



MINISTRY OF ENVIRONMENT AND PARKS
COMPLIANCE AND ENVIRONMENTAL ENFORCEMENT BRANCH

DETERMINATION OF ADMINISTRATIVE PENALTY

March 11, 2025

File: 2024-46
2753

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Teck Metals Ltd.
Suite 3300, Bentall 5 Tower
550 Burrard Street
Box 31
Vancouver, BC V6C 0B3

Attention: Teck Metals Ltd.

RE: Determination of Administrative Penalty

Further to the Notice Prior to Determination of Administrative Penalty issued to you on October 21, 2024, and your opportunity to be heard respecting the alleged failures, I have now made a Determination in this matter.

After reviewing the information available to me, I have concluded Teck Metals Ltd. has failed to comply with Permit 2753 Section 2.2, in respect of which an administrative penalty is being imposed pursuant to Section 115 of the *Environmental Management Act* (EMA) and the Administrative Penalties (EMA) Regulation. The amount of the penalty, reasons for my decision, payment, and appeal information are provided in the attached decision document.

If you have any questions with regards to this Determination, please contact me at 250-739-8236 or Darren.Stewart@gov.bc.ca.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Stewart". The signature is fluid and cursive, with the first and last letters of the first and last names being capitalized and prominent.

Darren Stewart
for Director, *Environmental Management Act*

Attachments:

2024-10-21 2204-46 Penalty Assessment Form

cc: Natasha Olsoff, Environmental Protection Officer
Natasha.Olsoff@gov.bc.ca

Kevin Vu, Environmental Protection Technician
Kevin.Vu@gov.bc.ca

Brady Nelles, Executive Director, Compliance & Environmental Enforcement
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DETERMINATION OF ADMINISTRATIVE PENALTY

FILE: 2024-46

Name of Party:

Teck Metals Ltd.

Contravention or Failure:

Failure to comply with Permit 2753 Section 2.2 (Bypasses):

2.2 The permittee must not allow any discharge authorized by this Authorization to bypass the Authorized Works, except with the prior written approval of the Director.

Date of Contravention or Failure:

- June 8, 2022 to April 30, 2024 (continuous)
- September 8, 2022
- March 20, 2023
- October 20, 2023
- November 28, 2023 to January 6, 2024
- February 1, 2024

Directors Summary:

1. Teck Metals Ltd. (Teck) is a Canadian resource company with mining and mineral development operations in Canada, Peru, Chile, and the United States.
2. Teck owns two operations in Canada, one of which is its Trail Operations located in the city of Trail, British Columbia (BC) on the banks of the Columbia River.
3. The Trail Operations (Facility) is comprised of a zinc and lead smelting and refining complex. The effluent produced from this operation is discharged into the Columbia River.
4. This Administrative Penalty (AMP) assessment is for the period of June 8, 2022, to April 30, 2024, when Teck failed to comply with Permit 2753 Section 2.2.
5. The provincial regulatory authorization governing the discharge of effluent from a lead and zinc smelting and refining operation is Permit 2753 (Permit) issued pursuant to the *Environmental Management Act*, S.B.C. 2003, c. 53 (EMA).
6. The Permit was issued and is administered by the BC Ministry of Environment and Climate Change Strategy (Ministry).

AMOUNT OF ADMINISTRATIVE PENALTY:

2024-46a: \$23,000

2024-46b: \$3,750

TOTAL: \$26,750

7. The Permit authorizes the discharge of effluent into the Columbia River from an Integrated Lead and Zinc Smelting and Refining Complex, a Fertilizer Plant, and the Technical Services Trail (formally the Applied Research and Technology) Facility.
8. The Permit was first issued on November 29, 1978, and was most recently amended on August 22, 2024.
9. This AMP applies to the February 4, 2020, version of the Permit. Section 2.2 of the Permit did not change from the February 4, 2020 version to the August 22, 2024 version.
10. On August 15, 2024, the Ministry issued IR 221765, a Referral for an AMP. In Inspection Report (IR) 221765 Teck was found out of compliance with Section 2.2 when they bypassed authorized works without approval of director.
11. On October 21, 2024, the Ministry issued a Notice Prior to Determination of Administrative Penalty (Notice) and accompanying Penalty Assessment Form (PAF) to Teck via email. The Notice recommended two penalties:
 - **2024-46a:** \$23,000 for the continuous failure to comply with Section 2.2 of the 2024 Amended Permit.
 - **2024-46b:** \$9,500 for the discrete failures to comply with Section 2.2 of the 2024 Amended Permit.
12. In the Notice, Teck was offered an Opportunity to be Heard (OTBH) and given thirty (30) days to request an OTBH.
13. On November 14, 2024, Teck requested an OTBH and on January 14, 2025, Teck provided the OTBH submission (OTBH Submission) to the Ministry.

Reasons for Decision:

14. In making this Determination of Administrative Penalty (Determination), I have considered all of the information available to me, including the OTBH Submission provided by Teck. In reaching this Determination, I have carefully considered all the arguments, relevant documents, evidence, and submissions before me, whether or not they are specifically referred to. My reasons for decision include a consideration of the failures as well as the matters listed in Section 7(1) of the Administrative Penalties (EMA) Regulation (APR), as applicable.
15. The “Ministry of Environment and Climate Change Strategy, Administrative Penalties Handbook – *Environmental Management Act* and *Integrated Pest Management Act*” (AMP Handbook) provides high level guidance to Ministry staff considering the assignment of administrative penalties. Statutory Decision Makers consider, and decisions are informed by, this document. I have considered the AMP Handbook in making this Determination.

16. Considering the AMP Handbook in making my Determination is consistent with the Environmental Appeal Board’s (EAB) findings in *United Concrete & Gravel Ltd. v Director, Environmental Management Act* (Decision No. EAB-EMA-21-A005(a), September 27, 2021)¹ (United Concrete), at para. 72:

“Throughout my reasons, I have referred to the Handbook. After having reviewed the Handbook, I find it to be a reasonable guide for determining the appropriate quantum of an administrative penalty under the Act. It fosters consistency and predictability in decision-making. No other resources or authorities were provided to me. For these reasons, I have found the Handbook persuasive in my reasoning.”

17. The detailed reasons for decision are provided in the penalty calculation(s) below.

PENALTY CALCULATION

FILE: 2024-46a

Section 2.2 (Bypasses) – Continuous

The Contravention or Failure:

18. Under Section 2.2, Teck must not allow any discharge authorized by this Authorization to bypass the Authorized Works, except with the prior written approval of the Director.
19. From June 8, 2022 to April 30, 2024, Teck continuously failed to comply with Section 2.2 when it allowed an authorized discharge to bypass the Authorized Works without prior written approval from the Director:
20. In the OTBH Submission, Teck does not dispute the contravention. In the OTBH Submission it states, *“Teck is not offering submissions on the penalty for \$23,000 related to the CII Outfall and accepts that penalty.”*
21. My reasons for decision will address each factor individually. My considerations under Section 7(1) of the APR are as follows:

Factor a): Nature of Contravention or Failure

22. The PAF shared at Notice proposed that the failure was moderate. In the AMP Handbook, a "moderate" contravention or failure includes *“this category refers to a failure to comply with operational requirements that at a minimum create a risk of harm to the environment or human health and safety”*. Included in the AMP Handbook description of a moderate nature of contravention is *“failure to perform required tasks or actions such as obtaining approval prior to a bypass”*.
23. Teck failed to comply with Section 2.2 when it allowed effluent to bypass Authorized Works without approval. The Authorized Works that were bypassed was the CII combined outfall. The authorization of these Works by the Ministry is to ensure that discharge of

¹ [EAB-EMA-21-A005a.pdf \(bceab.ca\)](#)

effluent meets the Ministry's standards and EMA. Bypassing these Authorized Works undermines the Ministry's ability to regulate and protect the environment and human health.

24. This factor was not disputed in the OTBH Submission.
25. After considering the relevant information above, I confirm the failure is moderate.

Factor b): Actual or Potential Adverse Effects

26. Section 7(1)(b) of the APR requires that I must consider the real **or potential** adverse effect of the failure. A finding of potential adverse effect of the failure is enough to apply this factor.
27. The PAF shared at Notice proposed that the failure was medium. Included in the AMP Handbook's description of "medium" actual or potential adverse effects is *“contravention interferes with the Ministry's capacity to protect the environment or human health, or has the potential to do so, but does not result in a significant adverse effect or the potential to do so is moderate.”*.
28. The purpose of the Authorized Works is to ensure that the discharge of effluent into the receiving environment, in this case the Columbia River, is done in a such a way that the Ministry's goal of the protection of human health and the environment is met. The bypassing of authorized outfall pipes results in effluent being discharged at locations where it may have a higher potential for adverse effect on the receiving environment. This failure to comply with the bypass requirements has resulted in a potential for adverse effect to the environment and best meet the AMP Handbook definition of a medium failure.
29. This factor was not disputed in the OTBH Submission.
30. After considering the relevant information above, I confirm that the failure is medium.
31. The base penalty is therefore confirmed at \$10,000 as proposed at Notice.
32. I will now address the application of the penalty adjustment factors that reflect the unique circumstances of this file, including what happened before, during, and after the failure, and the OTBH Submission from Teck.

Factor c): Previous contraventions or failures, penalties imposed, or orders issued:

33. I am guided by the AMP Handbook for this factor, to consider Teck's compliance history. This factor could increase or decrease the penalty.
34. The PAF shared at Notice proposed no adjustment for this factor.
35. This factor was not disputed in the OTBH Submission and remains unchanged.

Factor d): Whether contravention or failure was repeated or continuous

36. I am guided by the AMP Handbook for this factor, to consider whether there is any evidence indicating that the repeated or continuing nature of the failure should have alerted Teck to the failure and the need to take action. If I am persuaded that Teck failed to take action, this factor could increase the penalty.
37. The PAF shared at Notice proposed an increase of one hundred percent of the base penalty (+ \$10,000) for the continuous nature of the failure.
38. The failure was continuous from June 8, 2022 to April 30, 2024 (693 days).
39. This factor was not disputed in the OTBH Submission.
40. After considering the relevant information above, I confirm the increase of this factor.

Factor e): Whether contravention or failure was deliberate

41. I am guided by the AMP Handbook for this factor, to consider whether there is any evidence indicating that Teck deliberately bypass authorized works without approval from the Director. If I am persuaded that Teck deliberately bypass authorized works without approval from the Director, this factor could increase the penalty.
42. The PAF shared at Notice proposed an increase of fifty percent of the base penalty (+ \$5,000) for the deliberate nature of the failure.
43. In 2021 and 2022, Teck was previously found out of compliance with Section 2.2 when it bypassed Authorized Works without approval from the Director. In 2021 and 2022, Teck was reminded to ensure that no authorized discharge bypasses the Authorized Works except with prior written approval from the Director.
44. This factor was not disputed in the OTBH Submission.
45. I find that Teck was aware of the discharge in June of 2022 yet took no remedial actions or maintenance to mitigate the bypass until almost two years later.
46. After considering the relevant information above, I confirm the increase of this factor.

Factor f): Economic benefit derived by the party from the contravention or failure

47. I am guided by the AMP Handbook for this factor, to consider whether is any evidence indicating that Teck obtained an economic benefit from the failure. If I am persuaded that Teck obtained an economic benefit from the failure, this could increase the penalty.
48. The PAF shared at Notice proposed no adjustment for this factor.

49. This factor was not disputed in the OTBH Submission and remains unchanged.

Factor g): Exercise of due diligence to prevent the contravention or failure

50. I am guided by the AMP Handbook for this factor, to consider whether there is any evidence that Teck took **all** reasonable measures to prevent the failure. If I am persuaded that Teck took all reasonable measures to prevent the failure, this factor could decrease the penalty.

51. The PAF shared at Notice proposed no adjustment for this factor.

52. The onus to prove due diligence lies with Teck. In order to establish due diligence, Teck would have been expected to provide evidence that it took all reasonable measures to prevent the failures. I find that Teck may have taken some measures to comply, but it has not taken all reasonable measures to comply. Based on the above, Teck failed to exercise due diligence to prevent the failures.

53. This factor was not disputed in the OTBH Submission and remains unchanged.

Factor h): Efforts to correct the contravention or failure

54. I am guided by the AMP Handbook for this factor, to consider what Teck did **after** the failure to restore compliance or reverse or mitigate the impacts. If I am persuaded that Teck did take actions after the failure to restore compliance or reverse or mitigate the impacts, this factor could decrease the penalty.

55. The PAF shared at Notice proposed a decrease of ten percent of the base penalty (- \$1,000) for efforts made to correct the failure.

56. I find that Teck made some efforts to correct this failure including conducting temporary repairs in August 2024 that reduced effluent release by approximately 90%. However, the bypass continued albeit at a slower rate.

57. This factor was not disputed in the OTBH Submission.

58. After considering the relevant information above, I confirm the decrease of this factor.

Factor i): Efforts to prevent reoccurrence of the contravention or failure

59. I am guided by the AMP Handbook for this factor, to consider whether Teck has taken any action to avoid the failure happening again in the future. If I am persuaded that Teck has taken any action to avoid the failure happening again in the future, this factor could decrease the penalty.

60. The PAF shared at Notice proposed a decrease of ten percent of the base penalty (- \$1,000) for efforts made to prevent the recurrence of the failure.

- 61. I find that Teck made some efforts to prevent the reoccurrence of this failure including developing an action plan including additional temporary repairs and evaluating permanent options.
- 62. This factor was not disputed in the OTBH Submission.
- 63. After considering the relevant information above, I confirm the decrease of this factor.

Factor j): Other

- 64. I am guided by the AMP Handbook for this factor, to consider any additional factors which could increase or decrease the penalty. Such factors could include self-reporting, cost to government, cooperation, remorse and accountability, ability to pay, and financial impact of other obligations.
- 65. The PAF shared at Notice proposed no adjustment for this factor.
- 66. This factor was not disputed in the OTBH Submission and remains unchanged.

Total Penalty after base penalty determination and Factors c) to j) considered:

- 67. After determining a base penalty of \$10,000 for this failure and applying the mitigating and aggravating factors (\$13,000) discussed above, the penalty is established at \$23,000.
- 68. The final penalty calculations are summarized in the table below:

Factors to be considered in penalty calculation	Notice	Final Determination
a) Nature of contravention or failure	moderate	moderate
b) Actual or potential adverse effect	medium	medium
Base Penalty:	\$10,000	\$10,000
c) Previous contraventions or failures, penalties imposed, or orders issued	\$0	+/- \$
d) Whether contravention or failure was repeated or continuous	+ \$10,000	+ \$10,000
e) Whether contravention or failure was deliberate	+ \$5,000	+ \$5,000
f) Economic benefit derived by the party from the contravention or failure	+ \$0	+ \$0
g) Exercise of due diligence to prevent the contravention or failure	- \$0	- \$0

h) Efforts to correct the contravention or failure	- \$1,000	- \$1,000
i) Efforts to prevent reoccurrence of the contravention or failure	- \$1,000	- \$1,000
j) Additional relevant factors	\$0	\$0
<i>(add factors (c) to (j) Total Penalty Adjustments:</i>	+ \$13,000	+ \$13,000
Penalty after considering all factors: <i>(base penalty plus penalty adjustments)</i>	\$23,000	\$23,000
Application of multiplier: No	N/A	N/A
Final Penalty:	\$23,000	\$23,000

PENALTY CALCULATION

FILE: 2024-46b

Section 2.2 (Bypasses) – Discrete

The Contravention or Failure:

69. Under Section 2.2, Teck must not allow any discharge authorized by this Authorization to bypass the Authorized Works, except with the prior written approval of the Director.

70. On the following five dates, Teck failed to comply with Section 2.2 when it allowed an authorized discharge to bypass the Authorized Works without prior written approval from the Director:

- September 8, 2022
- March 20, 2023
- October 20, 2023
- November 28, 2023 to January 6, 2024
- February 1, 2024

71. In Section D “The Proposed Penalty” of the OTBH Submission, Teck summarizes each of the bypass events and efforts it took to correct each bypass.

72. In the OTBH Submission, Teck submits the purpose of its OTBH Submission and states:

“In Teck’s view, the information in these submissions provides context of Teck’s demonstrable commitment to environmental protection and continuous improvement, as well as its rigorous and comprehensive preventative maintenance systems, and warrants a reduction in the proposed penalty amount.”

73. In Section F. of the OTBH Submission Teck submits that the proposed penalty amount should be reduced. Teck states:

“Teck proposes that a penalty in the range of \$250-2,250 is more appropriate than that

proposed in the Penalty Assessment Form. This quantum reflects reductions for the gravity of the non-compliances, Teck's reasonable efforts to prevent the contraventions from occurring, and its efforts to correct the contraventions and prevent recurrence of the contraventions in the future"

74. My reasons for decision will address each factor individually. My considerations under Section 7(1) of the APR are as follows:

Factor a): Nature of Contravention or Failure

75. The PAF shared at Notice proposed that the failure was moderate. In the AMP Handbook, a "moderate" contravention or failure includes *"this category refers to a failure to comply with operational requirements that at a minimum create a risk of harm to the environment or human health and safety"*. Included in the AMP Handbook description of a moderate nature of contravention is *"failure to perform required tasks or actions such as obtaining approval prior to a bypass"*.
76. Teck failed to comply with Section 2.2 when it allowed effluent to bypass Authorized Works without approval. The Authorized Works that were bypassed was the CII combined outfall. The authorization of these Works by the Ministry is to ensure that discharge of effluent meets the Ministry's standards and EMA. Bypassing these Authorized Works undermines the Ministry's ability to regulate and protect the environment and human health.
77. This factor is not disputed in the OTBH Submission and remains unchanged.
78. After considering the relevant information above, I confirm the failure is moderate.

Factor b): Actual or Potential Adverse Effects

79. Section 7(1)(b) of the APR requires that I must consider the real **or potential** adverse effect of the failure. A finding of potential adverse effect of the failure is enough to apply this factor.
80. The PAF shared at Notice proposed that the failure was medium. Included in the AMP Handbook's description of "medium" actual or potential adverse effects is *"contravention interferes with the Ministry's capacity to protect the environment or human health, or has the potential to do so, but does not result in a significant adverse effect or the potential to do so is moderate."*
81. The purpose of the Authorized Works is to ensure that the discharge of effluent into the receiving environment, in this case the Columbia River, is done in a such a way that the Ministry's goal of the protection of human health and the environment is met. The bypassing of authorized outfall pipes results in effluent being discharged at locations where it may have a higher potential for adverse effect on the receiving environment. This failure to comply with the bypass requirements has resulted in a potential for adverse effect to the environment and best meet the AMP Handbook definition of a medium failure.

82. In the OTBH Submission, Teck disputes the categorization of the contraventions as “medium”. In Section E(1) of the OTBH Submission, Teck states:

“Contrary to the above characterization, for each of the 5 events covered by the proposed penalty, the actual or potential for adverse effects was low to none, and ought to be categorized as such. For the 5 discrete events, there were no bypasses of treatment, and they involved non-contact water, or contact water that was fully contained by secondary containment and routed to treatment, or water that had already undergone treatment. No contact water was released into the Columbia River, and any harm that resulted from the discharges was de minimis at most. More details are provided below:

1. September 8, 2022 event – the effluent was immediately diverted to a nearby drain which transported the effluent to the ETP, so the effluent did not bypass treatment’;

2. March 20, 2023 event – the spill occurred in a heavily industrialized area; the spill did not affect any waterways, flora, fauna, aquatic or terrestrial habitats, nor did it have any impacts on human health, the environment, or infrastructure;

3. October 20, 2023 event – this event involved non-contact water, which does not require treatment; there were no environmental or human health concerns arising from the leak;

4. November 28, 2023 to January 6, 2024 event – the effluent that was diverted to the 08 bypass outfall had already undergone treatment at the Zinc Fume Leach Plant; the 08 bypass outfall where the effluent was discharged is located directly beside the authorized outfall; and

5. February 1, 2024 event – due to secondary containment in the area of the leak, the leak was wholly contained and all effluent was transported to the ETP for treatment; therefore, the effluent did not bypass treatment.

Therefore, based on the base penalty table in the Handbook for this type of contravention, Teck submits that the base penalty should be \$5,000.”

83. After considering the relevant information above, the failure is reduced to low to none.
84. The base penalty is therefore confirmed at \$5,000 as adjusted above.
85. I will now address the application of the penalty adjustment factors that reflect the unique circumstances of this file, including what happened before, during, and after the failure, and the OTBH Submission from Teck.

Factor c): Previous contraventions or failures, penalties imposed, or orders issued:

86. I am guided by the AMP Handbook for this factor, to consider Teck’s compliance history. This factor could increase or decrease the penalty.

87. The PAF shared at Notice proposed no adjustment for this factor.
88. This factor was not disputed in the OTBH Submission and remains unchanged.

Factor d): Whether contravention or failure was repeated or continuous

89. I am guided by the AMP Handbook for this factor, to consider whether there is any evidence indicating that the repeated or continuing nature of the failure should have alerted Teck to the failure and the need to take action. If I am persuaded that Teck failed to take action, this factor could increase the penalty.
90. The PAF shared at Notice proposed an increase of twenty-five percent of the original base penalty (+ \$2,500) for the repeated nature of the failure.
91. The failure was repeated on five dates, with one of those dates being continuous from November 28, 2023 to January 6, 2024 (40 days).
92. This factor was not disputed in the OTBH Submission.
93. After considering the relevant information above, I confirm an increase of twenty-five percent of the base penalty (+ 1,250) for this factor.

Factor e): Whether contravention or failure was deliberate

94. I am guided by the AMP Handbook for this factor, to consider whether there is any evidence indicating that Teck deliberately bypass authorized works without approval from the Director. If I am persuaded that Teck deliberately bypass authorized works without approval from the Director, this factor could increase the penalty.
95. The PAF shared at Notice proposed no adjustment for this factor.
96. This factor was not disputed in the OTBH Submission and remains unchanged.

Factor f): Economic benefit derived by the party from the contravention or failure

97. I am guided by the AMP Handbook for this factor, to consider whether is any evidence indicating that Teck obtained an economic benefit from the failure. If I am persuaded that Teck obtained an economic benefit from the failure, this could increase the penalty.
98. The PAF shared at Notice proposed no adjustment for this factor.
99. This factor was not disputed in the OTBH Submission and remains unchanged.

Factor g): Exercise of due diligence to prevent the contravention or failure

100. I am guided by the AMP Handbook for this factor, to consider whether there is any evidence that Teck took **all** reasonable measures to prevent the failure. If I am persuaded that Teck took all reasonable measures to prevent the failure, this factor could decrease the penalty.

101. The PAF shared at Notice proposed no adjustment for this factor.

102. In the OTBH Submission, Teck submits that it did act with due diligence to prevent the contraventions. In Section E(2) of the OTBH Submission Teck stated:

“Teck submits that it acted with diligence to prevent the contraventions, and that the Director must consider this information in light of the guidance in the Handbook, which provides that the decision maker:

...

Teck undertakes extensive measures to prevent leaks, to monitor its facility to identify any failures or weaknesses, and by acting on issues identified. This includes maintaining a department committed to overseeing maintenance, as well as implementing detailed management, monitoring and response plans. For each of the leaks at issue, Teck was implementing maintenance and inspection strategies for the respective infrastructure. That the leaks occurred is not indicative of a lack of rigour of Teck’s systems—rather, it reflects the unusualness of the circumstances in which they occurred and/or that, at times, minor incidents will occur even when reasonable efforts are made to prevent them. Viewed holistically, Teck’s inspection and preventative maintenance systems, commitment to environmental protection, and systematic approach to continuous improvement of the reliability of its infrastructure, demonstrate due diligence to prevent non-compliances of Section 2.2 of the Permit.”

103. In Section E(2) of the OTBH Submission, Teck outlines three measures of due diligence it has taken to prevent the contravention:

- a) Trail Operations Maintenance Program
- b) Effluent Treatment Plant (ETP) Sewers Asset Management Plan
- c) Failure Management

104. In Section E(2)(a) of the OTBH Submission, Teck describes its Trail Operations Maintenance Program and states:

“Infrastructure maintenance is managed through Trail Operation’s Maintenance Program. Reliability engineers and specialists, led by the Superintendent of Reliability, implement and oversee Teck’s maintenance strategy at Trail Operations. Maintenance at Trail Operations follows robust practices:

- *Trail Operations completes approximately 150,000 hours of Preventative Maintenance work per year across all the assets on site, which includes piping;*
- *There are over 20,000 distinct Preventive Maintenance model work instructions for trades, operators and technicians;*

- *Environmental aspects are reviewed and prioritized through Environmental Aspect Assessments (EAAs) and Control Plans which provide a discrete overview of controls, which includes Preventative Maintenance, alarms, operator response, training, documentation; and*
- *Preventative Maintenance instructions are improved based upon bottom-up feedback from trades experience”*

105. In Section E(2)(b) of the OTBH Submission, Teck describes its ETP Sewers Asset Management Plan and states:

“Section 2.11.3 of the Permit requires Teck to prepare and implement a Piping System Inspection and Maintenance Plan. In compliance with this Section, Teck has adopted and progressively implemented the Trail Operations ETP Sewers Asset Management Plan (“ETP Plan”), submitted to the Director on July 30, 2021, December 17, 2021, and August 15, 2022, per the three phases.

Trail Operation’s ETP Plan is a comprehensive strategy that applies to the piping network leading to the ETP. The network is broken down into systems, which are risk-assessed and then assigned a corresponding preventative maintenance program.

A Piping System Probability of Failure tool has been developed to assess the probability of failure for each component, to prioritize monitoring and replacement. In this manner, the ETP Plan is targeted at keeping all system components at either a Low or Moderate probability of failure rating by scheduling repairs or replacements before they attain a High rating.

The ETP Plan sets out inspection intervals for components, depending on their current probability of failure rating, in which high probability components are inspected every year.

For components that are not able to be inspected, the ETP Plan sets out a proxy system will be used, in which the condition of similar components in the same area are used as a proxy for those inaccessible components. This strategy of using proxy inspections to assess the probability of failure for non-inspectable components is based on the ASME PCC-3 standard.”

106. In Section E(2)(c) of the OTBH Submission, Teck describes its Failure Management and states:

“Trail Operations has specific response plans and procedures for spills and environmental incidents:

- *Teck acts immediately to stop a spill and to mitigate impacts. Teck’s response is set out in its “Spills, Effluent Alarms, Response and Call-Out for Environmental Personnel” Procedure, which describes the emergency response steps to be taken by the Environmental Monitoring Group in the event of spill or other environmental incident; and*

- *Teck reports events in accordance with “Environmental Incident Reporting & Investigation” Procedure, which ensures that all environment-related incidents are reported internally and externally as required, the root causes of reportable incidents are identified, and corrective actions are implemented to prevent the recurrence of the same or similar incidents.*

In addition to its facility-specific plans and procedures, Teck also follows the following company-wide procedures:

- *Spill and Unauthorized Release Reporting Guideline (Canada);*
- *Water-Related Impacts Procedure; and*
- *Environmental Incidents Internal Reporting Procedure.*

Through these protocols and procedures, Trail Operations response to failure management is responsive and detailed, and aimed at avoiding harm to the environment and human health. While the plans and procedures are detailed, at a high level, they can be summarized as follows:

1. *Contain spills. Specific guidance on responding to particular types of environmental incidents or emergencies can be found in the Emergency Response Procedures.*
2. *Inspect the failure site and identify the failure mode; also inspect the surrounding line to assess any additional failure risks.*
3. *Repair the breach. If the breach is only able to be temporarily repaired, develop plans for a permanent repair. No components may be left in a state of failure.*
4. *Report any breaches causing a release to the environment to the Ministry of Environment without delay.*
5. *Submit an environmental corrective action request (“CAR”) and work order to document the repair. Attach the inspection check sheet to both the CAR and the work order. Submit a work order for any follow-up or permanent repairs, if required.*
6. *Update the Piping System Probability of Failure Spreadsheet for the repaired component and any related components, as needed.*

Specifically, when a piping failure is identified, Teck acts immediately to notify the appropriate regulatory agencies, investigate the cause, and take appropriate action to prevent a recurrence, including repairing works as needed. The mechanisms for tracking and completion of follow-up actions are defined within the operation’s Environmental Management System (EMS). Failures must be reported according to procedures outlined in Teck Operation’s “Environmental Incident Reporting and Investigation” Procedure, which defines environmental severity levels, reporting thresholds, and procedures and responsibilities for reporting any loss of containment.”

107. Regarding Factor g, Teck concludes:

“Teck took extensive measures to avoid the occurrences, that accord with industry and regulatory standards. For each occurrence, a preventative maintenance and inspection strategy was in place for the respective infrastructure components, which had historically been successful at preventing leaks. Teck exercised the due diligence reasonably expected to discharge its obligations and protect the environment. As can be reasonably expected, Teck implements robust practices to monitor and maintain its substantial infrastructure and responds to and reports incidents in a timely way. Teck’s systems and the substantial resources dedicated to the integrity and reliability of its complex infrastructure exceed or, at minimum, are consistent with the due diligence reasonably expected of Teck to discharge its obligations under the Permit. In light of these considerations, Teck submits that a reduction of the penalty is warranted under this factor, ranging from 30 to 50%.”

108. After reviewing the detailed due diligence efforts Teck undertakes as part of their operations *“to prevent leaks, to monitor its facility to identify any failures or weaknesses, and by acting on issues identified”* and considering the relevant information above, I adjust this factor to a reduction of twenty percent of the base penalty (- \$1,000).

Factor h): Efforts to correct the contravention or failure

109. I am guided by the AMP Handbook for this factor, to consider what Teck did **after** the failure to restore compliance or reverse or mitigate the impacts. If I am persuaded that Teck did take actions after the failure to restore compliance or reverse or mitigate the impacts, this factor could decrease the penalty.

110. The PAF shared at Notice proposed a decrease of twenty percent of the base penalty (- \$2,000) for efforts made to correct the failure.

111. Teck made some efforts to correct these failures including installation of pumps and hoses to temporarily contain leaks, containment and pipe repair, temporary pipe repair, Vetter bag installation and vacuum trucks to clean up effluent.

112. In the OTBH Submission, Teck agrees that a decrease in penalty amount should be applied but submit that the reduction should be larger. Teck summarises efforts it took to correct the failures In Section 3. of the OTBH Submission and states:

“Teck agrees a reduction of the penalty is warranted under this factor, and when all Teck’s efforts (detailed above) are taken into account, proposes a deeper reduction than was initially applied. In addition to Teck’s overall maintenance strategy outlined above, the specific efforts taken by Teck to prevent, eliminate and ameliorate the potential for adverse effects on the environment in relation to the 5 discrete events include:

- 1. In response to the September 8, 2022, event, Teck immediately contained the leak by diverting it to asphalt and a drain that flows to the ETP. Teck repaired the affected*

pump the same day by installing new stainless steel fittings, and on October 6, 2022, Teck completed long-term repair by patching the pipe.

2. *In response to the March 20, 2023, event, Teck immediately stopped the leachate pump and placed containment under the broken pipe, and then repaired the pipe before re-starting the pump.*
3. *In response to the October 20, 2023, event, Teck excavated and temporarily patched the pipe, placed secondary containment around the pipe to collect any further leakage of non-contact water, and installed a pump in the secondary containment to pump any leakage back into the pipe. Teck then replaced the section of the piping with HDPE pipe, which extends a few hundred feet on each side of the leaking section.*
4. *In response to the November 28, 2023 to February 6, 2024 event, Teck temporarily repaired the diversion box on January 4, 2024 (after an initial unsuccessful attempt on December 19, 2023) by placing a Vetter bag to block off the intake to the 08 bypass pipe. Teck permanently repaired the diversion box on February 6, 2024, by installing a permanent knife gate valve. Teck also conducted investigations to determine whether any other systems used boxes of this design, but did not identify any.*
5. *In response to the February 1, 2024, event, Teck immediately repaired the pipe hanger. After the event, Teck initiated an investigation of similar pipe hangers to ensure that they were not vulnerable to a similar failure*

...
In view of Teck's efforts described above and in its submissions on the due diligence factor, Teck submits that the penalty reduction under this factor should properly be in the range of 30 to 50% of the base penalty."

113. After considering the relevant information above, I confirm a decrease of twenty percent of the base penalty (- \$1,000).

Factor i): Efforts to prevent reoccurrence of the contravention or failure

114. I am guided by the AMP Handbook for this factor, to consider whether Teck has taken any action to avoid the failure happening again in the future. If I am persuaded that Teck has taken any action to avoid the failure happening again in the future, this factor could decrease the penalty.

115. The PAF shared at Notice proposed a decrease of ten percent of the base penalty (- \$1,000) for efforts made to prevent the recurrence of the failure.

116. Teck made some efforts to prevent reoccurrence of these failures including long term pipe repair planning, and valve installation.

117. In the OTBH Submission, Teck agrees that a decrease in penalty amount should be applied but submit that the reduction should be larger. In Section 4. of the OTBH Submission Teck states:

“As outlined in the above submissions on the other penalty factors, it is clear Teck undertook immediate and practical steps to prevent reoccurrence of the contraventions. An integral aspect of Teck’s failure management protocols is to learn from these experiences and implement further solutions and measures to continually improve Trail Operations’ preventative maintenance. This is recognized in the Penalty Assessment Form, and taking into account Factors (g) and (h), Teck proposes that a reduction of 20% is appropriate for this factor.”

118. Teck’s efforts and internal procedures have already been considered previously in factors g) and h) and a reduction of ten percent under this factor is considered appropriate. Whatever efforts taken to prevent reoccurrence of these failures have not warranted a higher reduction simply due to repeated nature of the failures (5x) showing the limited effectiveness of such measures in preventing reoccurrence.

119. After considering the relevant information above, I confirm the reduction of ten percent of the base penalty (- \$500).

Factor j): Other

120. I am guided by the AMP Handbook for this factor, to consider any additional factors which could increase or decrease the penalty. Such factors could include self-reporting, cost to government, cooperation, remorse and accountability, ability to pay, and financial impact of other obligations.

121. The PAF shared at Notice proposed no adjustment for this factor.

122. This factor was not disputed in the OTBH Submission and remains unchanged.

Total Penalty after base penalty determination and Factors c) to j) considered:

123. After determining a base penalty of \$5,000 for this failure and applying the mitigating and aggravating factors (- \$1,875) discussed above, the penalty is now established at \$3,125.

124. The final penalty calculations are summarized in the table below:

Factors to be considered in penalty calculation	Notice	Final Determination
a) Nature of contravention or failure	moderate	moderate
b) Actual or potential adverse effect	medium	low to none
Base Penalty:	\$10,000	\$5,000

c) Previous contraventions or failures, penalties imposed, or orders issued	\$0	\$0
d) Whether contravention or failure was repeated or continuous	+ \$2,500	+ \$1,250
e) Whether contravention or failure was deliberate	\$0	\$0
f) Economic benefit derived by the party from the contravention or failure	\$0	\$0
g) Exercise of due diligence to prevent the contravention or failure	- \$0	- \$1,000
h) Efforts to correct the contravention or failure	- \$2,000	- \$1,000
i) Efforts to prevent reoccurrence of the contravention or failure	- \$1,000	- \$500
j) Additional relevant factors	\$0	\$0
<i>(add factors (c) to (j) Total Penalty Adjustments:</i>	- \$500	- \$1,250
Penalty after considering all factors: <i>(base penalty plus penalty adjustments)</i>	\$9,500	\$3,750
Application of multiplier: No	N/A	N/A
Final Penalty:	\$9,500	\$3,750

DUE DATE AND PAYMENT

Payment of this administrative penalty is due within thirty (30) calendar days after the date of service of this Determination of Administrative Penalty (Determination). You will be sent an invoice, to be paid via cheque or money order made **payable to the Minister of Finance**. Payment can be mailed to Business Services at:

Financial Services Branch
Corporate Services for the Natural Resource Ministries
Ministry of Water, Land and Resource Stewardship
PO Box 9356 Stn Prov Govt
Victoria, BC V8W 9M2

Please do not mail cash. A \$30 service fee will be charged for dishonoured payments.

If payment has not been received in the thirty (30) calendar day period, interest will be charged on overdue payments at a rate of 3% + the prime lending rate of the principal banker to the Province per month and the amount payable is recoverable as a debt due to the government. In the event of non-payment you will be ineligible for a permit or approval, or to amend a permit or

approval, until the penalty is paid in full. Further, I am authorized by Section 18 of EMA to cancel or suspend your current authorization in the event of non-payment and if I decide to do so, you will be notified accordingly.

RIGHT TO APPEAL

If you disagree with this Determination, Division 2 of Part 8 of EMA provides information for how to appeal my decision to the Environmental Appeal Board (EAB). In accordance with EMA and with the EAB Procedures Regulation, the EAB must receive Notice of the Appeal no later than 30 calendar days after the date you receive this Determination of Administrative Penalty. The notice must include:

- a. Your name and address and the name of the person, if any, making the request on your behalf;
- b. The address for serving a document to you or the person acting on your behalf;
- c. The grounds for appeal;
- d. A statement of the nature of the order requested; and
- e. The notice of appeal shall be signed by you, or your counsel or agent if any, and be accompanied by a fee of \$25, payable to the Minister for Finance by cheque, money order or bank draft.

The Notice of Appeal form is available online at <https://www.bceab.ca/resources/forms-and-templates>. It should be completed and filed by registered mail or by leaving a copy at the EAB office during normal business hours. The street address is 4th Floor, 747 Fort Street, Victoria, BC, and the office is open from 8:30 am – 4:30 pm Monday through Friday, excluding public holidays.

Notice may also be sent by email or fax, provided the original Notice of Appeal and the appeal fee follows by mail. The mailing address of the EAB is:

Environmental Appeal Board
PO Box 9425 Stn Prov Govt
Victoria, BC V8W 9M6

For further information, please consult the EAB website at <https://www.bceab.ca>. If the administrative penalty is appealed to the EAB and the penalty is upheld, payment is due within 30 calendar days after receiving a copy of the order or decision of the appeal board, or, if the EAB has sent the matter back to the decision maker, within 30 calendar days after a new Determination of Administrative Penalty is served.

PUBLICATION

Seven days after the date of service, this Determination will be published on the Natural Resource Compliance and Enforcement Database (NRCED) Website: <https://nrccd.gov.bc.ca/>

Dated this 11th day of March, 2025.