

COURT FILE NO. 24-2746532 Clerk's Stamp

COURT COURT OF QUEEN'S BENCH OF ALBERTA  
IN BANKRUPTCY AND INSOLVENCY

JUDICIAL CENTRE EDMONTON

DOCUMENT FIRST REPORT OF THE INTERIM RECEIVER IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF ALASKA – ALBERTA RAILWAY DEVELOPMENT CORPORATION

DATE AUGUST 17, 2021

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

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Attention: Vanessa Allen/ Jerry Henechowicz

## **Table of Contents**

INTRODUCTION.....	1
NOTICE TO READER.....	2
PURPOSE OF THE REPORT .....	2
ACTIVITIES OF THE INTERIM RECEIVER.....	3
ASSETS .....	3
FUTURE REALIZATION STRATEGY .....	4
CASH FLOW.....	4
THE STAY.....	5
CONCLUSION .....	6

## **SCHEDULES**

Schedule 1                      Statement of Projected Cash Flow for the period from August 14, 2021 to November 19, 2021

Schedule 2                      Report on the Cash Flow Statement by the Person Making a Proposal and Trustee's Report on the Cash Flow Statement

## INTRODUCTION

1. On June 18, 2021 (the “Filing Date”), Alaska – Alberta Railway Development Corporation (“AARDC” or the “Company”) filed a Notice of Intention to Make a Proposal (“NOI”) pursuant to Section 50.4(1) of the *Bankruptcy and Insolvency Act, RSC 1985, c B-3* (the “BIA”). MNP Ltd. (“MNP”) consented to act as Trustee (the “Trustee”) under the NOI of AARDC and two related companies, 7198362 Manitoba Ltd. and 12703131 Canada Ltd. (collectively with AARDC, the “NOI Companies”).
2. The Trustee’s First Report dated July 7, 2021 (the “Trustee’s First Report”), filed in respect of the NOI Companies, attaches as “Schedule 3”, a Statement of Projected Cash Flow for AARDC for the Period from June 18, 2021 to September 17, 2021.
3. Upon filing its NOI, AARDC was granted a 30 day stay of proceedings pursuant to Section 69(1) of the BIA (the “Stay”). Pursuant to an Order granted on July 12, 2021, the Stay was extended to August 31, 2021.
4. The NOI proceedings were initiated following the receivership of the NOI Companies’ primary secured lender, Bridging Finance Inc. (“BFI”) and certain other entities and investment funds related to BFI (collectively, “Bridging”) pursuant to Orders granted by the Ontario Superior Court of Justice (Commercial List) on April 30, 2021 and May 3, 2021. PricewaterhouseCoopers Inc. (“PwC”) acts as the Court-appointed Receiver of Bridging (the “Bridging Receiver”). On June 8, 2021, the Bridging Receiver issued a demand letter and a Notice of Intention to Enforce Security (the “244 Notice”) to AARDC pursuant to Section 244 of the BIA. As set out in the 244 Notice, AARDC is indebted to Bridging in the amount of approximately \$212.9 million consisting of a principal balance of approximately \$145.8 million, additional transfers of approximately \$14.2 million and interest and penalties of \$52.9 million pursuant to a non-revolving credit facility (the “AARDC Loan”).
5. On July 7, 2021, the Trustee issued a material adverse change report for AARDC pursuant to Section 50(10) of the BIA, based on the following:
  - 5.1. The Bridging Receiver advised the Trustee that it would only support an extension of the Stay for AARDC if an Interim Receiver was appointed in respect of AARDC. Due to the size and nature of Bridging’s claim, the Company does not have the ability to make a viable proposal without the Bridging Receiver’s support.
  - 5.2. Outside of Mr. Sean McCoshen (“McCoshen”), the sole director and shareholder for AARDC, there was no party with the corporate authority to act on behalf of the Company. The Trustee had been advised that McCoshen was under medical care and was not involved in the day-to-day operations of AARDC. Further, McCoshen had not been accessible to the Trustee other than through the Company’s former legal counsel, Dickinson Wright LLP (“Dickinson”), in addition to which, the Bridging Receiver had expressed concern regarding McCoshen’s activities in relation to the NOI Companies prior to the NOI filing.

- 5.3. The parties charged with the management of the day-to-day activities of AARDC did not appear to have comprehensive information regarding the Company's assets or the required statutory authority to manage and direct AARDC's operations through these proceedings
6. On June 12, 2021, on application by PwC, the Court of Queen's Bench of Alberta granted an Order appointing MNP Ltd. as Interim Receiver of AARDC during the NOI proceedings (the "Interim Receiver"). Information regarding these proceedings can be found on the Interim Receiver's website at <https://mnpdebt.ca/en/corporate/corporate-engagements/alaska-alberta-railway-development-corporation>.

## **NOTICE TO READER**

7. In preparing this report and making comments herein, the Interim Receiver has relied upon, certain unaudited, draft or internal financial information, including the Company's books and records, and information from other third-party sources (collectively, the "Information"). The Interim Receiver 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 or other standards established by the Chartered Professional Accountants of Canada (the "Standards"). Additionally, none of the Interim Receiver's procedures were intended to disclose defalcations or other irregularities. If the Interim Receiver were to perform additional procedures or to undertake an audit examination of the Information in accordance with the Standards, additional matters may have come to the Interim Receiver's attention. Accordingly, the Interim Receiver does not express an opinion, nor does it provide any other form of assurance on the financial or other information presented herein. The Interim Receiver may refine or alter its observations as further information is obtained or brought to its attention after the date of this report.
8. All amounts included herein are in Canadian dollars unless otherwise stated.

## **PURPOSE OF THE REPORT**

- 9 This report is the first report of the Interim Receiver (the "First Report"). The purpose of the First Report is to provide the Court with information regarding the Interim Receiver's application, returnable on August 26, 2021 (the "August 26 Hearing"). At the August 26 Hearing, the Interim Receiver will be seeking a 45-day extension of the Stay from August 31, 2021 to October 15, 2021 (the "Extension").

## **ACTIVITIES OF THE INTERIM RECEIVER**

10. The following is a summary of the activities undertaken by the Interim Receiver to date:

- 10.1. Closed the bank accounts held by AARDC and had the funds transferred to a new account established for the interim receivership;
- 10.2. Prepared and issued all statutory reporting, as required pursuant to subsection 245(1) of the BIA;
- 10.3. Entered into independent contractor agreements with two contractors of AARDC (the Consultants”);
- 10.4. Completed all required creditor notifications and responded to creditor and stakeholder inquiries;
- 10.5. Met regularly with the Bridging Receiver to update them on the NOI proceedings and discuss next steps;
- 10.6. Took possession of AARDC’s available physical books and records and worked towards obtaining required electronic back-ups;
- 10.7. In conjunction with Lawson Lundell LLP (“Lawson”), the Interim Receiver’s legal counsel, reviewed various agreements executed by the Company, including the Presidential Permit (as subsequently defined);
- 10.8. Arranged for general commercial liability insurance coverage for AARDC;
- 10.9. Requested that Lawson complete an independent review of the security held by Bridging that determined that the security held by Bridging is valid and enforceable based on certain standard qualifications and assumptions;
- 10.10. Worked with the Consultants to prepare material to support a strategy to monetize and maximize the value of the assets of AARDC or to seek further investment in AARDC’s go forward operations; and
- 10.11. Met with advisors previously retained by AARDC regarding the content and use of the material prepared by such advisors for the Company.

## **ASSETS**

11. AARDC’s operations were undertaken to advance the Company’s stated purpose of building and operating a railway that would extend from Alberta to Alaska and allow for the transport of resource commodities to global markets via the ports of Southcentral Alaska (the “Railway Project”). AARDC’s assets consist of intangible and intellectual property and confidential, technical and proprietary information related to the Railway Project (the “AARDC IP”). The AARDC IP includes a permit

granted by former U.S. President, Donald J. Trump to construct, connect, operate and maintain railway facilities at the international border of United States and Canada (the “Presidential Permit”) as well as a master agreement with the Alaska Railroad Corporation that includes cooperation in permitting, selection of right-of-way, economic terms and authorization to operate on their track and extend several portions of their system (the “ARC Agreement”).

12. A review by the Interim Receiver and its legal counsel of the Presidential Permit and the ARC Agreement suggests that any realization strategy for the Company will need to preserve AARDC as a corporate entity.
13. Outside of the Presidential Permit and the ARC Agreement, the remaining AARDC IP can be grouped into the following categories:
  - 13.1 Agreements and proposals to deep water ports and the Trans-Alaska Pipeline;
  - 13.2 Information pertaining to Alaska Native Corporations and Tribes;
  - 13.3 Information pertaining to Canadian First Nations;
  - 13.4 Route surveys and information about proposed rights of way;
  - 13.5 Market research,
  - 13.6 Correspondence with the U.S. Surface Transportation Board and other state and federal agencies; and
  - 13.7 Correspondence with Canadian Environmental Assessment Agency and other federal, provincial and territorial agencies.

#### **AARDC REALIZATION STRATEGY**

- 14 In consultation with the Bridging Receiver, the Interim Receiver has been working with the Consultants to prepare the required material to support a strategy to monetize and maximize the value of the assets of AARDC or to seek further investment in AARDC’s go forward operations.
- 15 The Interim Receiver understands that a sale and investment solicitation process is currently underway for Bridging’s assets, including the AARDC Loan (the “Bridging SISP”) and that the deadline for Phase 1 of the Bridging SISP is September 16, 2021. The Bridging Receiver has indicated that, in their view, it is in the best interest of Bridging to wait for the results of Phase 1 of the Bridging SISP before deciding upon and formalizing a realization strategy for AARDC.

#### **CASH FLOW**

16. Attached hereto as “Schedule 1” is the Statement of Projected Cash Flow for AARDC (the “Cash Flow”) for the period from August 14, 2021 to November 19, 2021 (the “Forecast Period”). Attached hereto as “Schedule 2” are the Report on the Cash Flow Statement by the Person Making a Proposal

and the Trustee's Report on the Cash Flow Statement. The Cash Flow reflects an opening cash balance of approximately \$281,800 at the beginning of the Forecast Period. A total net cash outflow of approximately \$277,200 is projected during the Forecast Period resulting in an ending cash balance of \$4,600 at the end of the Forecast Period.

17. No receipts are reflected in the Cash Flow during the Forecast Period. The Interim Receiver notes that they expect the balance of a retainer held by Dickinson to be returned to AARDC (the "Retainer") during the Forecast Period; however, the source of the Retainer will need to be investigated further in order to determine if the Retainer is an asset of AARDC.
18. The Cash Flow includes disbursements of approximately \$277,200 with the most significant disbursements being summarized below.
  - 18.1. Approximately \$111,300 payable to the Contractors who are assisting in the Company's day to day operations and in preparing information to support a realization strategy for AARDC; and
  - 18.2. Professional fees of approximately \$135,000 payable to the Trustee, the Interim Receiver and Lawson.
19. The Trustee is holding a retainer with a remaining balance of approximately \$97,000 with respect to AARDC's NOI proceedings and the bankruptcy proceedings for 7198362 and 12703131. Any unused portion will be returned to AARDC upon completion of the NOI proceedings.
20. Based on the Forecast, it is expected that AARDC will require borrowings to the extent that any realization strategy extends beyond mid-November 2021.

## **THE STAY**

21. As noted above, the Interim Receiver will be seeking the Extension at the August 26 Hearing. In that regard, pursuant to Section 50.4(9) of the BIA, the Interim Receiver is of the view that:
  - 21.1. AARDC, under the oversight of the Interim Receiver, is acting in good faith and with due diligence;
  - 21.2. The Forecast reflects that AARDC has sufficient cash on hand to fund their operations during the Extension;
  - 21.3. The Extension is necessary to preserve the business and assets of AARDC, while the Interim Receiver consults further with the Bridging Receiver on a realization strategy for the Company, which also preserves the potential for AARDC to make a viable proposal to its creditors; and
  - 21.4. Bridging, through the Bridging Receiver, is the only creditor with an economic interest in the Company's assets and supports the Extension.



## CONCLUSION

22 The above information is being provided in support of the Interim Receiver's application for the Extension.

All of which is respectfully submitted this 17<sup>th</sup> day of August 2021.

**MNP Ltd.**, in its capacity as Interim Receiver of Alaska – Alberta Railway Development Corporation, and not in its personal or corporate capacity

Per: 

\_\_\_\_\_  
Vanessa Allen, B. Comm, CIRP, LIT  
Senior Vice President

# SCHEDULES

# SCHEDULE 1

District of: Alberta  
 Division No. 01-Edmonton  
 Court/ Estate No. 24-2746532

Alaska - Alberta Railway Development Corporation ("AARDC" or the "Company")  
 Statement of Projected Cash Flow  
 For the Fourteen Week Period ended November 19, 2021 (the "Forecast Period")

Week ending:	20-Aug-21	27-Aug-21	03-Sep-21	10-Sep-21	17-Sep-21	24-Sep-21	01-Oct-21	08-Oct-21	15-Oct-21	22-Oct-21	29-Oct-21	05-Nov-21	12-Nov-21	19-Nov-21	Total	Notes
<b>Receipts</b>																
Miscellaneous receipts	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	1
<b>Total Receipts</b>	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
<b>Disbursements</b>																
Contractor fees					37,105				37,105				37,105		111,315	2
Rent					5,000				5,000				5,000		15,000	3
IT support			2,500				2,500					2,500			7,500	
Insurance	5,400														5,400	
Restructuring costs			50,000				45,000					40,000			135,000	4
Contingency			1,000				1,000					1,000			3,000	
<b>Total Disbursements</b>	5,400	-	53,500	-	42,105	-	48,500	-	42,105	-	-	43,500	-	42,105	277,215	
<b>Net Cash Flow</b>	<b>-\$ 5,400</b>	<b>\$ -</b>	<b>-\$ 53,500</b>	<b>\$ -</b>	<b>-\$ 42,105</b>	<b>\$ -</b>	<b>-\$ 48,500</b>	<b>\$ -</b>	<b>-\$ 42,105</b>	<b>\$ -</b>	<b>\$ -</b>	<b>-\$ 43,500</b>	<b>\$ -</b>	<b>-\$ 42,105</b>	<b>-\$ 277,215</b>	
<b>Bank Balance</b>																
Beginning cash balance	\$ 281,844	\$ 276,444	\$ 276,444	\$ 222,944	\$ 222,944	\$ 180,839	\$ 180,839	\$ 132,339	\$ 132,339	\$ 90,234	\$ 90,234	\$ 90,234	\$ 46,734	\$ 46,734	\$ 281,844	5
Net cash flow	5,400	-	53,500	-	42,105	-	48,500	-	42,105	-	-	43,500	-	42,105	277,215	
<b>Ending bank balance</b>	<b>\$ 276,444</b>	<b>\$ 276,444</b>	<b>\$ 222,944</b>	<b>\$ 222,944</b>	<b>\$ 180,839</b>	<b>\$ 180,839</b>	<b>\$ 132,339</b>	<b>\$ 132,339</b>	<b>\$ 90,234</b>	<b>\$ 90,234</b>	<b>\$ 90,234</b>	<b>\$ 46,734</b>	<b>\$ 46,734</b>	<b>\$ 4,629</b>	<b>\$ 4,629</b>	

The Statement of Projected Cash Flow has been prepared by the Interim Receiver in consultation with management pursuant to Section 50.4(2) of the *Bankruptcy and Insolvency Act* (the "BIA"). It is being filed specifically for the purposes contemplated in that section and readers are cautioned that it may not be appropriate for other purposes. In addition, the Statement of Projected Cash Flow has been prepared based on assumptions regarding future events, therefore actual results may vary from the estimates presented herein and these variances may be material.

MNP Ltd. in its capacity as Interim Receiver of Alaska - Alberta Railway Development Corporation and not in its personal capacity

MNP Ltd. in its capacity as Trustee under the Notice of Intention to Make a Proposal for Alaska - Alberta Railway Development Corporation

Per: Vanessa Allen, Senior Vice President, MNP Ltd.

Per: Vanessa Allen, Senior Vice President, MNP Ltd.

**General notes:**

- On June 18, 2021, AARDC filed a Notice of Intention to Make a Proposal (the "NOI(s)") pursuant to Section 50.4(1) of the BIA. On July 12, 2021, MNP Ltd. was appointed as Interim Receiver of AARDC pursuant to an Order granted by the Court of Queen's Bench of Alberta.
- Unless otherwise stated, all amounts are based on historical data and management estimates.
- The Statement of Projected Cash Flow does not include any payments to the Company's creditors pursuant to any future proposal that may be developed by the Company pursuant to the BIA.
- All amounts are in Canadian dollars. Amounts payable in USD have been converted at a rate \$1.00 US: \$1.25 CDN.
- AARDC's operations are currently limited to preserving the value of its intellectual property, related to the development of a railway from Alberta to Alaska, and preparing for a future realization strategy.

**Specific notes:**

- Does not include the return of a retainer from AARDC's former legal counsel, Dickinson Wright LLP, which is expected to be received during the Forecast Period but will be held in trust pending a review of the source of the funds.
- Includes amounts payable to contractors who are assisting in the day to day operations of AARDC and preparing for a future realization strategy.
- One of AARDC's contractors sublets an office located in Anchorage, Alaska, which remains in use by selected contractors. This expense is reimbursable by the Company.
- Represents amounts payable to the proposal Trustee and the Proposal Trustee's legal counsel for professional fees and disbursements during the restructuring proceedings. The Trustee is holding a retainer with a remaining balance of approximately \$97,000 in respect to this and two related engagements.
- The Interim Receiver has opened a trust account at Bank of Montreal in order to manage AARDC's operations during the NOI proceedings.

# SCHEDULE 2

District of: Alberta  
Division No. 01 - Edmonton  
Court No. 24-2746532  
Estate No. 24-2746532

- FORM 30 -

Report on Cash-Flow Statement by the Person Making the Proposal  
(Paragraphs 50(6)(c) and 50.4(2)(c) of the Act)

In the Matter of the Proposal of  
Alaska - Alberta Railway Development Corporation


MNP Ltd., in its capacity as Interim Receiver of Alaska - Alberta Railway Development Corporation, has developed the assumptions and prepared the attached statement of projected cash flow of the insolvent person, as of the 17th day of August 2021 consisting of the Statement of Projected Cash Flow for the Fourteen Week Period ended November 19, 2021.

The hypothetical assumptions are reasonable and consistent with the purpose of the projection described in the notes attached, and the probable assumptions are suitably supported and consistent with the plans of the insolvent person and provide a reasonable basis for the projection. All such assumptions are disclosed in the notes attached.

Since the projection is based on assumptions regarding future events, actual results will vary from the information presented, and the variations may be material.

The projection has been prepared solely for the purpose described in the notes attached, using a set of hypothetical and probable assumptions set out in the notes attached. Consequently, readers are cautioned that it may not be appropriate for other purposes.

Dated at the city of Calgary in the Province of Alberta, this 17th day of August 2021.

\_\_\_\_\_ 

MNP Ltd. in its capacity as Interim Receiver of Alaska - Alberta  
Railway Development Corporation and not in its personal or corporate  
capacity

District of: Alberta  
Division No. 01 - Edmonton  
Court No. 24-2746532  
Estate No. 24-2746532

-- FORM 29 --  
Trustee's Report on Cash-Flow Statement  
(Paragraphs 50(6)(b) and 50.4(2)(b) of the Act)

In the Matter of the Proposal of  
Alaska - Alberta Railway Development Corporation

The attached statement of projected cash flow of Alaska - Alberta Railway Development Corporation, as of the 17th day of August 2021, consisting of the Statement of Projected Cash Flow for the Fourteen Week Period ended November 19, 2021, has been prepared by the Interim Receiver of the insolvent debtor for the purpose described in the notes attached, using the probable and hypothetical assumptions set out in the notes attached.

Our review consisted of inquiries, analytical procedures and discussion related to information supplied to us by:  the management and employees of the insolvent person or  the insolvent person. Since hypothetical assumptions need not be supported, our procedures with respect to them were limited to evaluating whether they were consistent with the purpose of the projection. We have also reviewed the support provided by:  management or  the insolvent person for the probable assumptions and preparation and presentation of the projection.

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 projection;
- (b) as at the date of this report, the probable assumptions developed are not suitably supported and consistent with the plans of the insolvent person or do not provide a reasonable basis for the projection, given the hypothetical assumptions; or
- (c) the projection does not reflect the probable and hypothetical assumptions.

Since the projection is based on assumptions regarding future events, actual results will vary from the information presented even if the hypothetical assumptions occur, and the variations may be material. Accordingly, we express no assurance as to whether the projection will be achieved.

The projection has been prepared solely for the purpose described in the notes attached, and readers are cautioned that it may not be appropriate for other purposes.

Dated at the city of Calgary in the Province of Alberta, this 17th day of August 2021.

MNP Ltd. - Licensed Insolvency Trustee  
Per:

  
\_\_\_\_\_

Vanessa Allen - Licensed Insolvency Trustee  
1500, 640 - 5 Avenue SW  
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