calgary, Alberta on the 26th day of January 2026, and that I was the court official in
6 charge of the sound-recording machine during the proceedings.
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1 **Certificate of Transcript**

2

3 I, Cheryl Brown, certify that

4

5 (a) I transcribed the record, which was recorded by a sound-recording machine, to the best
6 of my skill and ability and the foregoing pages are a complete and accurate transcript
7 of the contents of the record, and

8

9 (b) the Certificate of Record for these proceedings was included orally on the record and is
10 transcribed in this transcript.

11

12 Cheryl Brown, Transcriber

13 Order Number: TDS-1102795

14 Dated: January 29, 2026

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