

REFERENCE NUMBER: AMP-001-2021

1. INFORMATION FOR OPERATOR / OTHER PERSON / INDIVIDUAL

<p align="center">Name of Operator/Other Person/Individual: Husky Oil Operations Limited, a subsidiary of Cenovus Energy Inc.</p>	<p align="center">TOTAL PENALTY AMOUNT (\$): \$16,000</p>				
<p align="center">Contact name and title for Operator/Other Person: Jonathan Brown Senior Vice President, Atlantic Region</p>	<p align="center">Date of Notice: May 26, 2021</p>				
<p align="center">Operator/Other Person/Individual address:</p> <table border="0"> <tr> <td>Business Office:</td> <td>Registered Office in NL:</td> </tr> <tr> <td>Suite 107, 351 Water Street St. John's, NL A1C 1C2</td> <td>Cox & Palmer Suite 1100, 235 Water Street St. John's, NL A1C 1B6</td> </tr> </table>	Business Office:	Registered Office in NL:	Suite 107, 351 Water Street St. John's, NL A1C 1C2	Cox & Palmer Suite 1100, 235 Water Street St. John's, NL A1C 1B6	<p align="center">Regulatory Instrument # (if applicable) Authorization No. 40020-020-0A09</p>
Business Office:	Registered Office in NL:				
Suite 107, 351 Water Street St. John's, NL A1C 1C2	Cox & Palmer Suite 1100, 235 Water Street St. John's, NL A1C 1B6				

Between May 26 to July 4, 2019, Husky Oil Operations Limited (hereinafter Husky), failed to comply with condition 11 of Operations Authorization (OA) No. 40020-020-0A09 in relation to the work/activity on the Tiger's Eye D-17 well. This failure to comply with a condition of authorization constitutes a violation for which an AMP may be issued pursuant to subsection 2(3) of the Canada–Newfoundland and Labrador Offshore Petroleum Administrative Monetary Penalties Regulations, SOR/2016-19 (the “AMPs Regulations”). Under subsection 3(2) of the AMPs Regulations, the contravention of OA terms or conditions is a Type B violation.

2. VIOLATION DETAILS

<p align="center">Date of Violation: May 26 – July 4, 2019</p>	<p align="center"># Days of Violation 1</p>
<p>Has compliance been achieved? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <i>(If “No” a subsequent NOV may be issued)</i></p>	
<p>Location of Violation <i>(e.g. facility/installation/vessel/head office or nearest geographical point)</i></p> <p>Mobile Offshore Drilling Unit (MODU) Henry Goodrich drilling the Tiger's Eye D-17 well, located on Exploration License (EL) 1122.</p>	

Short Form Description of Violation:

The violation was a breach of a condition of authorization, namely, condition 11 of OA 40020-020-OA09 in relation to the work/activity on the Tiger’s Eye D-17 well:

The Operator shall implement, or cause to be implemented, the mitigation measures outlined in any Environmental Assessment.

Specifically, Husky documented in section 3.7.6 of the *Husky Delineation/Exploration Drilling Program for Jeanne d’Arc Basin Area, 2008-2017, Environmental Assessment* (Husky EA) that “the environmental observers will also conduct seabird and marine mammal observations on a daily basis in accordance with established protocols.” Failure to execute such measures from the Husky EA is a breach of OA condition 11.

This constitutes a Type B violation pursuant to subsection 3(2) of the AMPs Regulations.

3. RELEVANT FACTS (*Briefly describe reasonable grounds to believe a violation has occurred*)

On April 13, 2018, Husky was issued OA 40020-020-OA09, which authorized, among other things, the conduct of exploratory drilling on EL 1122. On April 3, 2019, the Tiger’s Eye D-17 well was spud on EL 1122. During activities on the Tiger’s Eye D-17 well, Husky was obligated to conduct seabird and marine mammal monitoring observations. Total duration to complete all associated activities of the program was 98 days.

On February 22, 2021, I received a Recommendation for Notice of Violation from C-NLOPB Lead Environmental Officer, Mr. Ken Taylor, in relation to an alleged breach of condition 11 of OA 40020-020-OA09 by Husky during the drilling of the Tiger’s Eye D-17 well. From reviewing Mr. Taylor’s report, I learned the following:

On October 9, 2019, a representative of Husky, telephoned Mr. Taylor of the C-NLOPB to advise that, during the preparation of the end of well environment report for the Tiger’s Eye D-17 well, Husky had determined that seabird and marine mammal observations were not completed and that Husky had failed to meet a commitment made in their EA for that project. Later that day, a Husky representative emailed Mr. Taylor which acknowledged that under section 3.7.6. of the Husky EA, Husky committed to the daily reporting of seabird and marine mammal observations and had identified, in compiling the end of well environment report, that that the observations were not completed (*See attached Tab 1*).

Mr. Taylor noted that in Section 3.7.6 of the Husky EA (<https://www.cnlopb.ca/wp-content/uploads/hejarc/heearpt.pdf>), pg. 20 (*See attached Tab 2*), Husky made the following commitment:

“The environmental observers will also conduct seabird and marine mammal observations on a daily basis in accordance with established protocols. The data compiled from these observations will be provided to the Canadian Wildlife Service and Fisheries and Oceans, Marine Mammals Section.”

In 2017, Husky applied to extend the temporal scope of the Husky EA to December 31, 2020. The C-NLOPB reviewed Husky's request and supporting information and approved the requested extension on February 2, 2018 (<https://www.cnlopb.ca/wp-content/uploads/hejdar/huskydrillamendment.pdf>) (*See attached Tab 3*). The commitments made in the original assessment remained in force for the duration of the extension.

Meeting the commitments made by Husky in their EA in section 3.7.6 was made a requirement of authorization by condition 11 of Operations Authorization No. 40020-020-OA09, issued by the C-NLOPB to Husky on April 3, 2018 (*See attached Tab 4*).

On November 21, 2019, Husky provided a Non-Conformance Report (*See attached Tab 5*) in which the 'One Line Summary' reads "Seabird/Marine Mammal Observations not Collected at Tiger's Eye". In this report, Husky states that the MODU Henry Goodrich was on location at the Tiger's Eye D-17 well on March 30, 2019; the well was spud on April 3, 2019; terminated on June 22, 2019; and the MODU was off location as of July 5, 2019.

That report also states that Husky had transferred responsibility to collect daily seabird observations from the MODU Henry Goodrich to Offshore Supply Vessels on safety standby in the White Rose field as of September 1, 2017. This continued to be the practice for completing work under OA 40020-020-OA09. During the activities on the Tiger's Eye D-17 well, six Offshore Supply Vessels undertook standby duties for the MODU Henry Goodrich. Of those vessels, one vessel conducted seabird observations for a total of 10 days (25 observations); another vessel conducted one observation; remaining vessels did not conduct seabird observations. No marine mammal observations were made.

To confirm and corroborate the assertions made above by Mr. Taylor, I reviewed the following documentation:

- 1) Email from Husky re: Non-Conformance to Seabird and Marine Mammal Observations on Tiger's Eye, (*See Tab 1*);
- 2) Husky Delineation/Exploration Drilling Program for Jeanne d'Arc Basin Area, 2008-2017, Environmental Assessment (<https://www.cnlopb.ca/wp-content/uploads/hejdar/heearpt.pdf>), pg. 20 (*See Tab 2*);
- 3) Husky Energy Delineation Exploration Drilling Program, 2008-2017 Environmental Assessment Amendment Approval Letter, (<https://www.cnlopb.ca/wp-content/uploads/hejdar/huskydrillamendment.pdf>) (*See Tab 3*);
- 4) Husky Oil Operations Limited - Signed Authorization Form with Appended Conditions - 40020-020-OA09 - Drilling and Production Authorization (*See Tab 4*); and
- 5) Husky Energy - Non-Conformance Report - Seabird-Marine Mammal Observation Not Collected at Tiger's Eye D-17 (*See Tab 5*).

Furthermore, on March 22, 2021 I contacted a Husky representative to inquire as to whom the appropriate contact would be for additional clarifications on the matter (*See attached Tab 6*). They subsequently communicated that for the specific question, Husky's Legal Counsel would be best suited to answer any questions I had. I sent correspondence to Husky's Legal Counsel on March 23, 2021 who

replied with answers on April 13, 2021 (*See attached Tab 7*). In summary, four (4) questions were asked, with thorough answers provided to each. From reading this response from Husky, I believe they did not execute the required seabird and marine mammal observations as required of condition 11 of OA 40020-020-OA09 in relation to work/activity on the Tiger’s Eye D-17 well. In addition, an explanation was provided as to why the observations were not completed together with a number of corrective actions within Husky’s management system to ensure such non-compliance would not happen again. In conclusion, based on my review of the documents listed above, in addition to the response provided by Husky’s Legal Counsel, I have reasonable grounds to believe that Husky did not conduct the required seabird/marine mammal observations from May 26 to July 4, 2019 and thereby breached condition 11 of OA 40020-020-OA09 in relation to the work/activity on the Tiger’s Eye D-17 well.

4. PENALTY CALCULATION (*Refer to AMP Regulations, Schedule 2*)

a) Baseline Penalty (Total Gravity Value = 0)		Individual	Other Person
Category:	Type A	<input type="checkbox"/> \$1,365	<input type="checkbox"/> \$5,025
	Type B	<input type="checkbox"/> \$10,000	<input checked="" type="checkbox"/> \$40,000

	Gravity Value						
	n/a	Mitigating			Aggravating		
		-2	-1	0	+1	+2	+3
1 - Other violations in previous seven (7) years? None identified.	<input type="checkbox"/>	-	-	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	-
2 - Any competitive or economic benefit from violation? None identified.	<input type="checkbox"/>	-	-	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	-
3 - Reasonable efforts to mitigate violation's effect? No mitigation would change the outcome - the program concluded before actions could be taken.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	-
4 - Negligence by person who committed violation? None identified.	<input type="checkbox"/>	-	-	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	-
5 - Reasonable assistance to Board regarding violation? Husky reported their failure to conduct the required observations to the C-NLOPB at the conclusion of work on the Tiger’s Eye D-17 well. When follow-up questions were presented to Husky on the matter, they were cooperative.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	-
6 - Promptly reported violation to Board? Husky reported the incident to the C-NLOPB at the conclusion of the program.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	-
7 - Steps taken to prevent reoccurrence of violation? Upon realization of the violation, Husky completed a non-conformance report and identified five (5) permanent corrective actions. Husky states that each action has now been implemented. They are as	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	-

follows:							
1) Update Vessel Mobilization Checklist to include Seabird Observation Training Requirement;							
2) Develop Seabird & Marine Mammal Observation Procedure;							
3) Develop & Implement Training Program for Conducting Seabird and Marine Mammal Observations;							
4) Develop a Self-Assessment to Verify Seabird Observations on a Weekly Basis; and							
5) Develop Compliance Register for EA Commitments with Atlantic Region Environmental Assessments.							
8 – Was primarily a reporting / record-keeping failure?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	-	-	-
No.							
9 – Increased risk of harm to people or environment?	<input type="checkbox"/>	-	-	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
There was no observable harm to the environment.							

Total Gravity Value:

c) Total Gravity Value:

(Total of gravity values determined in 4(b))

d) Daily Penalty

(The baseline penalty per 4(a) adjusted by total gravity value per 4(c). Refer to Administrative Monetary Penalties Regulations, Schedule 2)

e) Number of Days of Violation

(Refer to section 2 of form. If more than one day, provide justification below)

Notes to explain decision to apply multiple daily penalties (if applicable):

- First incident of non-compliance for seabird/marine mammal violations by Husky.
- Husky was cooperative; implemented procedural changes to ensure such violations do not reoccur.
- Objective of an AMPs is to encourage future compliance, rather than to punish.

f) Total Penalty Amount

(Step 4(d) x Step 4(e))

5. DUE DATE (within 30 days after the NOV was served)

If you have any questions regarding this matter, please contact the undersigned.

Regards,

Kent Munn
Administrative Monetary Penalties Officer
709-778-1434
kmunn@cnlopb.ca

Notes:

You have the right to make a request for a review of the amount of the penalty or the facts of the violation, or both, within 30 days after the NOV was served.

If you do not pay the penalty nor request a review within the prescribed period, you are considered to have committed the violation and you are liable for the penalty set out in the NOV. The penalty is due on the date indicated above.

The unpaid penalty amount is a debt due to the Her Majesty in right of the Province and may be recovered in the Supreme Court of Newfoundland and Labrador.

AMPs Published on the C-NLOPB's Website:

In the interest of public transparency respecting the issuance of AMPs, information relating to the NOV may be posted on the C-NLOPB's website as soon as the NOV has been served (may include the name of the company who committed the violation, the issue date, the region and facility, the nature of the violation, and the amount of the penalty).

The C-NLOPB has the discretionary authority to post the complete NOV following the expiry of the 30 day period during which you may make a Request for Review, or upon issuing a decision following a Request for Review.

To Make Payment:

You may remit your fee payment by Cheque, Money Order, Bank Draft, or Electronic Funds Transfer (EFT). **Fees must be made payable to the Receiver General of Canada.**

Payment instructions are included in the attached Payment Form. Questions regarding payments or the Payment Form should be directed to the C-NLOPB's Corporate Services and Regulatory Affairs Department.

For Cheque, Money Order or Bank Draft payments, your completed Payment Form should be enclosed with your payment and mailed to:

Canada-Newfoundland and Labrador Offshore Petroleum Board
240 Waterford Bridge Road
The Tower Corporate Campus – West Campus Hall
Suite 7100
St. John's, NL A1E 1E2

For EFT payments, your completed Payment Form and notification of payment should be emailed to the C-NLOPB's Corporate Services and Regulatory Affairs Department: pbutler@cnlopb.ca or bwicks@cnlopb.ca.

To Request a Review:

Pursuant to the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Act* (reference to Federal Version), Section 202.2, you may file a Request for Review of this Notice of Violation by the Board.

The date of filing a Request for Review is the date on which the document is received in the C-NLOPB Information Account (information@cnlopb.ca).

If you elect to make a Request for Review, complete and submit the attached Request for Review form to information@cnlopb.ca.

For more information on reviews, please see the *Administrative Monetary Penalties Guidelines* available on the C-NLOPB's website.

Request for Review of Administrative Monetary Penalty (AMP)

SECTION A – AMP NUMBER

AMP Number:

The information collected herein is protected in the provisions of the Privacy Act, and will be used and disclosed only as part of the process to request review of an administrative monetary penalty.

SECTION B – APPLICANT INFORMATION

Name of Company/Individual:

Contact Person:

Address:

Street:

City: Province: Postal Code:

Mailing Address (if different from above):

Street:

City: Province: Postal Code:

Contact Details:

Phone Number: Facsimile:

Email Address:

SECTION C – REQUEST DETAILS

C.1 Identify Review Type

If you received a *Notice of Violation*, you have the right to request a review in accordance with subsections 198.12 and 202.2 of the *Accord Acts*. Please check the appropriate box, to identify what kind of review you are requesting, and then provide the corresponding information as instructed in Section C.2, C.3 or C.4, as applicable.

(Mark only ONE of the following boxes)

- Review of Penalty Amount Review of Facts of Violation Review of Both

C.2	Review of Penalty Amount
<p>Provide detailed reasons why the C-NLOPB should determine that the amount of the penalty was not determined in accordance with the regulations (<i>if more space is needed, please attach information to the back of this form</i>):</p>	
C.3	Review of facts of Violation
<p>Provide detailed reasons why the C-NLOPB should determine that you did not commit the violation (<i>if more space is needed, please attach information to the back of this form</i>):</p>	
C.4	Review of Both Penalty Amount and Facts of Violation
<p>Provide detailed reasons why the C-NLOPB should determine that the amount of the penalty was not determined in accordance with the regulations and that you did not commit the violation (<i>if more space is needed, please attach information to the back of this form</i>):</p>	

SECTION D – PREFERRED MODE OF REVIEW

Indicate the manner in which you prefer the review be carried out.
(Mark only ONE of the following boxes)

- Written submission only
- Written submission and verbal presentation

Note: This form is intended to enable a person served with a Notice of Violation to request a review of either the administrative monetary penalty amount set out in said Notice, or the facts of the violation, or both, within 30 days after the day on which the Notice of Violation is served. Instructions for submission are provided at the end of this form.

The C-NLOPB will provide review timelines upon receipt of a Request for Review.

If the Request for Review is received by the C-NLOPB after the due date, the requestor will be notified that the request opportunity has passed, and that the administrative monetary penalty is to be paid by the original due date.

*Detailed information on the administrative monetary penalties (AMPs) process is available in the **Administrative Monetary Penalty Guidelines** found on the C-NLOPB's website.*

INSTRUCTIONS for Submitting Request

The completed request for review can be submitted electronically to information@cnlopb.ca.

Administrative Monetary Penalty (AMP)

PAYMENT FORM

REFERENCE NUMBER:

Name of Operator/Other Person/Individual:	Regulatory Instrument #
Contact name and title for Operator/Other Person:	TOTAL PENALTY AMOUNT (\$):
Operator/Other Person/Individual address:	Date of Notice: Payment Due Date:

FOR PAYMENT NOTIFICATION	
<input type="checkbox"/> Payment Remitted (Follow payment instructions below)	
Method of Payment	
<input type="checkbox"/> Cheque, Money Order or Bank Draft (attached to this Payment Form)	
<input type="checkbox"/> Electronic Funds Transfer (EFT). Date of EFT: _____	
Contact Information for Payment (if different from above): Name, address, and telephone and fax numbers	

Questions regarding this form should be directed to the C-NLOPB’s Corporate Services and Regulatory Affairs and Finance Department, pbutler@cnlopb.ca or bwicks@cnlopb.ca.

PAYMENT INSTRUCTIONS:

A. For payments made by cheque, money order or bank draft

1. Attach a copy of this form and quote the reference number with your payment.
2. Payments must be made payable to the Receiver General of Canada.
3. Payments must be denominated in Canadian dollars.

Remittances must be sent to:

Canada-Newfoundland and Labrador Offshore Petroleum Board
240 Waterford Bridge Road
The Tower Corporate Campus – West Campus Hall
Suite 7100
St. John's, NL A1E 1E2

B. For remittances made using Electronic Funds Transfer (EFT)

For EFT payments, your completed Payment Form and notification of payment should be emailed to the C-NLOPB's Corporate Services and Regulatory Affairs Department: pbutler@cnlopb.ca or bwicks@cnlopb.ca.

NOTES:

1. Remittances in currencies other than Canadian dollars or sent to other government agencies other than the Receiver General of Canada will be deemed **not to have been received** by the Canada-Newfoundland and Labrador Offshore Petroleum Board.
2. If payments are not received in accordance with the terms of the Notice of Violation, penalties will be recovered in accordance with the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Act* and the *Canada-Newfoundland and Labrador Atlantic Accord Implementation Newfoundland and Labrador Act*.
3. Overdue accounts will be charged interest at the rate of 1.5% per month compounded monthly.

To obtain additional information about and view the *C-NLOPB Administrative Monetary Penalties Regulations*, please go to:

<https://www.cnlopb.ca/legislation/regulations/>