

COURT FILE NUMBER	1801-10960
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFF	PRICEWATERHOUSECOOPERS INC., LIT in its capacity as the TRUSTEE IN BANKRUPTCY OF SEQUOIA RESOURCES CORP. and not in its personal capacity
DEFENDANTS	PERPETUAL ENERGY INC., PERPETUAL OPERATING TRUST, PERPETUAL OPERATING CORP., and SUSAN RIDDELL ROSE
APPLICANT (NOT A PARTY)	CANADIAN NATURAL RESOURCES LIMITED, CENOVUS ENERGY INC., and TORXEN ENERGY LTD.
DOCUMENT	<b>JOINT APPLICATION BY THE PROPOSED INTERVENORS, CANADIAN NATURAL RESOURCES LIMITED, CENOVUS ENERGY INC., and TORXEN ENERGY LTD.</b>
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Parlee McLaws LLP 3300, 421 - 7th Ave SW Calgary, Alberta T2P 4K9  Attention: G. Scott Watson/Charles W. Ang Telephone: (403) 294-7038 / 3457 Facsimile: (403) 767-8875 File No. 22-921

**NOTICE TO RESPONDENTS:** **PRICEWATERHOUSECOOPERS INC., LIT in its capacity as the TRUSTEE IN BANKRUPTCY OF SEQUOIA RESOURCES CORP. and not in its personal capacity, PERPETUAL ENERGY INC., PERPETUAL OPERATING TRUST, PERPETUAL OPERATING CORP., and SUSAN RIDDELL ROSE**

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the master/judge.

To do so, you must be in Court when the application is heard as shown below:

Date:	TBD
Time:	TBD
Where:	Calgary Courts Centre, 601-5 <sup>th</sup> Street SW, Calgary, Alberta
Before Whom:	The Honourable Mr. Justice D.B. Nixon

Go to the end of this document to see what else you can do and when you must do it.

**Remedy Claimed or Sought:**

1. An Order pursuant to Rule 2.10 of the *Alberta Rules of Court*, Alta Reg 124/2010, granting Canadian Natural Resources Limited (“**Canadian Natural**”), Cenovus Energy Inc. (“**Cenovus**”), and Torxen Energy Inc. (“**Torxen**”; collectively with CNRL and Cenovus as the “**Applicants**”), leave to intervene in Court of Queen's Bench Action No. 1801-10960 with the right to participate in the Application to Strike and for Summary Dismissal (the “**BIA Application**”), as submitted by Perpetual Energy Inc., Perpetual Operating Trust, and Perpetual Operating Corp., and all matters incidental thereto on such terms as this Honourable Court deems just.
2. Further pursuant to Rule 2.10 of the *Alberta Rules of Court*, Alta Reg 124/2010, an Order prohibiting costs, either in favour of, or against the Applicants, with respect to any other party or intervenor in the *BIA* Application.
3. As necessary, the Applicants request an adjournment of the *BIA* Application.
4. Such further and other relief incidental to the above as requested and as this Honourable Court deems appropriate.

**Grounds for Making this Application:**

5. Terms not hereinafter defined shall have the same meaning as set out in the Statement of Claim.

## Background

6. Canadian Natural is a Canadian-based energy company with headquarters in Calgary, Alberta. It is one of the largest independent producers of crude oil and natural gas in Canada, with operations involving oil sands mining, thermal oil sands, conventional oil (light and heavy), natural gas and natural gas liquids operations throughout Western Canada.
7. Cenovus is a Canadian integrated oil and natural gas company headquartered in Calgary, with operations in oil sands projects in northern Alberta, conventional crude oil, natural gas and natural gas liquids assets in Alberta and British Columbia as well as a non-operated 50 percent interest in two U.S. refineries and a wholly-owned crude-by-rail loading terminal at Bruderheim, Alberta.
8. Torxen is an exploration and production company focused on the development and optimization of conventional oil and gas assets in Southern Alberta.
9. Canadian Natural and Cenovus are creditors in the bankruptcy proceedings of Sequoia Resources Corp.
10. The Applicants collectively hold approximately 30.9% of all AER licenses for wells located in the Province of Alberta, and correspondingly contribute to the Orphan Fund Levy (the “Levy”).
11. The Levy is the primary means used by the Orphan Well Association to fund the abandonment and reclamation of wells, facilities, and pipelines that do not have a solvent and responsible owner to protect people and the environment.

## Concerns with the Transactions

12. The Applicants have the following concerns with the Transactions:
  - a) The Transactions appear to be specifically engineered to circumvent the triggering conditions for obligatory AER approval;
  - b) The Transactions resulted in the assignment of significant financial liabilities to Sequoia Resources Corp., an entity with limited or no assets, neither capable of

fully complying with its compelled regulatory duties, nor able to satisfy its municipal tax liabilities;

- c) The primary or sole purpose of the Transactions was to allow PEOC to avoid municipal taxes and evade its abandonment and reclamation obligations as related to the Goodyear Assets;
  - d) The Transactions are a significant and material departure from industry standards;
  - e) The Transactions have the additional consequence of allowing PEOC to escape its contractual obligations, including ROFR requirements, which conflict with the industry's understanding of these standard contractual provisions.
13. If the Transactions are permitted to endure without scrutiny under the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (the "BIA"), the following issues would arise:
- a) The estimated \$200,000,000.00 cost to abandon and reclaim the Goodyear Assets will be borne by the third-party licensees of Alberta's oil and gas regulatory regime, the consequences for which will persist for many years;
  - b) Other industry members may be compelled to implement similar strategies incentivizing insolvency to avoid abandonment and reclamation obligations as well as municipal taxes;
  - c) If such transactions to avoid regulatory obligations become routine, contributors to the Levy will be unfairly and disproportionately pushed towards a financial tipping point, where operations become unsustainable.
  - d) The authority of Alberta's regulatory regime and the purpose of the OWA would respectively be nullified, to the detriment of the environment, and to the cost of industry participants and all Albertans.

#### Intervener Status

14. As contributors to the Levy, the Applicants will be directly affected by the decision of the Court. If the Transactions are maintained, the estimated direct financial impact as from their Levy contributions will be:
- a) Approximately \$42,000,000.00 to Canadian Natural;

- b) Approximately \$6,000,000.00 to Cenovus; and
  - c) Approximately \$6,500,000.00 to Torxen.
15. The Applicants' perspectives are necessary to the *BIA* Application in order for the Court to properly consider the private industry interests of Alberta's oil and gas sector, as well as the associated public interest in requiring industry members to be guided by both economic and environmental objectives.
16. As a diversified cohort of industry members, the Applicants are well situated to be a representative sample the oil and gas industry, each lending their unique perspective to assist the Court recognize the practical effects of the legal issues to be decided on energy production in Alberta, as well as the business and operational considerations of industry members;
17. If granted intervenor status, the Applicants propose to assist the Court in this *BIA* Application by providing submissions on the following:
- a) The Transactions' significant and material departure from industry standards;
  - b) The apprehension of industry members in permitting the purposeful evasion of abandonment and reclamation obligations through multiple, sequential, transactions, concluded by insolvency;
  - c) Private industry's understanding of the interplay between section 96 of the *BIA* and the regulatory obligations of Alberta's regulatory regime, as well as the developed and evolving business practices in accordance with these interpretations;
  - d) The direct and indirect impacts of tolerating the Transactions upon the OWA, the Levy, and Alberta's regulatory regime, as well as the immediate and long-term consequences to private industry; and
  - e) Such further and other submissions in respect of matters incidental to the above, as counsel may advise and this Honourable Court may permit.
18. Granting the Applicants leave to intervene in the *BIA* Application will not:
- a) unduly delay the proceedings;

- b) cause prejudice to either of the parties; or
- c) widen the *lis* between the parties.

**Material or Evidence to be Relied on:**

- 19. The pleadings and materials previously filed in this Action, including, without limitation,
- 20. Affidavit of Rob Laing in support of Canadian Natural, sworn on July 14, 2020;
- 21. Affidavit of Antonio Jackson in support of Cenovus, sworn on July 2020;
- 22. Affidavit of John Brannan in support of Torxen, sworn on July 2020; and
- 23. Such further and other material as counsel may advise and this Honourable Court may allow.

**Applicable Rules:**

- 24. The inherent jurisdiction of this Honourable Court to control its own process;
- 25. Rules 1.3, 1.4, and 2.10 of the *Alberta Rules of Court*; and
- 26. Such further and other material, legislation, and rules as counsel may advise and this Honourable Court may allow.

**Applicable Acts and Regulations:**

- 27. *Bankruptcy and Insolvency Act*, RSC 1985, c B-3.

**Any Irregularity Complained of or Objection Relied on:**

- 28. None.

**How the Application is Proposed to be Heard or Considered:**

- 29. In-person before the Honourable Justice D.B. Nixon, or alternatively by written submissions, and proposed by the Honourable Justice D.B. Nixon.

**WARNING**

If you do not come to Court either in person or by your lawyer, the Court may give the applicant what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant a reasonable time before the application is to be heard or considered.

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COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

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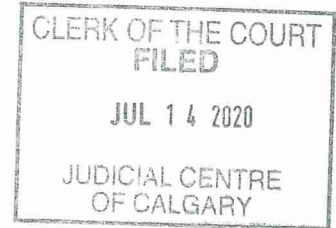
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