

Clerk's Stamp

COURT FILE NUMBER 25-2332583
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COURT COURT OF QUEEN'S BENCH OF
 ALBERTA

JUDICIAL CENTRE CALGARY

PROCEEDINGS IN THE MATTER OF THE NOTICE OF INTENTION TO
 MAKE A PROPOSAL OF MANITOK ENERGY INC.

 IN THE MATTER OF THE NOTICE OF INTENTION TO
 MAKE A PROPOSAL OF RAIMOUNT ENERGY CORP.

 IN THE MATTER OF THE NOTICE OF INTENTION TO
 MAKE A PROPOSAL OF CORINTHIAN OIL CORP.

APPLICANT ALVAREZ & MARSAL CANADA INC. in its
 capacity as the Court-appointed receiver and
 manager of MANITOK ENERGY INC.

DOCUMENT

APPLICATION BY RECEIVER

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS
DOCUMENT

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File No.: 1001023920

NOTICE TO RESPONDENTS

This application is made against you. You are a respondent. You have the right to state your side of this matter before the judge.

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

Date: October 16, 2020
Time: 2:00 PM
Where: Calgary Courts Centre
Before Whom: Romaine J. (on the Commercial List)

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

Remedy claimed or sought:

1. Alvarez & Marsal Canada Inc. in its capacity as receiver and manager (**A&M** or the **Receiver**) of Manitok Energy Inc. (**Manitok**) applies for an order:

(a) determining the following issue in the affirmative:

Whether end-of-life obligations associated with the abandonment and reclamation of unsold oil and gas properties must be satisfied by the Receiver from Manitok's estate in preference to satisfying what may otherwise be first-ranking builders' lien claims based on services provided by the lien claimants before the receivership date

(b) declaring the propriety of determining the issue set out in paragraph 1(a) above, without determining the validity, enforceability or quantum of the Lien Claims (as defined below);

(c) approving the release of the Builders' Lien Holdbacks to become general estate funds; and

(d) such further or other relief as counsel may advise and this Honourable Court may grant.

Grounds for making this application:

2. Effective February 20, 2018 (**Receivership Date**), the Court of Queen's Bench of Alberta (**Court**) granted an order (**Receivership Order**) appointing A&M as Receiver, without security, of all of the current and future assets, undertakings and properties of every nature and kind whatsoever, including but not limited to real property wherever situate and including all proceeds thereof (**Property**) of Manitok. On the same date, A&M was appointed as trustee in bankruptcy of Manitok.

3. The Receiver implemented a Court-approved sale process, which resulted in various sales of Property. One such sale involved a purchase of Property by Persist Oil and Gas Inc. (or its predecessor) (**Persist**). Paragraph 12 of the sale approval and vesting order for the Receiver's sale to Persist (**Persist SAVO**) established, *inter alia*, holdbacks for the lien claims (**Lien Claims**) of two builders' lien claimants: \$119,093.08 in relation to builders' lien claims by Riverside Fuels Ltd. (**Riverside** and the **Riverside Holdback**) and \$462,685.40 in relation to builders' lien claims by Prentice Creek Contracting Ltd. (**Prentice** and the **Prentice Holdback**). The Persist SAVO was amended subsequently but not in relation to the Riverside Holdback and the Prentice Holdback (together, the **Builders' Lien Holdbacks**). The Lien Claims by Riverside and Prentice relate to services provided to Manitok prior to the Receivership Date.

4. In accordance with a Partial Discharge Order, filed July 9, 2019, the Receiver renounced and disclaimed and was discharged over the majority of the then unsold oil and gas assets in the Manitok estate (**Discharged Assets**). The Receiver retained interests in certain Retained Assets (as defined in the Partial Discharge Order; however, having now sold such Retained Assets as were saleable, the Receiver anticipates renouncing, disclaiming, and being discharged over the remaining oil and gas assets. Total realizations from the Manitok estate will be substantially less than the cost associated with satisfying the end-of-life obligations for the Discharged Assets, thus leaving a significant shortfall.

5. Determining the validity, enforceability and quantum of the Lien Claims is expected to be time-consuming and expensive, and would involve the development of an extensive and potentially contentious evidentiary record. However, those and other issues will be moot if the Receiver must use the resources of the estate to satisfy end-of-life obligations associated with the Discharged Assets in preference to the Lien Claims regardless. Thus, the Receiver, Riverside and Prentice recognized the issue stated at paragraph 1(a) above as potentially determinative and agreed (in consultation with the Alberta Energy Regulator and the National Bank of Canada) that it should be heard and determined separately, without determining other issues such as the validity, enforceability and quantum of the Lien Claims, and the Lien Claims' priority relative to the claims of other creditors and the administrative costs of the receivership. . Such a procedure is, in the Receiver's view, the most efficient way to determine whether the Builders' Lien Holdbacks may be released by the Receiver.

6. The Receiver has concerns about whether the Liens Claims are valid and enforceable in the lien amounts; however, for the purposes of this Application only, the Receiver will not dispute that:

- (a) the Lien Claims are valid against the lien interests in the lien amounts;
- (b) without limitation, the Lien Claims were registered in time and all steps required to preserve the Lien Claims under the *Builders' Lien Act* were taken by Riverside and Prentice;
- (c) the Lien Claims are first-ranking as against the interests against which they are registered, potentially excepting end-of-life obligations; and
- (d) the type of work completed by the Riverside and Prentice Creek is as described in their respective Statements of Claim.

7. The Receiver may dispute the propositions set out in paragraph 6(a)-(d) if the issue described in paragraph 1(a) is not determined in the affirmative such that a further Application is needed to determine whether the Lien Claims are valid and enforceable in the lien amounts, and their priorities relative to the claims of other creditors and the administrative costs of the receivership.

8. In addition to interests of Manitok, Prentice has also liened working interests of Husky Oil Operations Limited (**Husky**) and Petrus Resources Corp. (**Petrus**). This Application will not determine the rights of Prentice as against Husky and Petrus.

9. Such further and other grounds as counsel may advise.

Material or evidence to be relied on:

10. The Seventh, Eighth, Ninth, Eleventh, Thirteenth, Fourteenth and Fifteenth Reports of the Receiver, all filed.

11. The Receivership Order, filed February 20, 2018, the Persist Sale Approval and Vesting Order, filed January 18, 2019 (as amended), the Partial Discharge Order, filed July 9, 2019, and the Distributions Orders, filed October 17, 2019 and July 10, 2020.

12. Such further and other materials as counsel may advise and as this Honourable Court may permit.

Applicable rules:

13. Rules 6.3(1), 6.9 and 7.1 of the Alberta *Rules of Court*.

14. Such further and other Rules as counsel may advise and this Honourable Court may permit.

Applicable Acts and regulations:

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

16. Such further Acts or regulations as counsel may advise and this Honourable Court may permit.

Any irregularity complained of or objection relied on:

17. None.

How the application is proposed to be heard or considered:

18. In person, with counsel present, on the date first noted hereon or so soon thereafter as counsel may be heard and this Honourable Court may permit.

AFFIDAVIT EVIDENCE IS REQUIRED IF YOU WISH TO OBJECT.

WARNING

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