

COURT FILE NUMBER KBG-SA-00151-2022

COURT OF KING'S BENCH FOR SASKATCHEWAN  
IN BANKRUPTCY AND INSOLVENCY

JUDICIAL CENTRE SASKATOON

**IN THE MATTER OF THE RECEIVERSHIP OF ABBEY RESOURCES CORP.**

**NOTICE OF APPLICATION**

**(Sale Approval and Vesting and Sealing, Distribution, and Discharge Orders)**

**NOTICE TO RESPONDENTS: All parties listed on the Service List**

This application is made against you. You are a respondent. You have the right to state your side of this matter before the Court. To do so, you must be in Court when the application is heard as shown below:

Where: Court of King's Bench for Saskatchewan  
Judicial Centre of Saskatoon  
520 Spadina Crescent East  
Saskatoon, SK S7K 3G7

Date: November 2, 2023

Time: 1:30 p.m.

**This chambers application will be heard by Webex. If you wish to appear at this chambers application you must immediately contact Craig Frith via email at [cfrith@mcdougallgauley.com](mailto:cfrith@mcdougallgauley.com) or the Court of King's Bench by telephone at 306-933-5135 in order to obtain the Webex particulars.**

*(Read the Notice at the end of this document to see what else you can do and when you must do it.)*

**Remedy claimed or sought:**

1. The applicant, MNP Ltd. (the "**Receiver**"), in its capacity as the court-appointed receiver of all the assets, undertakings, and properties (the "**Property**") of Abbey Resources Crop. (the "**Debtor**"), seeks two orders pursuant to the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (the "**BIA**").

2. The first order sought is a Sale Approval and Vesting Order (the "SAVO"):
- (a) deeming service of this notice of application and all other materials filed in support of the same on the parties listed in the service list to be good, valid, timely, and sufficient;
  - (b) approving the sale transaction (the "**Transaction**") contemplated by the agreement of purchase and sale (the "**Sale Agreement**") between the Receiver and You First Energy Inc. (the "**Purchaser**") dated September 25, 2023 and appended to the Fourth Report of the Receiver dated October 30, 2023 (the "**Fourth Report**"), for the sale of the Debtor's right, title, and interest in and to the assets described in the Sale Agreement (the "**Purchased Assets**");
  - (c) declaring the Transaction to be commercially reasonable and in the best interests of the Debtor and its creditors and other stakeholders;
  - (d) authorizing and directing the Receiver to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction or for the conveyance of the Purchased Assets to the Purchaser, subject to such amendments as the Receiver and the Purchaser may agree upon;
  - (e) declaring that:
    - (i) upon delivery of the Receiver's Certificate (as defined in the SAVO), all of the Debtor's right, title and interest in and to the Purchased Assets described in the Sale Agreement shall, save and except for the Permitted Encumbrances (as defined in the SAVO), vest absolutely in the name of the Purchaser free and clear of and from any and all security interests, liens, judgments, enforcement charges, levies, charges, or other financial or monetary claims, and all rights of others;
    - (ii) the Net Sale Proceeds (as defined in the SAVO) shall stand in place and stead of the Purchased Assets; and
    - (iii) from and after the delivery of the Receiver's Certificate to the Purchaser, all Encumbrances (as defined in the SAVO) and all rights of others shall attach to the Net Sale Proceeds with the same priority as they had with respect to the Purchased Assets immediately prior to the sale;
  - (f) granting such further and other relief as counsel may request and this Honourable Court may allow.

3. The second order sought is an Order (the "**Sealing Order**"):
- (a) sealing the Confidential Supplement to the Fourth Report (the "**Confidential Supplement**") until further order of the Court, or the Receiver advising the Local Registrar in writing that the sealing is no longer necessary;
  - (b) amending and restating paragraph 3(1)(i) of the Receivership Order (as defined below) to allow the Receiver to sell, convey, transfer, lease, or assign the Property or any part or parts thereof out of the ordinary course of business without court approval in respect of any transaction not exceeding \$400,000, provided that the aggregate consideration for all such transactions does not exceed \$1,000,000;
  - (c) amending paragraph 20 of the Receivership Order to increase the Receiver's borrowing limit and the Receiver's Charge from \$500,000 to \$3,000,000;
  - (d) approving the professional fees and disbursements of the Receiver and the Receiver's counsel, McDougall Gauley LLP, as set out in the Fourth Report without the necessity of a formal passing of their accounts;
  - (e) approving and confirming the Actions of the Receiver (as defined in the Sealing Order) to date in relation to the discharge of the Receiver's duties and mandate as Receiver pursuant to the Receivership Order (as defined below) and other Orders granted in these proceedings, as well as the Receiver's statement of receipts and disbursements, as set out in the Fourth Report and other reports filed in these proceedings;
  - (f) empowering and authorizing, but not obligating, the Receiver to disclaim the Unsold Natural Gas Assets (as defined below), and transfer (or, alternatively, destroy) the Remaining Books and Records (as defined in the Fourth Report); and
  - (g) granting such further and other relief as counsel may request and this Honourable Court may allow.

**Grounds for making this application:**

(i) **Procedural History**

4. These proceedings arose from the Debtor's attempt to restructure and come to a compromise with its creditors pursuant to the *Companies' Creditors Arrangement Act*, RSC

1985, c C-36 in QBG-00733-2021 (the "**CCAA Proceedings**"). The *CCAA Proceedings* were commenced by the Initial Order of this Court dated August 13, 2021.

5. The Debtor's restructuring was unsuccessful and the Receiver was appointed receiver of the Property by Order of this Court dated February 28, 2022 (the "**Receivership Order**"). The *CCAA Proceedings* were subsequently terminated pursuant to a subsequent Order dated March 4, 2023.

6. Since the Receivership Order, the Receiver has applied for and been granted the following orders:

- (a) the Sale Approval, Vesting, and Sealing Order dated June 10, 2022;
- (b) the Auction Approval, Vesting, and Sealing Order dated August 31, 2022; and
- (c) the Order Approving the Sales Solicitation Process (the "**SSP**") dated October 11, 2022.

7. As discussed in the Fourth Report, after a significant amount of unforeseen work by the Receiver, its consultant, and the Ministry of Energy and Resources ("**MER**") and its counsel, the Receiver has entered into the Sale Agreement with the Purchaser for which the Receiver now seeks Court approval.

**(ii) Sale Approval and Vesting**

8. As set out in the Fourth Report and Confidential Supplement:

- (a) the Receiver has completed the SSP and entered into the Sale Agreement with the Purchaser;
- (b) in the Receiver's view, the consideration to be received pursuant to the Sale Agreement is fair and reasonable in the circumstances taking into account:
  - (i) the cash portion of the purchase price;

- (ii) the assumed liabilities; and
  - (iii) the comparative costs of removing any resulting pressurized pipeline segments that would no longer be actively used going forward;
- (c) the Ministry of Energy and Resources (the "**MER**") supports the approval of the Sale Agreement and the Transaction.

9. On the evidence before the Court, the legal test articulated in *Royal Bank of Canada v Soundair Corp.*, 1991 CarswellOnt 205, [1991] OJ No 1137 (ON CA) is satisfied.

**(iii) Sealing**

10. The amount of the Transaction's purchase price and other commercially sensitive particulars have been redacted from the copy of the Sale Agreement appended to the Fourth Report. The Confidential Supplement also contains the unredacted version of this document, the particulars and Receiver's analysis of the competing bids received in the SSP, and the estimated value of the Residual Assets (as defined below).

11. The sealing of the Confidential Supplement is being sought so as to avoid prejudicing any future efforts to sell the Applicants' assets if, for example, the Court does not approve the Transaction or the same does not close after Court approval is granted.

12. On the evidence before the Court, the legal test articulated in *Sherman Estate v Donovan*, 2021 SCC 25 is satisfied.

**(iv) Amendments to the Receivership Order**

13. The closing of the Transaction and transfer of the Purchased Assets to the Purchaser will result in the balance of the Unsold Natural Gas Assets (as defined in the Fourth Report) being prepared for abandonment and ultimately disclaimed.

14. The shut-down of the Unsold Natural Gas Assets will make certain of the Debtor's assets redundant (the "**Residual Assets**"). In the interests of saving time and further costs, the Receiver is seeking the Court's authorization to liquidate the Residual Assets without further approval, the completion of which requires an increase to the monetary limits in paragraph 3(1)(i) of the Receivership Order to \$400,000 for any individual transaction provided that the aggregate for all such transactions does not exceed \$1,000,000.

15. The Receiver estimates that the preparatory work for the abandonment of the Unsold Natural Gas Assets will cost approximately \$2,220,000. The Receiver also has to pay the Marketing Agent's commission and the 2023 property taxes assessed against certain of the Debtor's Property. It is unlikely that there will be sufficient funds in the receivership estate, which will require the Receiver to borrow from the Saskatchewan Oil and Gas Orphan Fund. The Receiver is therefore requesting that the borrowing limit and corresponding Receiver's Charge in paragraph 20 of the Receivership Order be increased from \$500,000 to \$3,000,000 to accommodate these anticipated borrowings.

**Material or evidence to be relied on:**

16. The Receiver relies on the following:

- (a) this Notice of Application;
- (b) the Service List;
- (c) the Fourth Report;
- (d) the Confidential Supplement (filed under seal);
- (e) the Receiver's brief of law;
- (f) Affidavit of Service in respect of items (a) to (c) and (e);
- (g) proof of compliance with General Application Practice Directive #3;
- (h) the pleadings and proceedings had and taken herein; and

- (i) such further and other material as this Honourable Court may allow.

**Applicable Rules:**

17. N/A

**Applicable Acts and Regulations**

18. The Receiver relies upon the *BIA* in making this application.

**NOTICE**

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 at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.

**McDOUGALL GAULEY LLP**

Per: 

*Per* Craig Frith, counsel for the applicant, MNP Ltd.

**CONTACT INFORMATION AND ADDRESS FOR SERVICE**

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