

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *COMPANIES' CREDITORS  
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF CLEARBEACH RESOURCES INC. AND FORBES RESOURCES  
CORP.**

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**MONITOR'S FIRST REPORT TO THE COURT  
SUBMITTED BY MNP LTD.,  
IN ITS CAPACITY AS PROPOSED CCAA MONITOR OF CLEARBEACH  
RESOURCES INC. AND FORBES RESOURCE CORP.**

**(filed in connection with a motion returnable May 28, 2021 at 9:00am via "ZOOM"  
videoconference)**

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May 25, 2021

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
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**IN THE MATTER OF THE COMPANIES' CREDITORS  
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF CLEARBEACH RESOURCES INC. AND FORBES RESOURCES  
CORP.**

**MONITOR'S FIRST REPORT TO THE COURT  
SUBMITTED BY MNP LTD.,  
IN ITS CAPACITY AS CCAA MONITOR OF CLEARBEACH RESOURCES INC. AND  
FORBES RESOURCE CORP.**

**MAY 25, 2021**

**I. INTRODUCTION**

1. On July 22, 2020 and July 23, 2020, respectively, Clearbeach Resources Inc. (“**Clearbeach**”) and Forbes Resources Corp. (“**Forbes**” and collectively with Clearbeach the “**Companies**”) each filed a Notice of Intention to Make a Proposal (“**NOI**”) pursuant to subsection 50.4(1) of the *Bankruptcy and Insolvency Act* (the “**BIA**”). Richter Advisory Group Inc. (“**Richter**”) was appointed as proposal trustee. The NOI proceedings commenced by the Companies under the BIA are hereinafter referred to as the “**NOI Proceedings**”.
2. The primary purpose of the NOI Proceedings was to provide the Companies with the necessary space and time to consider and develop restructuring options, including a process for the sale of their business in order to address their liabilities, while continuing with the responsible management and upkeep of Clearbeach’s oil and natural gas wells.

3. On August 7, 2020, the Companies' senior secured lender, PACE Savings and Credit Union Limited ("**PACE**"), brought a motion before the Ontario Superior Court of Justice (Commercial List) (the "**Court**") seeking, among other things, (i) the termination of the 30-day statutory stay period specified by subsection 50.4(8) of the BIA in connection with the Companies' NOIs and (ii) the appointment of BDO Canada Limited as receiver, without security, over all of the assets, undertakings and properties of Eastern Oil Field Services Ltd. ("**Eastern**"), Clearbeach and Forbes (the "**Receivership Motion**").
4. Copies of the Court materials and other information relating to the NOI Proceedings are available on Richter's websites at <https://www.richter.ca/insolvencycase/clearbeach-resources-inc/> and <https://www.richter.ca/insolvencycase/forbes-resources-corp.>
5. On September 23, 2020, PACE abandoned its receivership application and, consequently, the Receivership Motion.
6. Pursuant to numerous endorsements of the Court, the NOI Stay remained in effect through May 20, 2021.
7. On application made by the Companies on May 20, 2021, the Court issued an order (the "**Initial Order**") to, among other things, continue the NOI Proceedings under the *Companies' Creditors Arrangement Act* (the "**CCAA**") and appoint MNP as CCAA Monitor (the "**Monitor**"). On the same day, the Court also issued an Order (the "**Settlement Approval Order**") approving a settlement between PACE and the Companies, among other parties. Copies of the Initial Order and Settlement Approval Order are attached hereto as **Appendix "A"** and **Appendix "B"** respectively.
8. The Monitor issued one prior report to the Court in this matter, in its capacity as Proposed Monitor, dated May 18, 2021 (the "**Pre-Filing Report**"), a copy of which is attached hereto, without appendices, as **Appendix "C"**.
9. The Pre-Filing Report contains a discussion on the backgrounds of both Clearbeach and Forbes.



10. The Companies' comeback motion, scheduled pursuant to the CCAA, is to be heard on May 28, 2021 at 9:00 a.m. (the "**Comeback Hearing**") to request an extension of the stay of proceedings granted in the Initial Order. This report is filed by the Monitor in support of the Comeback Hearing.

## **II. RESTRICTIONS**

11. In preparing this report and making the comments herein, the Monitor has been provided with, and has relied upon, certain unaudited, draft and/or internal financial information, books and records of the Companies, discussions with the Companies' management ("**Management**") and information from other third-party sources (collectively, the "**Information**"). Except as specifically noted in this report, the Monitor has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards of the Chartered Professional Accountants of Canada.

12. The Monitor also bases its report on the cash flow projections provided herein and the underlying assumptions and notes that its review and commentary thereon were performed in accordance with the requirements set out in the Canadian Association of Insolvency and Restructuring Professionals' Standards of Professional Practice No. 9. Certain of the information referred to in this report consists of financial forecasts and/or projections. An examination or review of financial forecasts and projections and procedures, in accordance with standards set by the Chartered Professional Accountants of Canada, has not been performed. Future oriented financial information referred to in this report was prepared based on estimates and assumptions provided by Management. Readers are cautioned that since financial forecasts and/or projections are based upon assumptions about future events and conditions that are not ascertainable, actual results will vary from the projections, and such variations could be material. On March 17, 2020, the Province of Ontario declared a state of emergency due to the COVID-19 pandemic. The effect of this declaration along with other federal, provincial and municipal actions regarding the COVID-19 pandemic on Clearbeach, Forbes and the economy in general has yet to be determined. In developing the Cash Flow Projections (defined below), Management has reflected its current view of

the potential impact of the COVID-19 pandemic on its cash flow. However, the ongoing uncertainty and instability caused by the COVID-19 pandemic and various government regulatory actions in response thereto, may cause actual results to differ from the projected amounts and these variations may be material.

13. Unless otherwise stated, all monetary amounts contained in this report are expressed in Canadian dollars.

### **III. PURPOSE OF THIS REPORT**

14. The purpose of this report is to provide the Court with the Monitor's recommendation in respect of the Companies' request for an extension of the stay of proceedings granted in the Initial Order.

### **IV. EXTENSION OF STAY OF PROCEEDINGS.**

15. The Initial Order granted a ten (day) stay of proceedings (the "**Stay of Proceedings**") which expires on May 30, 2021.

16. The Companies have requested an extension of the Stay of Proceedings until and including August 19, 2021.

17. The Companies require the extension of the Stay of Proceedings to maintain the status quo and protect the value of their business. It would be detrimental to the Companies' business if proceedings were commenced or continued or rights and remedies were executed against them. Absent the extension of the Stay of Proceedings, the Companies will not be able to continue to operate their business, and by extension, address Clearbeach's significant environmental and stewardship obligations.

18. The proposed extension of the Stay of Proceedings will, among other things, allow the Companies to consider their restructuring options and explore various strategic alternatives, in consultation with their counsel and the Monitor, and attend to Clearbeach's environmental and stewardship obligations.

19. The Pre-Filing Report included a copy of a cash flow projection prepared by the Companies for the thirteen-week period ended August 19, 2021 (the “**Cash Flow Projection**”), and discussion thereon. A copy of the Cash Flow Projection is attached hereto as **Appendix “D”**. The Cash Flow Projection includes only the operations of Clearbeach as Forbes has no operations.
20. During the projection period, Clearbeach projects positive cash receipts of \$15,033.
21. The Cash Flow Projection has been prepared using the probable and hypothetical assumptions set out in the notes attached to same.
22. Based on our review, nothing has come to our attention that causes us to believe that, in all material respects:
  - a. the hypothetical assumptions are not consistent with the purpose of the forecast;
  - b. as at the date of this report, the probable assumptions used in developing the Cash Flow Projections are suitably supported and consistent with the plans of the Companies or do not provide a reasonable basis for the forecast, given the hypothetical assumptions; and
  - c. the Cash Flow Projection does not reflect the probable and hypothetical assumptions
23. The Monitor considers the approval of the extension of the Stay of Proceedings until and including August 21, 2021 to be appropriate in the circumstances for the following reasons:
  - a. the Companies are acting in good faith and with due diligence;
  - b. the extension of the Stay of Proceedings will:
    - provide the Companies with the time and protection they require to continue to undertake a restructuring of their business for the benefit of their stakeholders;

- allow Clearbeach to finalize a plan to comply with orders issued by the MNRF and manage its ongoing environmental and stewardship obligations; and,
- the extension of the Stay of Proceedings does not adversely affect or materially prejudice creditors of the Companies as they are projected to have sufficient funds to pay for services and supplies during the proposed stay period.

## **V. CONCLUSION AND RECOMMENDATION**

24. Based on the foregoing, the Monitor respectfully submits this report in support of the relief requested by the Companies in the Comeback Hearing.

All of which is respectfully submitted on this 25<sup>th</sup> day of May 2021.

**MNP LTD.,**  
in its capacity as Monitor under the  
Companies' Creditor Arrangements Act of  
Clearbeach Resources Inc. and Forbes Resources Corp.  
Per:



Rob Smith CPA, CA, CIRP, LIT  
Senior Vice-President

## Appendix A – Initial Order

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

THE HONOURABLE ) THURSDAY, THE 20<sup>th</sup>  
JUSTICE GILMORE ) DAY OF MAY, 2021  
)

**IN THE MATTER OF THE *COMPANIES' CREDITORS  
ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF CLEARBEACH RESOURCES INC. AND FORBES RESOURCES  
CORP.**

Applicants

**INITIAL ORDER**

**THIS APPLICATION**, made by Clearbeach Resources Inc. ("**Clearbeach**") and Forbes Resources Corp. ("**Forbes**") (together, the "**Applicants**") for an initial order pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), was heard this day via video conference.

**ON READING** the Application Record of the Applicants, the affidavit of Jane Lowrie sworn May 17, 2021 and the exhibits and confidential exhibits thereto, the Pre-Filing Report of MNP Ltd. ("**MNP**") in its capacity as the proposed monitor of the Applicants under the CCAA (the "**Report**"), filed, and the appendices and confidential appendices thereto, and the consent of MNP to act as the monitor of the Applicants (in such capacity, the "**Monitor**"), and on hearing the submissions of counsel for the Applicants, the Monitor, PACE Savings & Credit Union Limited, Richter Advisory Group Inc. ("**Richter**") in its capacity as the proposal trustee of Clearbeach and Forbes in the Proposal Proceedings (as defined below) (in such capacity, the "**Proposal Trustee**"), no one else appearing although duly served as appears from the affidavit of service of Joshua Foster sworn May 18, 2021;

## **SERVICE**

1. **THIS COURT ORDERS** that the time for service of the Notice of Application, the Application Record and the Report is hereby abridged, to the extent necessary, and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

## **CONTINUANCE UNDER THE CCAA**

2. **THIS COURT ORDERS AND DECLARES** that the Applicants are companies to which the CCAA applies.

3. **THIS COURT ORDERS AND DECLARES** that the proposal proceedings (the “**Proposal Proceedings**”) of each of Clearbeach bearing Estate/Court File No.: 35-2659751 and Forbes bearing Estate/Court File No.: 35-2660091 commenced under Part III of the *Bankruptcy and Insolvency Act*, R.S.C. 1985 c. B-3, as amended (the “**BIA**”), are hereby taken up and continued under the CCAA and that, as of such date, the provisions of Part III of the BIA shall have no further application to Clearbeach or Forbes, save that any and all steps, agreements and procedures validly taken, done or entered into by Clearbeach or Forbes during the Proposal Proceedings shall remain valid and binding, notwithstanding the commencement of the CCAA proceedings.

4. **THIS COURT ORDERS** that each of Clearbeach and Forbes shall be deemed not to have made an assignment based on its failure to file a proposal with the official receiver notwithstanding s. 50.4(8) of the BIA.

5. **THIS COURT ORDERS** that, subject to further order of this Court, all orders of the Court granted in the Proposal Proceedings shall continue to be in full force and effect, except to the extent modified or spent or to the extent that such orders are inconsistent with the terms of this Order or the CCAA.

## **PLAN OF ARRANGEMENT**

6. **THIS COURT ORDERS** that the Applicants shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the “**Plan**”).

## **POSSESSION OF PROPERTY AND OPERATIONS**

7. **THIS COURT ORDERS** that the Applicants shall remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”) and the Applicants shall continue to carry on business in a manner consistent with the preservation of their business (the “**Business**”) and Property. The Applicants are authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively, “**Assistants**”) currently retained or employed by them, with liberty to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

8. **THIS COURT ORDERS** that the Applicants shall be entitled to continue to utilize their existing cash management system currently in place or replace it with another substantially similar cash management system (the “**Cash Management System**”) and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicants of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicants, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

9. **THIS COURT ORDERS** that the Applicants shall be entitled but not required to pay the following expenses and satisfy the following obligations, whether incurred prior to or after this Order:

- (a) all outstanding and future wages, salaries, commissions, compensation, employee benefits, pension contributions, vacation pay and expenses (including, without limitation, payroll and benefits processing and servicing expenses) payable on or



after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements; and

- (b) the fees and disbursements of any Assistants retained or employed by the Applicants in respect of these proceedings, at their standard rates and charges.

10. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by the Applicants in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order and any other Order of this Court, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied to the Applicants following the date of this Order.

11. **THIS COURT ORDERS** that the Applicants shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, and (iii) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicants in connection with the sale of goods and services by the Applicants, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order; and

- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicants.

12. **THIS COURT ORDERS** that until a real property lease is disclaimed in accordance with the CCAA, the Applicants shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Applicants and the landlord from time to time (“**Rent**”), for the period commencing from and including the date of this Order, in accordance with past practice or on the terms pursuant to the lease. On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

13. **THIS COURT ORDERS** that, except as specifically permitted herein or as permitted under any Order made in the Proposal Proceedings, the Applicants are hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicants to any of their creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of the Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business or pursuant to this Order, any Order made in the Proposal Proceedings, or any other Order of this Court.

## **RESTRUCTURING**

14. **THIS COURT ORDERS** that the Applicants shall, subject to such requirements as are imposed by the CCAA, have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of their business or operations, and to dispose of redundant or non-material assets not exceeding \$250,000 in any one transaction or \$500,000 in the aggregate;

- (b) terminate the employment of such of their employees or temporarily lay off such of their employees as they deem appropriate; and
- (c) pursue all avenues of refinancing of the Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing,

all of the foregoing to permit the Applicants to proceed with an orderly restructuring of the Business (the “**Restructuring**”).

15. **THIS COURT ORDERS** that the Applicants shall provide each of the relevant landlords with notice of the Applicants’ intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Applicants’ entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicants, or by further Order of this Court upon application by the Applicants on at least two (2) days’ notice to such landlord and any such secured creditors. If the Applicants disclaim the lease governing such leased premises in accordance with Section 32 of the CCAA, they shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to the Applicants’ claim to the fixtures in dispute.

16. **THIS COURT ORDERS** that if a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicants and the Monitor 24 hours’ prior written notice, and (b) at the effective time of the disclaimer, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicants in respect of such lease or leased premises, provided that nothing

herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

#### **NO PROCEEDINGS AGAINST THE APPLICANTS OR THE PROPERTY**

17. **THIS COURT ORDERS** that until and including May 30, 2021, or such later date as this Court may order (the “**Stay Period**”), no proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”) shall be commenced or continued against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

18. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being “**Persons**” and each being a “**Person**”) against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicants to carry on any business which the Applicants are not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

#### **NO INTERFERENCE WITH RIGHTS**

19. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, lease, sublease, licence or permit in favour of or held by the Applicants (in each case whether written or oral), except with the written consent of the Applicants and the Monitor, or leave of this Court.

## **CONTINUATION OF SERVICES**

20. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Applicants or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll and benefits services, insurance, transportation services, utility or other services to the Business or the Applicants, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Applicants, and that the Applicants shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Applicants in accordance with normal payment practices of the Applicants or such other practices as may be agreed upon by the supplier or service provider and each of the Applicants and the Monitor, or as may be ordered by this Court.

## **NON-DEROGATION OF RIGHTS**

21. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

## **PROCEEDINGS AGAINST DIRECTORS AND OFFICERS**

22. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicants with respect to any claim against the directors or officers that arose before or arises after the date hereof and that relates to any obligation of the Applicants whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until

a compromise or arrangement in respect of the Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

### **DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE**

23. **THIS COURT ORDERS** that the Applicants shall continue to indemnify their current and future directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicants after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

24. **THIS COURT ORDERS** that the directors and officers of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of \$100,000.00, as security for the indemnity provided in paragraph 23 of this Order. The Directors' Charge shall have the priority set out in paragraphs 41 and 43 herein.

25. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Applicants' directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 23 of this Order.

### **APPOINTMENT OF MONITOR**

26. **THIS COURT ORDERS** that MNP is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

27. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicants' receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) advise the Applicants in their preparation of the Applicants' cash flow statements;
- (d) advise the Applicants in their development of the Plan and any amendments to the Plan;
- (e) assist the Applicants, to the extent required by the Applicants, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (f) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicants to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform its duties arising under this Order;
- (g) assist the Applicants with respect to the consideration, development and implementation of any restructuring initiatives;
- (h) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable, including the services or employees of its affiliates, respecting the exercise of its powers and performance of its obligations under this Order; and
- (i) perform such other duties as are required by this Order or by this Court from time to time.

28. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business

and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

29. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, “**Possession**”) of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor’s duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

30. **THIS COURT ORDERS** that the Monitor shall provide any creditor of the Applicants with information provided by the Applicants in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicants is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicants may agree.

31. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.



32. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges and whether incurred prior to, on or after the date hereof, by the Applicants as part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicants in accordance with the payment terms agreed to with such professionals.

33. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

34. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants shall be entitled to the benefit of and are hereby granted a charge (the “**Administration Charge**”) on the Property, which charge shall not exceed an aggregate amount of \$100,000.00, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings and the Proposal Proceedings. The Administration Charge shall have the priority set out in paragraphs 41 and 43 hereof.

#### **DISCHARGE OF RICHTER AS PROPOSAL TRUSTEE**

35. **THIS COURT ORDERS** that the Proposal Trustee shall be discharged as proposal trustee of Clearbeach and Forbes, provided however that Richter shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of Richter, in its capacity as proposal trustee of Clearbeach and Forbes.

36. **THIS COURT ORDERS AND DECLARES** that Richter is hereby released and discharged from any and all liability that Richter now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of Richter while acting in its capacity as Proposal Trustee for each of Clearbeach and Forbes. Without limiting the generality of the foregoing, Richter is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the Proposal Proceedings for each of Clearbeach and Forbes.

37. **THIS COURT ORDERS** that Richter and Borden Ladner Gervais LLP (“**BLG**”), shall be entitled to payment of all of their respective fees and disbursements (the “**Richter/BLG Final Accounts**”) up to the date of this Order to the extent of any retainers held by Richter or BLG, and Richter and BLG shall be entitled to use any existing retainers that each of Richter and BLG may have from Clearbeach, for the payment of the Richter/BLG Final Accounts and any balance held by each of Richter or BLG on account of any retainers paid to Richter or BLG shall be remitted to Clearbeach.

38. **THIS COURT ORDERS** that BLG shall be under no obligation to act for Richter from and after the date of this Order.

39. **THIS COURT ORDERS** that nothing contained herein shall have required or require, as applicable, Richter, to occupy or to take control, care, charge, possession or management of any Property that might be environmentally contaminated, might be a pollutant or contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any Environmental Legislation including, without limitation, any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination under any applicable provincial or federal statute.

40. **THIS COURT ORDERS** that the First Report of Richter dated December 11, 2020 and the Supplement to the First Report of Richter dated December 16, 2020 (collectively, the “**First Report**”) and the activities of Richter, as described in the First Report, be and are hereby approved; provided, however that only Richter, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

#### **VALIDITY AND PRIORITY OF THE CHARGES CREATED BY THIS ORDER**

41. **THIS COURT ORDERS** that the priorities of the Administration Charge and the Directors’ Charge (collectively, the “**Charges**”), shall be as follows:

First – Administration Charge up to the maximum amount of \$100,000.00; and

Second – Directors’ Charge up to the maximum amount of \$100,000.00.

42. **THIS COURT ORDERS** that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

43. **THIS COURT ORDERS** that each of the Charges shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”) in favour of any Person.

44. **THIS COURT ORDERS** that, except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Applicants also obtain the prior written consent of the Monitor and the beneficiaries of the applicable Charges (collectively, the “**Chargees**”), or further Order of this Court.

45. **THIS COURT ORDERS** that the Charges shall not be rendered invalid or unenforceable and the rights and remedies of the Chargees shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to the BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) which binds the Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) the creation of the Charges shall not create or be deemed to constitute a breach by the Applicants of any Agreement to which the Applicants are a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges; and

- (c) the payments made by the Applicants pursuant to this Order and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

## **SERVICE AND NOTICE**

46. **THIS COURT ORDERS** that the Monitor's obligations under Section 23(1)(a) of the CCAA and the regulations made thereunder are hereby dispensed with.

47. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/Toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05, this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established and maintained by the Monitor in accordance with the Protocol with the following URL: <@> (the "**Website**").

48. **THIS COURT ORDERS** that the Monitor shall create, maintain and update as necessary a list of all Persons appearing in person or by counsel in these CCAA proceedings (the "**Service List**"). The Monitor shall post the Service List, as may be updated from time to time, on the Website, provided that the Monitor shall have no liability in respect of the accuracy of, or the timeliness or making any changes to, the Service List.

49. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicants and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile or other electronic transmission to the Applicants' creditors or other interested parties at their respective addresses as last shown on the records of the Applicants and

that any such service or distribution shall be deemed to be received; (a) if sent by courier, on the next business day following the date of forwarding thereof, (b) if delivered by personal delivery or facsimile or other electronic transmission, on the day so delivered, and (c) if sent by ordinary mail, on the third business day after mailing.

50. **THIS COURT ORDERS** that the Applicants and the Monitor and their counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Applicants' creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or judicial obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

#### **SEALING**

51. **THIS COURT ORDERS** that the confidential appendices to the Report shall be and are hereby sealed, to be kept confidential and shall not form part of the public record pending further order of this Court.

#### **GENERAL**

52. **THIS COURT ORDERS** that the Applicants or the Monitor may from time to time apply to this Court to amend, vary or supplement this Order, or for advice and directions concerning the discharge of their respective powers and duties under this Order or the interpretation or application of this Order.

53. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicants, the Business or the Property.

54. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States or any other foreign jurisdiction, to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and

administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

55. **THIS COURT ORDERS** that each of the Applicants and the Monitor be at liberty and are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

56. **THIS COURT ORDERS** that any interested party (including the Applicants and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to any other Person(s) likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

57. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order.

58. **THIS COURT ORDERS** that this Order is effective from today's date and is enforceable without the need for entry and filing.



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**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED  
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF CLEARBEACH RESOURCES INC.  
AND FORBES RESOURCES CORP.**

Court File No.: CV-21-00662483-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

Proceedings commenced in Toronto

**INITIAL ORDER**

**BENNETT JONES LLP**

One First Canadian Place  
Suite 3400, P.O. Box 130  
Toronto, Ontario  
M5X 1A4

**Richard Swan** (LSO# 32076A)

**Raj Sahni** (LSO# 42924U)

Tel: 416-863-1200

Fax: 416-863-1716

Lawyers for the Applicants

## Appendix B – Settlement Approval Order



ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

THE HONOURABLE ) THURSDAY, THE 20<sup>th</sup>  
JUSTICE GILMORE ) DAY OF MAY, 2021  
)

**IN THE MATTER OF THE COMPANIES' CREDITORS  
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF CLEARBEACH RESOURCES INC. AND FORBES RESOURCES  
CORP.**

Applicants

**ORDER**

**THIS APPLICATION**, made by Clearbeach Resources Inc. and Forbes Resources Corp. (together, the "**Applicants**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), for an order, *inter alia*: (i) approving and giving effect to the Settlement Agreement attached to the Affidavit of Jane Lowrie sworn May 17, 2021 (the "**Lowrie Affidavit**") as Confidential Exhibit "A", and all schedules attached thereto (collectively, the "**Settlement Agreement**"), subject in all cases to the terms, conditions and exceptions provided in the Settlement Agreement; and (ii) authorizing and directing the Applicants and MNP Ltd., in its capacity as the court-appointed monitor of the Applicants under the CCAA (the "**Monitor**"), to take any and all steps necessary to give effect to the Settlement Agreement, was heard this day via videoconference as a result of the COVID-19 pandemic;

**ON READING** the Application Record of the Applicants and the Pre-filing Report of the Monitor, filed (the "**Report**"), and the appendices and confidential appendices thereto, and on hearing the submissions of counsel for the Applicants, the Monitor, and PACE Savings & Credit

Union Limited (“**Pace**”) and such other parties as were present, no one else appearing although duly served as appears from the affidavit of service of Joshua Foster sworn May 18, 2021;

## **SERVICE**

1. **THIS COURT ORDERS** that, to the extent necessary, the time for service of the Notice of Application, the Application Record and the Report is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

## **DEFINED TERMS**

2. **THIS COURT ORDERS** that all capitalized terms used but not defined herein shall have the meanings given to them in the Lowrie Affidavit and the Settlement Agreement.

## **SETTLEMENT APPROVAL**

3. **THIS COURT ORDERS** that the settlement, releases and other matters contemplated by the Settlement Agreement are hereby approved in their entirety, with such minor amendments as the parties to the Settlement Agreement may agree upon in writing, with the consent of the Monitor, and that the parties to the Settlement Agreement are hereby directed and empowered, *nunc pro tunc*, to execute and deliver the Settlement Agreement, and that such execution is approved. The Applicants and the Monitor are hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the settlement, releases and other matters contemplated by the Settlement Agreement.

4. **THIS COURT ORDERS** that, pursuant to and in accordance with the terms of the Settlement Agreement, the releases attached as Schedules “B”, “D”, “E”, “F” and “G” to the Settlement Agreement are binding and effective.

5. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these CCAA proceedings;

- (b) the NOI Proceedings and the declarations of insolvency made therein or in connection therewith;
- (c) any applications for any bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) in respect of one or more of any of the Applicants or any of their respective predecessors, successors or heirs (collectively, the “**Identified Parties**”), and any bankruptcy order issued pursuant to any such applications; and
- (d) any subsequent assignment in bankruptcy made in respect of any of the Identified Parties,

the payment to Pace of the Purchase Price shall be binding on any trustee in bankruptcy that is now or that may be appointed in respect of any of the Identified Parties and shall not be void or voidable by creditors of any of the Identified Parties, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the BIA, the CCAA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial laws.

## **SEALING**

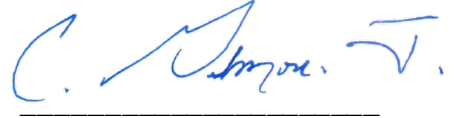
6. **THIS COURT ORDERS** that Confidential Exhibit “A” to the Lowrie Affidavit shall be and is hereby sealed, to be kept confidential and shall not form part of the public record pending further order of this Court.

## **GENERAL**

7. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Monitor, the Applicants and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this

Order or to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order.

8. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order.

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**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED  
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF CLEARBEACH RESOURCES INC. AND  
FORBES RESOURCES CORP.**

Court File No.: CV-21-00662483-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

Proceedings commenced in Toronto

**ORDER**

**BENNETT JONES LLP**  
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Lawyers for the Applicants

**Appendix C – Pre-filing Report, dated May 18, 2021**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**IN THE MATTER OF THE COMPANIES' CREDITORS  
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF CLEARBEACH RESOURCES INC. AND FORBES RESOURCES  
CORP.**

**PROPOSED MONITOR'S REPORT TO THE COURT  
SUBMITTED BY MNP LTD.,  
IN ITS CAPACITY AS PROPOSED CCAA MONITOR OF CLEARBEACH  
RESOURCES INC. AND FORBES RESOURCE CORP.**

**MAY 18, 2021**

**I. INTRODUCTION**

1. On July 22, 2020 and July 23, 2020, respectively, Clearbeach Resources Inc. (“**Clearbeach**”) and Forbes Resources Corp. (“**Forbes**” and collectively with Clearbeach the “**Companies**”) each filed a Notice of Intention to Make a Proposal (“**NOI**”) pursuant to subsection 50.4(1) of the *Bankruptcy and Insolvency Act* (the “**BIA**”). Richter Advisory Group Inc. (“**Richter**”) was appointed as proposal trustee. The NOI proceedings commenced by the Companies under the BIA are herein referred to as the “**NOI Proceedings**”. Copies of the NOI filing certificates are attached hereto as **Appendix “A”**.
2. The primary purpose of the NOI Proceedings was to provide the Companies with the necessary space and time to consider and develop restructuring options, including a process for the sale of their business in order to address their liabilities, while continuing with the responsible management and upkeep of Clearbeach’s oil and natural gas wells.

3. On August 7, 2020, the Companies' senior secured lender, PACE Savings and Credit Union Limited ("**PACE**"), brought a motion before the Ontario Superior Court of Justice (Commercial List) (the "**Court**") seeking, among other things, (i) the termination of the 30-day statutory stay period specified by subsection 50.4(8) of the BIA in connection with the Companies' NOIs and (ii) the appointment of BDO Canada Limited as receiver, without security, over all of the assets, undertakings and properties of Eastern Oil Field Services Ltd. ("**Eastern**"), Clearbeach and Forbes (the "**Receivership Motion**").
4. On August 20, 2020 the Court issued two identical orders (the "**NOI Stay Orders**"), *inter alia*, (i) transferring the NOI Proceedings from the Ontario Superior Court of Justice in London, where they were commenced, to the Commercial List in Toronto, and (ii) staying the NOI Proceedings (the "**NOI Stay**") pending further order of the Court following the return of the Receivership Motion. Copies of the NOI Stay Orders are attached hereto as **Appendix "B"**.
5. On September 23, 2020, PACE abandoned its receivership application and, consequently, the Receivership Motion.
6. Pursuant to the endorsements of the Court dated September 23, 2020, October 1, 2020, October 15, 2020, October 29, 2020, November 19, 2020, December 12, 2020, February 11, 2021, March 15, 2021 and April 21, 2021, the NOI Stay remains in effect pending the return of the NOI Proceedings before the Court on May 20, 2021.
7. Copies of the Court materials and other information relating to the NOI Proceedings are available on Richter's websites at <https://www.richter.ca/insolvencycase/clearbeach-resources-inc/> and <https://www.richter.ca/insolvencycase/forbes-resources-corp.>
8. The Companies have brought an application to the Court to be heard on May 20, 2021 at 2:00 p.m. (the "**May 20 Application**") to, among other things, continue the NOI Proceedings under the *Companies' Creditor Arrangement Act* (the "**CCAA**") and approve a settlement between PACE and the Companies, among other parties (collectively, the "**Settlement Parties**"). This report is filed by MNP in support of the May 20 Application



in its capacity as proposed monitor under the CCAA (in such capacity, the “**Proposed Monitor**”).

## **II. RESTRICTIONS**

9. In preparing this report and making the comments herein, the Proposed Monitor has been provided with, and has relied upon, certain unaudited, draft and/or internal financial information, books and records of the Companies, discussions with the Companies’ management (“**Management**”) and information from other third-party sources (collectively, the “**Information**”). Except as specifically noted in this report, the Proposed Monitor has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards of the Chartered Professional Accountants of Canada.
  
10. The Proposed Monitor also bases its report on the cash flow projections contained herein and the underlying assumptions and notes that its review and commentary thereon were performed in accordance with the requirements set out in the Canadian Association of Insolvency and Restructuring Professionals’ Standards of Professional Practice No. 9. Certain of the information referred to in this report consists of financial forecasts and/or projections. An examination or review of financial forecasts and projections and procedures, in accordance with standards set by the Chartered Professional Accountants of Canada, has not been performed. Future oriented financial information referred to in this Proposed Monitor’s report was prepared based on estimates and assumptions provided by Management. Readers are cautioned that since financial forecasts and/or projections are based upon assumptions about future events and conditions that are not ascertainable, actual results will vary from the projections, and such variations could be material. On March 17, 2020, the Province of Ontario declared a state of emergency due to the COVID-19 pandemic. The effect of this declaration along with other federal, provincial and municipal actions regarding the COVID-19 pandemic on Clearbeach, Forbes and the economy in general has yet to be determined. In developing the Cash Flow Projections (defined below), Management has reflected its current view of the potential impact of the

COVID-19 pandemic on its cash flow. However, the ongoing uncertainty and instability caused by the COVID-19 pandemic and various government regulatory actions in response thereto, may cause actual results to differ from the projected amounts and these variations may be material.

11. Unless otherwise stated, all monetary amounts contained in this Proposed Monitor's report are expressed in Canadian dollars.

### **III. PURPOSE OF THIS REPORT**

12. The purpose of this report is to:

- a. update the Court with respect to:
  - i. the Clearbeach cash flow projections (the "**Cash Flow Projections**") over the 13-week period from May 20, 2021 through August 19, 2021, being filed in connection with the May 20 Application, and the Proposed Monitor's observations regarding same;
  - ii. the Companies' intention to seek a conversion and continuation of the stay of proceedings by applying for an initial order under the CCAA (the "**Initial Order**"); and
- b. provide the Court with the Proposed Monitor's recommendation in respect of the Initial Order, *inter alia*,
  - i. approving the conversion and continuation of the stay of proceedings under the CCAA;
  - ii. approving the First Report of Richter dated December 11, 2020, the Supplement to the First Report of Richter dated December 16, 2020, and the activities of Richter described therein;
  - iii. approving the settlement agreement between PACE and, *inter alia*, the Companies (the "**Settlement Agreement**"); and,
  - iv. approving the proposed Court-ordered charges and the appointment of MNP as Monitor.

#### IV. BACKGROUND INFORMATION

##### Clearbeach

13. Clearbeach, a private company, is involved in the exploration, development and production of oil and natural gas, operating in various municipalities in Southwestern Ontario. Clearbeach was incorporated in the Province of Ontario in 1989. Clearbeach, as it currently exists, is the result of a series of amalgamations, including the 2008 amalgamation of Clearbeach Resources Ltd. and Clearwood Resources Inc., to form the predecessor Clearbeach Resources Inc. (“**Clearbeach Oldco**”), and the 2019 amalgamation of Clearbeach Oldco and ON-Energy Corp. (“**ON-Energy**”). On-Energy was the result of a previous amalgamation between a prior corporation of the same name and Liberty Oil & Gas Ltd.
14. Clearbeach’s registered head office is located at 2807 Woodhull Road, London, Ontario. Jane Lowrie (“**Lowrie**”) is the President and sole director of Clearbeach and owns 100% of Clearbeach’s common shares indirectly through Brookwood Resources Inc.
15. The Proposed Monitor understands that Clearbeach currently operates 402 oil, natural gas, disposal and injection wells (collectively, the “**Wells**”) situated on private farmland throughout rural Southwestern Ontario. After the filing of the Clearbeach NOI, the Ontario Ministry of Natural Resources and Forestry (“**MNRF**”) issued orders requiring Clearbeach to plug 41 inactive Wells by June 30, 2021. The estimated cost to comply with the MNRF’s orders is \$433,000. Three of these Wells have been plugged. Clearbeach is working out a plan to plug the remaining 38 Wells. In addition, the MNRF has issued various deficiency reports requiring maintenance to certain Wells, which Clearbeach is complying with.
16. As compensation for having the Wells on their property, pursuant to lease agreements, the individual landowners are paid royalties of 6% to 12.5% on gross oil and gas production on a monthly basis and some are also compensated for surface facilities. Prior to the NOI Proceedings, due to cash constraints, Clearbeach was not able to keep current with lease and royalty payments to certain landowners. Clearbeach is, as of the date hereof, indebted to such landowners for arrears of approximately \$178,000. Claims on these arrears are

stayed by the NOI Proceedings and they have not been paid or settled to date. Clearbeach has kept current with lease and royalty payments since the filing of its NOI, pursuant to the terms of the lease agreements.

17. Clearbeach does not have any employees. Its operations were and are primarily carried out by related parties, Lagasco Inc. (“**Lagasco**”) and Eastern, which manage, operate, and maintain the Wells and associated infrastructure on behalf of Clearbeach. All costs are billed on a well and field basis and services are tracked hourly by all operators and personnel.

### **Forbes**

18. Forbes is incorporated under the laws of the Province of Ontario. It does not carry on any business activities, nor does it have any assets or employees. Forbes was initially incorporated with the intention of owning certain onshore oil and natural gas wells. However, due to funding complications, Forbes never took ownership of those wells. Forbes is an affiliate of Clearbeach as Lowrie is the owner of all of the shares of Forbes.

19. Forbes’ only liability relates to a secured loan advanced by PACE in the amount of \$500,000.

20. A more detailed description of the operations and financial position of Clearbeach and Forbes is provided in the affidavit of Lowrie sworn May 17, 2021 (the “**May 17 Lowrie Affidavit**”) in support of the May 20 Application.

## **V. PACE SETTLEMENT AND REQUEST FOR A CONVERSION TO CCAA PROCEEDINGS**

21. The Companies and the Settlement Parties have reached a settlement with PACE pursuant to the Settlement Agreement. Pursuant to the Settlement Agreement, the PACE indebtedness and security in the Companies are to be assigned to Oil Patch Services Inc., or an entity designated by Lowrie, subject to approval of this Court. Further, the Settlement Agreement provides for certain releases for the benefit of PACE and the Settlement Parties

and the discontinuance of outstanding litigation involving PACE and certain of the Settlement Parties.

22. The Settlement Agreement is discussed in detail in the May 17 Lowrie Affidavit, and a copy of same is provided as an exhibit thereto, redacted to protect certain commercially sensitive and confidential information.
23. The Proposed Monitor and its counsel have been kept apprised of the settlement discussions between PACE and the Companies. A key part of these discussions was the Proposed Monitor's assessment, through a third-party service provider (the "**Sproule Report**"), of the potential value of the Companies' assets and the challenges presented by the regulated nature of the industry. Due to the confidential nature of the Sproule Report, the Proposed Monitor is providing it to the Court via a confidential supplementary report, filed as **Confidential Appendix "1"** to this Report, which the Proposed Monitor requests be kept sealed pending further order of the Court.
24. The Proposed Monitor notes the Companies and PACE were each represented by experienced counsel in the negotiation of the Settlement Agreement and the same is fair and reasonable insofar as it is acceptable to both sides and will not impact the interest of any other stakeholders.
25. The Companies are insolvent and for the reasons set out in the May 17 Lowrie Affidavit, seek to continue the restructuring efforts initiated through the NOI Proceedings under the CCAA, pursuant to section 11.6 thereof.
26. Although the Settlement Agreement is not a pre-condition of the continuation of the NOI Proceedings under the CCAA, the Proposed Monitor believes it is necessary to enable the Companies to fully focus on and implement a restructuring under the CCAA.
27. For the reasons set out above, the Proposed Monitor considers the approval of the Settlement Agreement, the conversion and continuation of the NOI Proceedings under the CCAA and the relief sought in the Initial Order to be appropriate in the circumstances for the following reasons:

- a. the Settlement Agreement will enable the Companies to focus the entirety of their efforts on the restructuring of their business and the satisfaction of Clearbeach's significant environmental and stewardship obligations;
- b. the Companies are acting in good faith and with due diligence;
- c. the continuation of the stay of proceedings under the CCAA will:
  - provide the Companies with the time and protection they require to undertake a restructuring of their business for the benefit of their stakeholders;
  - leave the Companies in possession and control of the Wells, with the required professional expertise and forum to manage the Wells and mitigate any environmental risks;
  - allow Clearbeach to finalize a plan to comply with the orders issued by the MNRF and meet its ongoing environmental and stewardship obligations;and,
- d. the conversion to CCAA proceedings and the extension of the stay of proceedings under the CCAA does not adversely affect or materially prejudice creditors of the Companies as they are projected to have sufficient funds to pay for services and supplies during the CCAA initial stay period (as discussed further in this report).

28. The relief requested by the Companies includes, *inter alia*:

- a. the granting of a continued stay of proceedings against the Companies under the CCAA for an initial 10-day period, followed by a comeback hearing, as required by the CCAA;
  - b. the appointment of MNP as monitor under the CCAA (if appointed, the "**Monitor**");
  - c. approval of the Settlement Agreement and the sealing of the redacted copy of same;
- and

- d. the granting of certain charges over the assets of Clearbeach, including to secure the indemnity in favour of the directors and officers (the “**Directors’ Charge**”), and the professional fees and disbursements of the administrative professionals in the CCAA proceedings (the “**Administration Charge**”).

29. MNP has reviewed the Initial Order and provided its comments and observations on certain provisions below.

### Proposed Court Ordered Charges Over Clearbeach’s Assets

#### *Administration Charge*

30. The proposed Initial Order contemplates the granting of the Administration Charge in the amount of \$100,000 to secure the fees and disbursement of the counsel to the Companies, the Monitor and Monitor’s counsel.
31. The Administration Charge is reasonable and appropriate in the circumstances having regard to, among other things:
  - a. each of the professionals whose fees have been and will continue to be secured by the Administration Charge have played and will continue to play a critical role in the Companies’ restructuring;
  - b. Clearbeach intends to satisfy the fees and disbursements of the administrative professionals from cash flow during the CCAA proceedings and through a retainer already provided. The Administration Charge is sought to protect the administrative professionals in the event that the restructuring is not successful or a sale as a going concern is not completed; and
  - c. the complexity of these CCAA proceedings.

### *Directors' Charge*

32. The Companies' Cash Flow Projections, discussed further in this report, contemplates that post-CCAA obligations, including all statutorily required remittances will be paid in the ordinary course of business.
33. The directors and officers have requested protection from statutory claims and liabilities that may arise during the restructuring. Accordingly, the Companies are proposing that Clearbeach indemnify the Companies' directors and officers against all obligations and liabilities that they may incur as directors and officers of the Companies after the commencement of the CCAA proceedings, except to the extent that such obligations or liabilities were incurred as a result of such director's or officer's gross negligence or willful misconduct. As security for this indemnity, it is proposed that the Companies' directors and officers be entitled to the benefit of the Directors' Charge in an aggregate amount of \$100,000.
34. The proposed Directors' Charge is to rank behind the Administration Charge pursuant to the proposed Initial Order. Based on the information provided to the Proposed Monitor by the Companies, the Directors' Charge has been calculated with reference to exposure to certain tax liabilities accruing during the CCAA proceedings. The proposed Initial Order provides that the availability of the Directors' Charge is only to the extent the existing insurance coverage does not apply or is insufficient to cover a liability.
35. The Proposed Monitor is of the view that the Directors' Charge is reasonable and appropriate in the circumstances.

### *Priority of Charges Created by the Proposed Initial Order*

36. The priorities of the Administration Charge and the Directors' Charge (collectively, the "**Charges**") are proposed to be as follows:
  - a. First – Administration Charge (to the maximum amount of \$100,000); and
  - b. Second – Directors' Charge (to the maximum amount of \$100,000).



37. MNP in its capacity as Proposed Monitor has reviewed the calculations that support the Charges and believes that the amounts are reasonable in the circumstances. The Charges will have priority over all other debts and obligations of the Companies other than those parties who have not been notified of the Companies' application.

Appointment of MNP as Monitor

38. The proposed Initial Order contemplates the appointment of MNP as Monitor under. MNP is a licensed insolvency trustee, as required under the Act, with considerable experience acting as a monitor in proceedings under the CCAA. Additionally, in this case, MNP has acted as advisor to PACE and in this capacity has acquired knowledge of the Companies' business and financial affairs. In such capacity, MNP provided information and analysis to each of PACE and the Companies, so as to facilitate their settlement discussions. Accordingly, the appointment of MNP as Monitor under the CCAA is both cost effective and efficient.

39. MNP consents to being appointed as Monitor in these proceedings. A copy of the Monitor's consent is attached hereto as **Appendix "C"**.

**VI. CASH FLOW PROJECTIONS**

40. In accordance with the provisions of the CCAA, a copy of the Cash Flow Projections prepared by the Companies for the thirteen-week period ended August 19, 2021 is attached hereto as **Appendix "D"**. The Cash Flow Projection includes only the operations of Clearbeach as Forbes has no operations.

Receipts	\$445,731
Less Disbursements:	
Royalties	25,403
Operating expenses	91,746
Plugging and reclamation costs	217,500
Professional fees	<u>\$96,050</u>
<b>Net cashflow</b>	<b>\$15,033</b>
Opening cash	<u>\$1,000</u>
<b>Ending cash</b>	<b>\$16,033</b>

41. The Cash Flow Projection is summarized as follows:
42. During the projection period, Clearbeach projects positive cash receipts of \$15,033.
43. The Proposed Monitor has implemented procedures for monitoring Clearbeach's receipts and disbursements and has kept in close contact with Management to ensure that operations are continuing in the normal course of business and in accordance with the Cash Flow Projections.
44. The Cash Flow Projections have been prepared using the probable and hypothetical assumptions set out in the notes attached to same.
45. The Proposed Monitor's review of the Cash Flow Projections consisted of enquiries, analytical procedures and discussions related to information supplied to us. Since hypothetical assumptions need not be supported, the procedures with respect to those assumptions were limited to evaluating whether they were consistent with the purpose of the forecast. The Proposed Monitor has also reviewed the support for the probable assumptions and the preparation and presentation of the forecast.
46. Based on our review, nothing has come to our attention that causes us to believe that, in all material respects:
- a. the hypothetical assumptions are not consistent with the purpose of the forecast;
  - b. as at the date of this report, the probable assumptions used in developing the Cash Flow Projections are suitably supported and consistent with the plans of the Companies or do not provide a reasonable basis for the forecast, given the hypothetical assumptions; and
  - c. the Cash Flow Projections do not reflect the probable and hypothetical assumptions.

## **VII. CONCLUSION AND RECOMMENDATION**

47. Based on the foregoing, the Proposed Monitor respectfully submits this report in support of the relief requested by the Companies in the May 20 Application.

All of which is respectfully submitted on this 18th day of May 2021.

**MNP LTD.,**  
in its capacity as Proposed Monitor of  
Clearbeach Resources Inc. and Forbes Resources Corp.  
Per:

A handwritten signature in black ink, appearing to read 'Rob Smith', written over a horizontal line.

Rob Smith CPA, CA, CIRP, LIT  
Senior Vice-President

Court File No: \_\_\_\_\_

**IN THE MATTER OF THE COMPANIES' CREDITORS  
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED  
AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF CLEARBEACH RESOURCES INC. AND FORBES RESOURCES CORP.**

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**(COMMERCIAL LIST)**

**PROPOSED MONITOR'S REPORT TO THE COURT  
SUBMITTED BY MNP LTD.,  
IN ITS CAPACITY AS PROPOSED MONITOR OF  
CLEARBEACH RESOURCES INC. AND FORBES  
RESOURCE CORP**

**MNP LTD.**

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## Appendix D – Cash Flow Projection

Clearbeach Resources Inc. (the "Company")  
 Projected Statement of Cash Flow  
 For the Period May 20, 2021 to August 19, 2021  
 (In Canadian Dollars)

Notes	WEEK ENDING													Total											
	27-May-21	3-Jun-21	10-Jun-21	17-Jun-21	24-Jun-21	1-Jul-21	8-Jul-21	15-Jul-21	22-Jul-21	29-Jul-21	5-Aug-21	12-Aug-21	19-Aug-21												
<b>Receipts</b>																									
Lagasco direct sales	1	-	-	-	60,102	-	-	-	60,102	-	-	-	60,102	180,307											
Clearbeach direct sales	1	76,113	-	-	-	94,656	-	-	-	94,656	-	-	-	265,424											
<b>Total receipts</b>		<b>76,113</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>60,102</b>	<b>94,656</b>	<b>-</b>	<b>-</b>	<b>60,102</b>	<b>94,656</b>	<b>-</b>	<b>60,102</b>	<b>445,731</b>											
<b>Disbursements</b>																									
Royalties	2	-	7,300	-	-	-	-	12,701	-	-	-	12,701	-	25,403											
Operating expenses	3	-	-	-	-	45,873	-	-	-	45,873	-	-	-	91,746											
Property and pipeline tax	4	-	-	-	-	-	-	-	-	-	-	-	-	-											
Plugging and reclamation	5	5,000	15,000	22,500	15,000	25,000	25,000	-	-	70,000	-	10,000	30,000	217,500											
Professional fees	6	-	-	-	-	45,200	-	-	28,250	-	-	-	22,600	96,050											
<b>Total disbursements</b>		<b>5,000</b>	<b>22,300</b>	<b>22,500</b>	<b>15,000</b>	<b>70,200</b>	<b>70,873</b>	<b>12,701</b>	<b>-</b>	<b>28,250</b>	<b>115,873</b>	<b>12,701</b>	<b>10,000</b>	<b>430,699</b>											
<b>Net cash flow</b>		<b>71,113</b>	<b>-</b>	<b>22,300</b>	<b>-</b>	<b>22,500</b>	<b>-</b>	<b>15,000</b>	<b>-</b>	<b>10,098</b>	<b>23,782</b>	<b>-</b>	<b>12,701</b>	<b>-</b>	<b>31,852</b>	<b>-</b>	<b>21,218</b>	<b>-</b>	<b>12,701</b>	<b>-</b>	<b>10,000</b>	<b>7,502</b>	<b>15,033</b>		
<b>Bank balance</b>																									
Opening		1,000	72,113	49,813	27,313	12,313	2,215	25,998	13,297	13,297	45,149	23,932	11,230	1,230	1,000										
Net Cash Flow		71,113	-	22,300	-	22,500	-	15,000	-	10,098	23,782	-	12,701	-	31,852	-	21,218	-	12,701	-	10,000	7,502	15,033		
<b>Ending Bank Balance</b>		<b>72,113</b>	<b>49,813</b>	<b>27,313</b>	<b>12,313</b>	<b>2,215</b>	<b>25,998</b>	<b>13,297</b>	<b>13,297</b>	<b>45,149</b>	<b>23,932</b>	<b>11,230</b>	<b>1,230</b>	<b>8,733</b>	<b>16,033</b>										

The projected statement of cash flow has been prepared pursuant to the requirements of section 10(2)(a) of the Companies' Creditors Arrangement Act.

**Notes:**

- The Company currently owns 402 oil and natural gas wells (the "Wells"). Of the total Wells, the Company operates and manages 80 Wells (the "Clearbeach Managed Wells") and Lagasco Inc. ("Lagasco"), a related entity, operates and manages the remainder (the "Lagasco Managed Wells"). In respect of the Clearbeach Managed Wells, the receipts reflected in the cash flow forecast represent the gross receipts from the sale of oil and natural gas from the Clearbeach Managed Wells. The associated costs to operate / manage the Clearbeach Managed Wells are reflected in the disbursements noted in the cash flow forecast. In respect of the Lagasco Managed Wells, the receipts reflected in the cash flow forecast represent the net receipts from the sale of oil and natural gas from the Lagasco Managed Wells after deducting the various operating costs to operate / manage the Lagasco Managed Wells and costs associated with various back-office functions relating to the Clearbeach business (as Clearbeach has no employees), which costs are incurred by Lagasco. A reconciliation of the net receipts from the Lagasco Managed Wells is performed monthly.
- For each of the Clearbeach Managed Wells and the Lagasco Managed Wells, the cash flow forecast assumes an average sale price for oil and natural gas of \$72.15/bbl and \$3.51/mcf, respectively. The price for oil is based on the current West Texas Intermediate price. The price for natural gas is based on the average price charged by the Company for April 2021. The Company's operations and cash flows are sensitive to changes in market prices for oil and natural gas. Accordingly, changes in market prices could result in material favourable or unfavourable variances to the cash flow forecast.
- The Company pays royalties, ranging from 9% to 17.5%, to various land owners that own the real property where the Wells are located. Royalties are paid monthly.
- Represents various operating expenses (inclusive of HST) in respect of the Clearbeach Managed Wells, including trucking and transportation, third-party consulting and external labour, utilities, surface lease costs, repairs and maintenance and cleaning and disposal services. The forecast assumes the Company pays its operating expenses monthly, which is consistent with historical practice.
- Payment of property and pipeline taxes are on hold while the Company works to settle disputed assessments with various municipalities.
- Represents remediation costs associated with plugging / reclamation of certain of the Wells. The Wells that require plugging / reclamation and the associated costs were determined in consideration of the findings from a valuation report prepared for the Company by an independent petroleum engineer.
- Includes the professional costs of the Company's counsel. The CCAA Monitor and its counsel have received a retainer from which there fees will be paid.

Court File No.: CV-21-00662483-00CL

**IN THE MATTER OF THE COMPANIES' CREDITORS  
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED  
AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF CLEARBEACH RESOURCES INC. AND FORBES RESOURCES CORP.**

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*ONTARIO*  
**SUPERIOR COURT OF JUSTICE**

**(COMMERCIAL LIST)**

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**MONITOR'S FIRST REPORT TO THE COURT  
SUBMITTED BY MNP LTD.,  
IN ITS CAPACITY AS PROPOSED MONITOR OF  
CLEARBEACH RESOURCES INC. AND FORBES  
RESOURCE CORP**

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**IN THE MATTER OF THE *COMPANIES CREDIT ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36, AS AMENDED AND IN THE MATTER OF A PLAN OF  
COMPROMISE OR ARRANGEMENT OF CLEARBEACH RESOURCES  
INC. AND FORBES RESOURCES CORP.**

Court File No.: CV-21-00662483-00CL

***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**

Proceeding commenced at **TORONTO**

**MONITOR'S FIRST REPORT TO THE  
COURT SUBMITTED BY MNP LTD., IN ITS  
CAPACITY AS PROPOSED MONITOR OF  
CLEARBEACH RESOURCES INC. AND  
FROBES RESOURCE CORP.**

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