

# **Court of King's Bench of Alberta**

**Citation: CNOOC Petroleum North America ULC v ITP SA, 2026 ABKB 101**

**Date:** 20260213  
**Docket:** 1701 07427  
**Registry:** Calgary

Between:

**CNOOC Petroleum North America ULC**

Plaintiff

- and -

**ITP SA, Sunstone Projects Ltd, and Wood Group Canada, Inc**

Defendants

- and -

**Surerus Pipeline Inc, Stresstech Engineering Inc, and Thurber Engineering Ltd**

Third Parties

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**Reasons for Decision  
of the  
Associate Chief Justice  
D.B. Nixon**

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## **I. Introduction**

[1] The underlying action involves a pipeline failure on July 15, 2015. In its capacity as the Plaintiff, CNOOC Petroleum North America ULC (“CNOOC”) issued a Statement of Claim against several parties, including Sunstone Projects Ltd and Wood Group Canada, Inc (collectively, the “Wood Group”) and ITP SA (“ITP”).

[2] This is a complex litigation matter that I have been case managing for some years, during which several applications have been filed by the parties. The reasons below stem from an application by Wood Group seeking to question Dean Kovacs.

## **II. Background**

[3] The issue at the core of the questioning remains the Pipeline Integrity Maintenance System (“PIMS”), which has been the focus of recent applications before me in this matter: see 2025 ABKB 540 and 2025 ABKB 728.

[4] Mr. Kovacs was the former chief inspector of CNOOC’s Canadian gas operation. CNOOC made an inquiry of Mr. Kovacs regarding the PIMS at some point in October of 2025. In an affidavit of Sean Noe, the corporate representative of CNOOC, sworn November 5, 2025, Mr. Kovacs advised that although he could not recall exactly what was referred to as programs or procedures similar to PIMS, he noted that the pipelines at issue had elements which are typically part of a PIMS. These included: (i) corrosion system monitoring; (ii) pigging procedures; (iii) an operations manual; (iv) shutdown procedures; and (v) an annual risk assessment process.

[5] Mr. Kovacs is the sole source of information that CNOOC has relied on in its assertion in the amended Undertaking Response 708 that CNOOC had a form of unwritten PIMS relating to the pipelines at issue in this litigation. It has been somewhat unclear whether Mr. Kovacs was still employed by CNOOC. In its initial application, Wood Group writes that Mr. Kovacs is a former employee, however, it appears that he is still employed by CNOOC, albeit his role has not been specified.

[6] On December 16, 2025, Wood Group requested that CNOOC make Mr. Kovacs available for questioning. This request was refused by CNOOC, which stated that the questioning of CNOOC witnesses closed on March 30, 2025, with reference to the deadline for completing primary questioning that had been set out in the Complex Case Litigation Plan.

## **III. Issues**

[7] The issues I must decide are as follows.

- a. Should Mr. Kovacs be made available for questioning by Wood Group?
- b. If Mr. Kovacs is to be made available for questioning, are there limits to the scope of that questioning?
- c. If Mr. Kovacs is made available for questioning, are the deadlines in the Complex Civil Litigation Plan to be adjusted?

#### IV. The Law

[8] The pertinent rules of Part 5 of the *Alberta Rules of Court*, Alta Reg 124/2010 (the “Rules”), are as follows:

5.1(1) Within the context of rule 1.2, the purpose of this Part is

- (a) to obtain evidence that will be relied on in the action,
- (b) to narrow and define the issues between parties,
- (c) to encourage early disclosure of facts and records,
- (d) to facilitate evaluation of the parties’ positions and, if possible, resolution of issues in dispute, and
- (e) to discourage conduct that unnecessarily or improperly delays proceedings or unnecessarily increases the cost of them.

(2) The Court may give directions or make any order necessary to achieve the purpose of this Part.

[...]

5.17(1) A party is entitled to ask the following persons questions under oath about relevant and material records and relevant and material information:

- (a) each of the other parties who is adverse in interest;
- (b) if the party adverse in interest is a corporation,
  - (i) one or more officers or former officers of the corporation who have or appear to have relevant and material information that was acquired because they are or were officers of the corporation, and

[...]

5.30(1) If, during questioning, a person answering questions

- (a) does not know the answer to a question but would have known the answer if the person had reasonably prepared for questioning, or if as a corporate representative the person had reasonably informed himself or herself, or
- (b) has under the person’s control a relevant and material record that is not privileged,

the person must undertake to inform himself or herself and provide an answer, or produce the record, within a reasonable time.

(2) After the undertaking has been discharged, the person who gave the undertaking may be questioned on the answer given or record provided.

## V. Analysis

[9] The parties are in agreement that, prior to March 30, 2025, there would have been no issue in questioning Mr. Kovacs under *Rule 5.17*. The question is how to address this issue following the close of primary questioning on March 30, 2025.

[10] Wood Group argues that since Mr. Kovacs is either a current or former employee of CNOOC, there is no question he could be questioned under *Rule 5.17* and that fairness requires Wood Group be able to question him as there was no way for Wood Group to have known there was an issue worth questioning him on prior to November of 2025. Wood Group emphasises that it had proceeded at an appropriate speed in trying to question Mr. Kovacs before the end of the deadline for questioning on undertaking responses in January of 2026.

[11] CNOOC responds that *Rule 5.17* is of little use in this case because that provision simply outlines who can be questioned generally. Instead, CNOOC argues, the focus should be on *Rule 5.30(2)*.

[12] *Rule 5.30(2)* does not permit questioning on someone other than the person who gave the undertaking response. CNOOC emphasises that Wood Group already knew about the role of Mr. Kovacs in the project since his name came up in 2024 in the questioning of another employee, Tom Guest. As a result, CNOOC argues that Wood Group could have sought to question Mr. Kovacs at or about that time. CNOOC reiterates that to allow for this questioning to occur at this late date could open the floodgates.

[13] Based on my review of the evidence and analysis of the law, I am of the view that Wood Group should be permitted to question Mr. Kovacs on the Undertaking Response 708 as amended. I make this determination because I find that the undertaking response had been amended following the closing of primary questioning, and there was no indication prior to that amendment that Mr. Kovacs had any specific knowledge on the PIMS issue. Given these circumstances, a direction that Mr. Kovacs may now be questioned by Wood Group is appropriate in these unique circumstances. I draw that conclusion because the fact that Wood Group had knowledge of Mr. Kovacs' name and role was of no consequence before the evidence disclosed the relevant particulars which connected the dots to the PIMS issue in the November 5, 2025 affidavit sworn by Mr. Noe and the questioning of Mr. Noe on November 7, 2025.

[14] I take guidance from *Keyland Development Corporation v Cochrane (Town)*, 2014 ABQB 458 at paras 40-47. Although that case involved the issue of further questioning beyond the record for *Rule 5.30(2)*, I find it appropriate to exercise my discretion to permit Mr. Kovacs to be questioned on the Undertaking Response 708 as amended even though he was not the person who provided the original undertaking response. I am further satisfied that this is appropriate because it appears that throughout this discovery process, parties have been asked questions on the undertaking responses of the corporate representative.

[15] I also note the error underlying the original Undertaking Response 708, that there was no written PIMS, was not acknowledged by CNOOC until June of 2025. As is evident, that June 2025 acknowledgement was after the March 2025 primary questioning had ended.

[16] While I have determined that Wood Group will be able to question Mr. Kovacs, the scope of that questioning will be limited. That is, the questioning of Mr. Kovacs shall be only in respect of the amended Undertaking Response 708.

[17] There was much attention given to the fact that the trial for this matter is set to begin in October of 2026. Indeed, it has already been adjourned once: see *CNOOC Petroleum North America ULC v ITP SA*, 2024 ABKB 607. To prevent this questioning causing any further delays, I find it appropriate to narrow the questioning of Mr. Kovacs to, as mentioned above, a scope that is limited to matters in respect of Undertaking Response 708. In my view, limiting the scope to this range is the most efficient way to allow the questioning to move forward as soon as possible.

[18] I expect the parties will determine an adjustment to the dates as needed to accommodate the narrow questioning of Mr. Kovacs, and I exercise my discretion under *Rule* 4.14(1) to amend the date for the questioning on undertaking responses. I expect the parties to make these adjustments and to proceed with the questioning as efficiently as possible so as not to disturb the commencement date for the trial.

## VI. Conclusion

[19] Based on the evidence and analysis above, my conclusions to the issues as framed above are as follows:

- a. Should Mr. Kovacs be made available for questioning by Wood Group? Yes.
- b. If Mr. Kovacs is to be made available for questioning, are there limits to the scope of that questioning? Yes, Mr. Kovacs should be made available for questioning by Wood Group, but only in respect of Undertaking Response 708 as amended.
- c. If Mr. Kovacs is made available for questioning, are the deadlines in the Complex Civil Litigation Plan to be adjusted? Yes. The parties are to adjust the dates to accommodate a questioning of Mr. Kovacs as soon as possible so as to preserve the commencement of the trial on October 13, 2026.

## VII. Costs

[20] The parties can speak to costs if they cannot otherwise agree.

Heard on the 3<sup>rd</sup> day of February 2026.

**Dated** at the City of Calgary, Alberta this 13<sup>th</sup> day of February 2026.

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**D.B. Nixon**  
**A.C.J.C.K.B.A.**

**Appearances:**

Kylan Kidd and Karen Lynn McPeak  
Burnet, Duckworth & Palmer LLP  
for the Plaintiff CNOOC Petroleum North America ULC

Briggs Larginho  
Borden Ladner Gervais LLP  
for the Defendant, ITP SA

Michael Mysak and Mathieu LaFleche  
Bennett Jones LLP  
for the Defendants Sunstone Projects Ltd. and Wood Group Canada, Inc.  
and Omnisens S.A.

Mr. W. Dyck observing  
for the Third Party Stresstech Engineering Inc