

In the Court of Appeal of Alberta

**Citation: Alberta (Energy and Minerals) v Canadian Natural Resources Limited,
2026 ABCA 213**

Date: 20260624
Docket: 2601-0036AC
Registry: Calgary

Between:

**His Majesty the King in Right of Alberta
as represented by the Minister of Energy and Minerals**

Appellant

- and -

Canadian Natural Resources Limited

Respondent

The Court:

**The Honourable Justice Jane Fagnan
The Honourable Justice Tamara Friesen
The Honourable Justice Karan M. Shaner**

Memorandum of Judgment

Appeal from the Order by
The Honourable Justice M.H. Bourque
Dated the 26th day of January, 2026
Filed on the 13th day of February, 2026
(Docket: B301-276975)

Memorandum of Judgment

The Court:

I Introduction

[1] Blue Sky, an oil and gas company, filed a Notice of Intention to make a proposal for restructuring under s 50.4(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (*BIA*) (the restructuring proceedings).

[2] Blue Sky owed royalty arrears to the Crown for gas production it had received. A chambers justice granted a temporary stay precluding Alberta Energy from taking steps to recover the royalty arrears from the lessees under Crown petroleum and natural gas minerals leases related to Blue Sky's gas production.

[3] The Minister of Energy and Minerals (Alberta Energy) appeals the stay.¹

[4] The appeal is allowed in part for the following reasons.

II Background

[5] Pursuant to applicable regulations, lessees under Crown petroleum and natural gas leases may identify a "royalty client" who is responsible for making ongoing royalty payments. Blue Sky was identified as a royalty client on multiple leases.

[6] A September 23, 2025 demand letter from Alberta Energy to Blue Sky indicated Blue Sky's gas royalty account with Alberta Energy had an arrears balance of just under \$1.9 million. The letter, with the heading "Outstanding debt owed by Blue Sky Resources Ltd.", identified Blue Sky as the debtor and demanded payment by October 22, 2025.

[7] On September 24, 2025, Blue Sky initiated the restructuring proceedings.

[8] On September 25, 2025, Alberta Energy issued a "Leaseholder Recourse Default Letter" to Blue Sky. The Default Letter was copied to 32 energy companies, including Canadian Natural Resources Limited (CNRL), who are lessees on some of the leases in relation to which Blue Sky received gas production and failed to pay associated royalties. The letter demanded payment of all

¹ This appeal was heard together with a related appeal, *Alberta (Energy and Minerals) v Spartan Delta Corp*, 2026 ABCA 214. Cenovus Energy Inc, Oviniv Canada ULC and Indian Oil and Gas Canada, who participated in the proceedings in the Court of King's Bench, also provided submissions on this appeal.

outstanding arrears by October 31, 2025, failing which Alberta Energy might pursue various remedies including cancelling the leases in question.

[9] To the extent that they are a lessee under a Crown lease in respect of which Blue Sky's royalty arrears arise, the lessees did not dispute their potential liability under s 20(2.1) of the *Mines and Minerals Act*, RSA 2000, c M-17 (*MMA*) for some or all of the shortfall if Blue Sky's liability was not satisfied in the insolvency proceedings. However, CNRL communicated its view to Alberta Energy that the stay of proceedings in the restructuring proceedings may preclude enforcement against the lessees. Alberta Energy disagreed. By October 31, 2025, CNRL and others had remitted, under protest, the amounts claimed by Alberta Energy in respect of Blue Sky's royalty arrears.

[10] On November 21, 2025, a sale and investment solicitation process order was granted.

[11] The Proposal Trustee's Fourth Report dated January 13, 2026 indicated that process was progressing favourably.

[12] CNRL filed an application seeking a declaration that the Default Letter demands for payment constituted a claim provable in bankruptcy against Blue Sky or the exercise of a remedy against Blue Sky's property, which Alberta Energy must first advance through Blue Sky's restructuring proceedings before seeking recovery from any lessee noted in the Default Letter. CNRL also sought a declaration that the stay under s 69 of the *BIA* precluded Alberta Energy from collecting any payments from Blue Sky's co-lessees.

III Chambers Decision

[13] The chambers justice held the stay of proceedings precluded Alberta Energy from recovering outstanding royalties owing by Blue Sky from the lessees until the insolvency proceedings were complete.

[14] He found Blue Sky's \$1.9 million debt for unpaid Crown royalties was a "claim provable in bankruptcy" on the basis that: 1) it was an amount owed by Blue Sky to Alberta Energy, 2) it was incurred before Blue Sky became bankrupt, and 3) it was possible to attach a monetary value to it.

[15] The chambers justice referred to the "single proceeding model" which allows for the efficient adjudication of creditor remedies and claims within a single proceeding by minimizing a multiplicity of actions. He reasoned the model was particularly apt for resolution of Alberta Energy's claims against Blue Sky, given the underlying nature of the debt and Alberta Energy's privileged position to recover its unpaid royalties through the restructuring proceedings. Alberta Energy could refuse to transfer any leases until all the Blue Sky royalty arrears were paid in full. Further, in the court approval process, if a party sought the approval of a transaction involving the

transfer of Crown leases with unpaid royalties, the court could not make the order transferring or assigning the leases unless it was satisfied that all monetary defaults in relation to the lease would be remedied on a date fixed by the court.

[16] The justice held that bypassing the single proceeding model through the recovery of unpaid royalties from Blue Sky's co-lessees would upset the delicate balancing of creditor rights within the restructuring proceedings, particularly because of the special treatment afforded to "cure costs". He opined that Alberta Energy collecting unpaid royalties from co-lessees would introduce unnecessary uncertainty in the proceedings: if the co-lessees' claims were treated as unsecured claims, a co-lessee who had paid Blue Sky's unpaid royalties might not recover those amounts in full through the statutory cure costs mechanism upon the assignment of the insolvent's leases; and the 32 co-lessees in question who may not otherwise be parties interested in the restructuring proceedings would be required to participate as unsecured lenders, at a high cost, to monitor the proceedings.

[17] The justice deemed it likely, given the progress of the restructuring proceedings, that some or all of Alberta Energy's unpaid royalties would be addressed by the sale and investment solicitation process, and through any sale approval and vesting order applications to be heard in early March 2026. He stated that Alberta Energy would have to be proactive in the proceedings and use the cure costs mechanism to recover any unpaid royalties in respect of leases that are the subject matter of any proposed transaction.

[18] He added that nothing in his reasons should be interpreted as limiting Alberta Energy's ability to recover any unpaid royalties through the s 20(2.1) mechanism in the *MMA* upon the conclusion of Blue Sky's insolvency proceedings.

[19] The resulting order provided that the Default Letter, and all demands for payment by Alberta Energy contained therein, were subject to the stay of proceedings imposed by s 69 of the *BIA* in the restructuring proceedings. It further provided that once the stay comes to an end, Alberta Energy can proceed in the normal course to recover any Blue Sky royalty arrears relating to the leases remaining in the Blue Sky estate which have not been assigned to a purchaser in the restructuring proceedings, and which are not otherwise payable as cure costs pursuant to the terms of an approval and vesting order, reverse vesting order or other order granted in the restructuring proceedings.

IV Ground of Appeal

[20] The fundamental issue in this appeal is whether the chambers justice erred in finding Alberta Energy's claims against lessees copied in the Default Letter were subject to a stay in the restructuring proceedings.

V Standard of Review

[21] The interpretation of a statute is a question of law reviewed for correctness: *Telus Communications Inc v Federation of Canadian Municipalities*, 2025 SCC 15 at para 25; *Piekut v Canada (National Revenue)*, 2025 SCC 13 at para 23.

[22] The interpretation of a standard form agreement is of precedential value. Where there is no meaningful factual matrix specific to the parties respecting the interpretation of the contract, the interpretation is best characterized as a question of law subject to correctness review: *EnCana Oil & Gas Partnership v Ardco Services Ltd*, 2017 ABCA 401 at para 3; *Ledcor Construction Ltd v Northbridge Indemnity Insurance Co*, 2016 SCC 37 at para 24.

[23] The exercise of discretion by a supervising judge in the insolvency context is entitled to a high level of deference: *Harmon International Industries Inc (Re)*, 2020 SKCA 95 at paras 40-41; *Invico Diversified Income Limited Partnership v Newgrange Energy Inc*, 2025 ABCA 392 at para 21.

VI Analysis

A What is the nature of Alberta Energy's claims against Blue Sky's co-lessees?

1 Liability of Co-lessees under s 20(2.1) of the MMA

[24] One of the main points of contention between the parties is whether co-lessees' liability is joint or joint and several. This requires consideration of the nature of Blue Sky and its co-lessees' liability as established under the leases, the MMA and the relevant regulations.

[25] According to Alberta Energy, claims against Blue Sky's co-lessees are independent joint and several liabilities of third parties whose obligations predate Blue Sky's insolvency.

[26] In the case of joint and several liability, two or more persons make a joint promise while also making the same promise individually. The creditor may then proceed against one, some, or all promisors as each is independently, or "severally", liable for the debt. Compromising the debt with respect to one promisor does not relieve the remainder of the promisors' obligations: *Royal Bank of Canada v Riverbanks Gourmet Café & Market Inc*, 2002 ABQB 50 at paras 24-27; *Royal Bank of Canada v King*, 1982 CanLII 1177 at para 18, 21 Alta LR (2d) 336 (KB), citing *Halsbury's Laws of England*, 4th ed, vol 9 at 423; Law Reform Commission of British Columbia, *Report on Shared Liability* (LRC 88, August 1986) at Chapters 2.A.1 and 2.B.2.

[27] By contrast, in the case of a joint promise, there is only one obligation; joint liability is not divisible. Because there is only one promise being made by two or more promisors, the release of one joint promisor serves as a release of the other joint promisors, even if the full judgment is not

satisfied: *Shoker v Vollans*, 1998 CanLII 6447 at paras 6-8 (BCCA). As the liability is indivisible, staying or addressing the debt with respect to one promisor stays or addresses the debt with respect to all.

[28] The Crown does not develop its own mineral resources; it administers Alberta's mineral resources on behalf of Albertans. Section 33 of the *MMA* reserves a royalty to the Crown on any minerals recovered pursuant to a Crown petroleum and natural gas lease (defined as an "agreement" in the *MMA*). Section 35(1) confirms the Crown's ownership of mineral rights governed by the *MMA*:

35(1) The Crown in right of Alberta is the owner of its royalty share of the mineral at all times until that royalty share is disposed of by or on behalf of the Crown or until the Crown's title to that royalty share is transferred to a lessee or other person pursuant to the regulations, notwithstanding that its share is commingled with and indistinguishable from the lessee's share prior to or at the time of the disposal or transfer of title.

[29] Alberta Energy offers industry the opportunity to develop Crown petroleum and natural gas primarily through a competitive bidding process. It issues a lease to the successful bidder granting the lessee the exclusive right to drill for, and recover, petroleum and natural gas within the lease area. The payment of Crown royalties reflects the underlying ownership of the natural resource by the Alberta Crown.

[30] All Crown petroleum and natural gas leases expressly incorporate the provisions of the *MMA* and the applicable regulations, and all the leases at issue in this appeal require the lessees to pay all royalties accruing from production under their lease in accordance with the *MMA* and to comply with the provisions of the *MMA* and any other applicable statutes.

[31] A Crown lease can have multiple lessees, and a lease may contain multiple wells, each with several participants or operators chosen by those participants.

[32] Section 20(2.1) of the *MMA* provides:

20(2.1) Where 2 or more persons are recorded with the Department as lessees of an agreement,

- (a) those lessees in relation to the Crown are jointly responsible for the obligations and liabilities that arise under that agreement, notwithstanding that the agreement was issued before, on or after the coming into force of this subsection, and

- (b) a judgment in favour of the Crown against one or more of those lessees or a release by the Crown in favour of one or more of those lessees does not preclude the Crown from obtaining judgment against the other lessees in the same or a separate proceeding.

[33] Alberta Energy submits that prior to the addition of s 20(2.1) in 2003, the *MMA* did not specifically address co-lessee liability and instead imposed obligations only on the “lessee”, even though multiple co-lessees were common. Alberta Energy notes that at common law co-promisors and co-obligors are not automatically jointly and severally liable. It says it was unclear whether the Crown could pursue only the primary agreement holder for unpaid royalties or whether it could pursue co-lessees.

[34] Alberta Energy argues the 2003 amendments reflect the Legislature’s intent to codify joint and several liability of co-lessees. It submits that when ss 20(2.1)(a) and (b) are read together, they capture all the key aspects of joint and several liability at common law. Thus, each co-lessee can be pursued independently for the full outstanding obligations and liabilities, including Crown royalties, under a petroleum and natural gas lease.

[35] Statutory provisions are to be interpreted in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act and the intention of Parliament: *Rizzo & Rizzo Shoes Ltd (Re)*, 1998 CanLII 837 at para 21, [1998] 1 SCR 27; *R v Carignan*, 2025 SCC 43 at para 55. The text of the statute remains the anchor of the interpretive exercise under the modern approach to statutory interpretation, particularly where the words of a statute are “precise and unequivocal”: *Carignan* at para 58; *Kosicki v Toronto (City)*, 2025 SCC 28 at para 37.

[36] Section 20(2.1)(a) expressly establishes joint liability. Section 20(2.1) does not contain the word “several”. By deliberately using the phrase “jointly responsible” in s 20(2.1)(a), the Legislature must be taken to have intended joint liability. Had its intention been to establish joint and several liability, it would have been simple to use the phrase “joint and several”. The Legislature has employed that phrase in numerous statutes, for example: *Business Corporations Act*, RSA 2000, c B-9, ss 15.2(1), 15(5), 118 and 119; *Franchises Act*, RSA 2000, c F-23, s 12; *Securities Act*, RSA 2000, c S-4, ss 203(0.1)(10) and (13.1), 204(7) and (8), 205(8) and (10.1), 207(8), 211.06(3); *Employment Standards Code*, RSA 2000, c E-9, ss 81 and 112; *Contributory Negligence Act*, RSA 2000, c C-27, s 2(2), *Environmental Protection and Enhancement Act*, RSA 2000, c E-12, s 215; *Partnership Act*, RSA 2000, c P-3, ss 11(2) and 15. ...

[37] The language of s 20(2.1) also stands in contrast to ss 37(2) and 26(1) of the federal *Indian Oil and Gas Regulations*, SOR/2019-196, which expressly impose liability “jointly and severally” on subsurface contract holders.

[38] Section 20(2.1)(b) does not transform the joint liability established in s 20(2.1)(a) into joint and several liability. It permits the Crown to pursue jointly liable co-lessees in two particular circumstances, which it could not do in the absence of s 20(2.1)(b). Section 20(2.1)(b) would not be necessary if s 20(2.1)(a) created joint and several liability.

[39] Alberta Energy notes that when the amendments including s 20(2.1) were introduced, the Minister stated the purpose of the amendments was to ensure that the Crown would not have to argue common law precedents in every case of royalty default, and to provide procedural flexibility in the administration of collections: Alberta, Legislative Assembly, *Alberta Hansard*, Legislature 25, Session 3 (2003-2004), (3 March 2003) at 215 (Hon Alana DeLong), (27 March 2003) at 794-795 (Hon Alana DeLong), (5 May 2003) at 1429-1431 (Hon Alana DeLong).

[40] However, the two references to “liability” in *Hansard* state: “[t]his bill will codify joint liability of Crown leases” and “[i]t codifies joint liability so that the Crown will not have to argue the common-law precedents in every case where a lessee defaults on a royalty payment”: Alberta Legislative Assembly, *Alberta Hansard*, Legislature 25, Session 3 (2003-2004), (27 March 2003) at 795 and (5 May 2003) at 1430. Alberta Energy acknowledges there is no reference in *Hansard* to “joint and several” liability in relation to the 2003 amendments.

[41] The obvious intent behind s 20(2.1) is to clarify that co-lessees are jointly liable, and to modify the law which would otherwise apply in relation to that joint liability by permitting the Crown to obtain judgment against co-lessees notwithstanding a previous judgment for, or release of, an individual lessee. It does not permit the Crown to obtain judgment against a co-lessee in other situations, for example, where a vesting order in insolvency proceedings bars claims against a co-lessee.

2 Liability of Royalty Clients

[42] The chambers justice held that the *MMA* and the relevant regulations establish a mechanism that ensures the Crown’s royalty share is paid in first instance by “the party who took the Crown’s share of production”. Blue Sky is the party who took the Crown’s share of production in relation to the leases in question, resulting in the outstanding royalty arrears.

[43] Blue Sky benefitted from the receipt of gas production and was liable for payment of associated royalties. Alberta Energy invoiced Blue Sky for royalties payable on gas production Blue Sky received and the preliminary collection notices were to Blue Sky.

[44] Alberta Energy argues the Crown has privity of contract only with lessees, notwithstanding industry’s ability to designate a “royalty client” (who may not be a lessee) for the administration of royalty payments pursuant to the regulations.

[45] The respondent acknowledges its liability for royalty obligations under s 20(2.1) of the *MMA* if the unpaid royalties are not fully recovered through the restructuring proceedings but it says Alberta Energy must advance its claim for the royalty arrears first in the restructuring proceedings prior to looking to lessees for reimbursement. It submits s 20(2.1) extends liability for obligations under a PNG lease to all leaseholders but does not *create* the royalty obligation.

[46] Royalty compensation is money payable to the Crown in right of Alberta as compensation pursuant to regulations made under s 36(2)(i) of the *MMA*: s 1(y), *MMA*. Section 36(2)(i) contemplates the making of regulations respecting the determination and payment to the Crown of compensation in respect of the Crown's royalty share of a mineral, where the Crown's title to that share is transferred pursuant to regulations under s 36(2)(h). The latter provision contemplates the making of regulations respecting the transfer of title to the Crown's royalty share of a mineral to the lessee or any other person after the recovery of the mineral. The *Natural Gas Royalty Regulation, 2009*, AR 221/2008 (*NGRR 2009*) and the *Natural Gas Royalty Regulation, 2017*, AR 211/2016 (*NGRR 2017*) govern those matters. The royalties payable under the Crown leases at issue are calculated pursuant to the relevant *NGRR*.

[47] Royalty arrears arise in a client's royalty account for production it received from wells in which it held a working interest. The royalty client is invoiced by Alberta Energy for the royalty compensation payable for its production and is required to remit payment for such invoices to Alberta Energy.

[48] Royalties are payable to the Crown at the prescribed point at which the Crown's title to the natural gas transfers to the owner of the production (in this case, Blue Sky): *NGRR 2009*, s 15 (or *NGRR 2017*, s 16). Liability for the payment of Crown royalties is triggered at that time:

15(1) The Crown's title to the Crown's royalty share of natural gas and gas products is automatically transferred

- (a) at the point immediately downstream from the royalty calculation point for the natural gas or gas products, or
- (b) in the case of sulphur,
 - (i) at the place where it is solidified at the site of the gas processing plant or reprocessing plant at which it is obtained, or
 - (ii) at the place where it leaves the gas processing plant or reprocessing plant at which it is obtained, where it leaves the plant in liquid form without having first been solidified,

to the person who is, in relation to that royalty share, the owner of the lessee's share of the natural gas or gas products.

(2) When the Crown's title to the Crown's royalty share of natural gas or a gas product is transferred pursuant to subsection (1), royalty compensation is payable to the Crown in accordance with this Regulation in respect of that royalty share.

[49] The person taking a transfer of title of the Crown's royalty share of natural gas, triggering the obligation to pay royalty compensation, is the "owner of the lessee's share of the natural gas": s 15(1), *NGRR 2009*. On receipt of a royalty invoice in respect of a production month, the royalty client is required to pay the Crown the net amount shown in the invoice: s 16(3), *NGRR 2009*. If a royalty client account shows a net credit balance in the client's favour as of the end of a month, the Crown must pay the royalty client an amount equal to that credit balance: s 16(7), *NGRR 2009*.

[50] In this case, the "owner of the lessee's share of the natural gas" was Blue Sky as it received a title transfer of the Crown's royalty share of gas and was required under the *NGRRs* to pay applicable royalty compensation to Alberta Energy. Blue Sky's failure to do so gave rise to the royalty arrears.

[51] Royalties are calculated on production, not on registered ownership in a lease. All the royalty arrears arose from gas production taken in kind by, or gas production revenues paid to, Blue Sky. Such gas production was taken from leases in which Blue Sky held a working interest, a registered interest, or both.

[52] The chambers justice did not err in finding the royalty arrears are "an amount owed by Blue Sky to Alberta Energy", they "represent a debt that was incurred by Blue Sky", and Blue Sky "took the Crown's share of the production".

[53] Alberta Energy argues a regulation cannot constrain the operation of its enabling legislation, citing *Bristol-Myers Squibb Co v Canada (Attorney General)*, 2005 SCC 26 at para 38. It submits the creation of a royalty payment framework pursuant to the *NGRRs* does not alter the freestanding obligation of lessees to pay Crown royalties pursuant to the terms of a Crown lease and the *MMA*. It points to s 2 of the *NGRRs*:

2 Nothing in this Regulation operates to relieve a lessee from

- (a) the lessee's liability to the Crown under an agreement for the payment of royalty, or
- (b) the lessee's liability under this Regulation to pay royalty compensation to the Crown...

[54] As previously noted, the leases incorporate the provisions of the *MMA* and applicable regulations. The *MMA* defines “royalty compensation” as money payable to the Crown as compensation pursuant to the *NGRRs*: s 1(1)(y). As noted, ss 36(2)(h) and (i) of the *MMA* permit the Lieutenant Governor in Council to make regulations respecting the transfer of title to the Crown’s royalty share of a mineral to the lessee or any other person after the recovery of the mineral, and the determination and payment to the Crown of compensation in respect of the Crown’s royalty share of a mineral.

[55] A harmonious reading of the *MMA* and the *NGRRs* recognizes that co-lessees are jointly liable. In the case of a lessee royalty client who has benefitted from ownership and receipt of production under the PNG lease, that lessee’s co-lessee remains liable notwithstanding a judgment or release and may be pursued in a separate proceeding.

B Did the chambers justice err in finding Alberta Energy’s claims against the lessees were subject to a stay?

[56] This brings us to the main issue in this case: whether the chambers justice erred in staying Alberta Energy’s claims against the 32 lessees who were copied on the Default Letter.

1 Claim Provable in Bankruptcy and s 69 Stay

[57] In the context of a bankruptcy, the debtor is the insolvent person: s 2, *BIA*. A claim provable in bankruptcy must be against the debtor: ss 2, 121, *BIA*. A “claim provable in bankruptcy” is a claim for debts and liabilities to which the bankrupt is subject on the date of filing: s 121, *BIA*. For a debt to be a claim provable in bankruptcy it must have three elements:

- (i) there must be a debt, a liability or an obligation to a creditor;
- (ii) the debt, liability or obligation must have been incurred before the debtor became bankrupt; and
- (iii) it must be possible to attach a monetary value to the debt, liability or obligation.

Newfoundland and Labrador v AbitibiBowater Inc, 2012 SCC 67 at para 26; *Orphan Well Association v Grant Thornton Ltd*, 2019 SCC 5 at paras 37-40.

[58] The royalty arrears constituted a debt owed by Blue Sky as a royalty client under the *NGRRs*. The debt was incurred before Blue Sky’s insolvency and it was quantified. The chambers justice did not err in finding the claim for the royalty arrears was a claim provable in bankruptcy.

[59] Upon the filing of a notice of intention, s 69(1)(a) of the *BIA* automatically stays remedies against the insolvent person for the recovery of a “claim provable in bankruptcy”.

[60] Blue Sky’s co-lessees’ liability for the royalty arrears pursuant to s 20(2.1) of the *MMA* is joint, and therefore indivisible. As such, staying the claim with respect to one person (Blue Sky) stays the claim with respect to all persons (the co-lessees). The royalty arrears are stayed with respect to Blue Sky as a “claim provable in bankruptcy”; it follows that the claims are also stayed as against all co-lessees.

[61] However, Blue Sky was not a lessee on all the leases in relation to which it received gas production.

2 Single Proceeding Model

[62] The chambers justice’s order indicates that the s 69 *BIA* stay prohibited Alberta Energy from attempting to collect Blue Sky royalty arrears from any leaseholders. It further provides that once the stay has expired, Alberta Energy can recover royalty arrears relating to leases remaining in the Blue Sky estate which have not been assigned to a purchaser in the restructuring proceedings, and which are not otherwise payable as cure costs pursuant to the terms of a vesting order or other order.

[63] While the order references a s 69 *BIA* stay, the chambers justice did not mention s 69 in his reasons for decision. Rather, he relied upon the single proceeding model.

[64] The appeal is of the order, not of the reasons: *PricewaterhouseCoopers Inc v Perpetual Energy Inc*, 2020 ABCA 254 at para 19 and cases cited therein.

[65] The parties agree that Blue Sky was a lessee in relation to some but not all the leases in question. In some cases, it had only a working interest. Alberta Energy argues that in those cases, s 20(2.1) does not apply, and therefore it should not have been constrained in pursuing its claims against the lessees. It argues the chambers justice effectively found the s 69 stay applied indiscriminately to the leases, whether or not Blue Sky was a co-lessee.

[66] Alberta Energy’s first affidavit filed in the Court of King’s Bench indicated that Blue Sky was a registered lessee on all the PNG leases subject to the Default Letter. However, its representative deposed in a supplemental affidavit that on some of the leases, Blue Sky was not a registered lessee, but only a royalty client.

[67] There was no evidence before the chambers justice regarding the quantum of royalty arrears owing under any given PNG Lease. The respondent had sought a list of all PNG leases impacted by the Default Notice. Alberta Energy had refused to provide information sought by the respondent.

[68] Therefore, it appears it was impossible to determine whether any particular lease included in the Default Notice continued to have Blue Sky royalty arrears outstanding at any particular time. It was also not possible to determine what portion of the Blue Sky royalty arrears was owing on leases in which Blue Sky (or CNRL) held a working interest but not a leasehold interest or in which CNRL held no interest (registered, working or otherwise) and which were held entirely by third parties.

[69] The Default Letter asserted that all lessees were responsible for Blue Sky's royalty arrears owing under any petroleum and natural gas lease, even those in which the lessee had no interest, and warned that failure to pay the royalty arrears in full may result in Alberta Energy refusing to issue new agreements to lessees or suspend related privileges. While Alberta Energy had asserted in the Default Letter that the lessees in question were jointly responsible for the entire arrears, Alberta Energy walked back that position in the hearing before the chambers justice.

[70] Nevertheless, as the Default Letter asserted that Alberta Energy may cancel leases for unpaid Blue Sky royalty arrears, the respondent's economic and proprietary working interests were at risk of cancellation without it having any ability to address, or even confirm the existence of, such risk.

[71] Courts possess broad discretion under the *BIA* to tailor insolvency proceedings to the needs of a particular case, including by imposing temporary restraints on creditor rights. As recognized by the Supreme Court of Canada in *Peace River Hydro Partners v Petrowest Corp*, 2022 SCC 41:

66 Flexibility is likewise a characteristic of Canadian insolvency law. But in the insolvency context, both the court and the parties can tailor proceedings to fit a particular case. Indeed, the *BIA* and the *CCAA* both accord broad judicial discretion to, among other things, authorize the assignment and disclaimer of contracts and the sale of assets, impose and lift stays of proceedings, grant extensions of time, terminate proceedings, and approve creditor proposals [...] Canadian insolvency law thus allows debtors, creditors, and courts “to design a process and [an] outcome that is appropriate for individual . . . cases”...

[72] A court may impose a temporary stay on the exercise of statutorily protected rights where doing so is necessary to protect ongoing restructuring proceedings; such a stay affects only the timing of enforcement and not the underlying substantive rights: *Air Canada (Re)*, 2003 CanLII 64234, 45 CBR (4th) 13 (ON SC); *Montréal (City) v Deloitte Restructuring Inc*, 2021 SCC 53; *Tucker v Aero Inventory (UK) Limited*, 2009 CanLII 63138 (ON SC).

[73] At the outset of his brief oral decision, the chambers justice stated that the Default Letter was “presumably” sent to the lessees on the basis that those companies are co-lessees with Blue Sky on some of the leases in respect of which Blue Sky is in arrears. He stated the question before

him as being whether the stay precluded Alberta Energy from recovering outstanding royalties owing by Blue Sky “from its co-lessees” during the insolvency proceedings.

[74] In his analysis in relation to the single proceeding model, the justice referred to “cure costs” and held that Alberta Energy was in a privileged position as it could refuse to transfer any leases until all of the Blue Sky royalty arrears were paid in full, and if a party sought approval of a transaction involving the transfer of Crown leases with unpaid royalties, the court would ensure that the royalty arrears were paid. He noted, in contrast, that Blue Sky’s co-lessees who paid Blue Sky’s royalty arrears could only recover in the insolvency as unsecured creditors. He quoted a statement in the Fourth Report relating to cure costs.

[75] The chambers justice made no determination that cure costs would be recoverable where Blue Sky was not a lessee, for example, if a joint operating agreement were assigned in the course of Blue Sky’s insolvency. Counsel had submitted in oral argument that there might be an issue with respect to cure costs in relation to leases where Blue Sky was not a lessee and which would not be transferred through the insolvency process.

[76] The Crown’s entitlement to cure costs for amounts owing under a Crown lease arises under s 18(2) of the *MMA* and s 5(1)(g) of the *Crown Minerals Registration Regulation*, AR 264/1997. Alberta Energy can refuse to transfer a Crown lease where a party is in default of payment of any debt owing to the Alberta Crown or any provincial agency. Therefore, Alberta Energy has a statutory right to recover all of Blue Sky’s royalty arrears owing in relation to any leases transferred to a purchaser within the restructuring proceedings since, in all cases, Alberta Energy must approve the transfer of the leases. However, if Blue Sky is a royalty client but not a lessee under a Crown lease, that lease cannot be sold within the insolvency proceeding because it is not Blue Sky’s property.

[77] It does not appear from the oral decision or the resulting order that the chambers justice addressed those situations in which Blue Sky was not a co-lessee. The framing of the stay as being based solely on s 69 in the resulting order would be consistent with his stated presumption that Blue Sky was a co-lessee with each of the 32 lessees copied on the Default Letter.

[78] The respondent submits the single proceeding model applies to claims that may arise against co-liable parties, provided they are fundamentally connected to the underlying insolvency. It says the chambers justice’s decision is consistent with the test outlined in the jurisprudence.

[79] The chambers justice did not expressly address the court’s jurisdiction under s 183 of the *BIA* nor state any test or undertake an analysis of lease-based claims where Blue Sky was not a co-lessee. He did not decide that the claims were “inextricably connected to the restructuring process” or “likely to further the remedial purposes” of the insolvency legislation: *National Bank of Canada v Sunterra Food Corporation*, 2025 ABKB 599 at paras 13-15, citing *Stelco Inc (Re)*,

2006 CanLII 16526 at paras 11-12 (ONCA), *Alderbridge Way GP Ltd (Re)*, 2023 BCSC 1718 at paras 34-57, *Dynamic Technologies Group Inc (Companies' Creditors Arrangement Act) (Re)*, 2023 ABKB 172, *US Steel Canada Inc (Re)*, 2015 ONSC 5103 at paras 80-84, aff'd 2016 ONCA 662.

[80] The justice did express concern about introducing 32 additional parties into the restructuring proceedings. However, his reasons for the stay were in large part based on the expectation that Alberta Energy would be in a position to obtain cure costs, which would be the case where Blue Sky was a lessee.

[81] The respondent argues that Blue Sky's working interest constituted an ownership in the leases. We decline to address this argument. Nothing in the chambers justice's reasons would suggest he made such a determination or based his stay decision on that premise. Nor did he address the respondent's argument that Blue Sky as a party to "some contract governing [the] well" (such as a joint operating agreement) might be able to recover "cure costs" on assignment of the agreement.

[82] We note the respondent's application sought a declaration regarding the claims against all leaseholders noted on the Default Letter. Alberta Energy had declined to provide information to the respondent that would likely have been of some assistance to the chambers justice in enabling him to draw distinctions between those situations in which Blue Sky was a lessee and those in which it was not. He granted the respondent's request for disclosure, ordering that each co-lessee be provided information identifying the Crown lease with royalty arrears and the amount of the arrears claimed against each co-lessee. That disclosure may enable the parties to advance their arguments before the chambers justice with more particularity.

VII Conclusion

[83] We conclude that the s 69 stay was properly applied to claims against Blue Sky's co-lessees, but the chambers justice's reasoning did not support a conclusion that the s 69 stay extended to claims against lessees in relation to leases on which Blue Sky was not a co-lessee.

VIII Disposition

[84] The appeal is allowed in part. The matter is returned to the Court of King's Bench for a new hearing with respect to whether a stay is warranted in the ongoing insolvency proceedings in relation to any remaining Crown claims for royalty arrears against parties listed in the Default Letter where Blue Sky and the party associated with particular arrears are not co-lessees on the lease to which the arrears pertain.

IX Costs

[85] Given the mixed success on this appeal, the parties shall bear their own costs.

Appeal heard on April 16, 2026

Memorandum filed at Calgary, Alberta
this 24th day of June, 2026

Fagnan J.A.

Friesen J.A.

Shaner J.A.

Appearances:

A.W. (Sandy) Carpenter

E. Dixon

for the Appellant

E. Paplawski

H. Aminnejad

for the Respondent Canadian Natural Resources Limited

D.J. Smith

for Indian Oil and Gas Canada

A. Teasdale

for Cenovus Energy Inc.

K.J. Bourassa, KC

for Oviniv Canada ULC