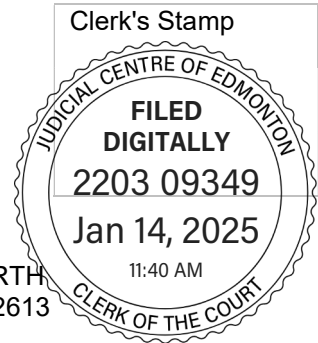


COURT FILE NUMBER	2203 09349
COURT	COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE	EDMONTON
PLAINTIFF	BANK OF MONTREAL
DEFENDANTS	GILL'S VACUUM SERVICE LTD., ONE EARTH ENVIRONMENTAL SOLUTIONS INC., 2012613 ALBERTA LTD., and NEIL GILLARD
DOCUMENT	APPLICATION FOR ORDER FOR FINAL DISTRIBUTION, APPROVAL OF RECEIVER'S FEES AND DISBURSEMENTS, APPROVAL OF RECEIVER'S ACTIVITIES AND DISCHARGE OF RECEIVER
APPLICANT	MNP LTD. in its capacity as Receiver of GILL'S VACUUM SERVICE LTD., ONE EARTH ENVIRONMENTAL SOLUTIONS INC., and 2012613 ALBERTA LTD.



ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	DLA Piper (Canada) LLP Barristers and Solicitors Suite 2700, Stantec Tower 10220 103rd Avenue Edmonton, AB T5J 0K4 Phone: 780.429.6835 Fax: 780.670.4239 Email: jerritt.pawlyk@dlapiper.com/kevin.hoy@dlapiper.com Attention: Jerritt Pawlyk and Kevin Hoy
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NOTICE TO RESPONDENTS: BANK OF MONTREAL, CANADA REVENUE AGENCY, MUNICIPAL DISTRICT OF BEAVER COUNTY

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

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

Date	January 23, 2025
Time	3:00 p.m.
Where	Edmonton Courts via WebEx Virtual Courtroom 86 https://albertacourts.webex.com/meet/virtual.courtroom86
Before Whom	The Honourable Justice Neilson

Remedy claimed or sought:

1. MNP Ltd. (the "**Receiver**"), in its capacity as Receiver of Gill's Vacuum Service Ltd. ("**Gill's**"), One Earth Environmental Solutions Inc. ("**One Earth**"), and 2012613 Alberta Ltd. ("**201 Alberta**", and collectively with Gill's and One Earth, the "**Debtors**"), seeks, pursuant to the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 (the "**BIA**"), an order substantially in the form of the draft Order for Final Distribution, Approval of Receiver's Fees and Disbursements, Approval of Receiver's Activities and Discharge of Receiver (the "**Discharge Order**") attached hereto as **Schedule "A"**:
 - a) abridging the time for service of this application and deeming service good and sufficient, if necessary;
 - b) directing the Municipal District of Beaver County ("**Beaver County**") to make any necessary amendments to its tax roll as may be required to give effect to the Sale Approval and Vesting Order in these proceedings, dated May 21, 2024 (the "**SAVO**");
 - c) approving, without limitation:
 - i. all of the actions of the Receiver with respect to the Debtors in relation to the discharge of the Receiver's duties and responsibilities as prescribed by the Order of this Honourable Court in these proceedings dated November 18, 2022, (the "**Receivership Order**"), as such actions are described in the Receiver's Second Report, dated January 13, 2025, (the "**Second Report**");
 - ii. all of the actions taken by the Receiver with respect to the Debtors' books and records;
 - iii. the professional fees and disbursements of the Receiver and the Receiver's independent legal counsel, DLA Piper (Canada) LLP ("**DLA Piper**"), as are set out in the Fourth Report, and the January 13, 2025, Fee Affidavit of Kristin Gray, without the necessity of a formal passing of the Receiver's accounts; and
 - iv. the Receiver's proposed Cost Allocation and Distribution, as is set out in the Fourth Report.
 - d) directing and authorizing the Receiver to maintain a holdback from funds receipted in these proceedings in the amount of \$21,408 (the "**Holdback**") to allocate towards the professional fees of the Receiver and DLA Piper to complete the administration of the Receivership;
 - e) increasing the Receiver's Charge (as defined in the Receivership Order) from \$50,000 to \$130,000;
 - f) approving a payment in the amount of \$57,800 to repay the Receiver's borrowings from the Bank of Montreal ("**BMO**") pursuant to the Receiver's Borrowing Charge (as defined in the Receivership Order);
 - g) discharging the Receiver from its obligations upon the completion of the outstanding activities described in the draft Discharge Order;
 - h) adjudging and declaring that, based on the evidence before this Honourable Court, the Receiver:

- i. has acted honestly and in good faith, and has dealt with the property of the Debtors and carried out the mandate imposed on the Receiver pursuant to the Receivership Order in a commercially reasonable manner; and
 - ii. shall not be liable for any act or omission, including, without limitation, any act or omission arising from, relating to or in connection with its discharge of its mandate, save and except for any liability arising out of fraud, gross negligence, or wilful misconduct on the part of the Receiver;
- i) adjudging and declaring that no action or other proceedings shall be commenced against the Receiver in any way arising from or related to its capacity or conduct as Receiver, except with prior leave of this Court on Notice to the Receiver, and upon such terms as this Court may direct; and
 - j) such further and other relief as this Honourable Court may deem just.

Grounds for making this application:

2. BMO advanced financing to the Debtors to enable Gill's to acquire property and equipment related to its obligations.
3. Gill's granted mortgage security to BMO over properties (collectively, the "**Main Street Properties**") located within Beaver County, Alberta, legally and civically described as follows:

Plan 654NY
Lot B
321 Main Street, Kinsella, AB

("321 Main Street")

Plan 1562W Block 5
Lots 10 to 12
124 Main Street, Kinsella, AB

("124 Main Street")

Plan 1562W
Block 8 Lot 1

("Lot 1 Main Street")

4. On or around March 31, 2022, BMO demanded payment on the indebtedness owed to it by the Debtors. Having failed to repay the indebtedness by November of 2022, BMO applied for, and obtained, the Receivership Order appointing The Bowra Group Inc. (being the predecessor of MNP Ltd.) was appointed as Receiver over the current and future assets, undertakings, and properties of the Debtors.

The Receiver's Activities Following Appointment

5. The Receivership Order appointed the Receiver as Receiver of all of the current and future assets, undertakings, and properties of the Debtors. Following its appointment, the Receiver undertook activities including, without limitation:
 - a) took possession of and secured the Main Street Properties;

- b) engaged a contractor to perform regular insurance inspections in respect of the properties;
- c) reviewed marketing proposals for the sale of the Main Street Properties;
- d) engaged with the Canada Revenue Agency (“**CRA**”);
- e) obtained general liability insurance respecting the 124 Main Street and 321 Main Street properties;
- f) obtained real property appraisals for the Main Street Properties;
- g) accepted an Offer to Purchase in respect of Lot 1 Main Street and closed a transaction for the sale of such property in May 2023;
- h) solicited and obtained proposal to auction the 321 Main Street and 124 Main Street Properties from LFC Marketing Services, Inc. (“**LFC**”); and
- i) completed all administrative requirements as mandated pursuant to the *BIA* or the Receivership Order.

Sale of 321 Main Street and 124 Main Street Properties

- 6. Upon the conclusion of an auction agreement between the Receiver and LFC, an auction services provider, the Receiver applied for and obtained the SAVO in May 2024. The provisions of the SAVO expressly authorized the Receiver to conduct an auction, facilitated by LFC, for the sale of the 321 Main Street and 124 Main Street properties.
- 7. LFC conducted an online auction for the 321 Main Street and 124 Main Street properties between June 20, 2024, and August 1, 2024 (the “**First Auction**”). The First Auction resulted in bids for the the 321 Main Street and 124 Main Street properties in the respective amounts of \$39,000 and \$99,000. However, neither of the purchaser who had submitted winning bids in the First Auction ultimately closed on the purchase of the 321 Main Street or 124 Main Street properties.
- 8. At the Receiver’s direction, LFC conducted a further online auction for the sale of 321 Main Street and 124 Main Street properties between August 29, 2024, and October 8, 2024 (the “**Second Auction**”).
- 9. The Second Auction resulted in winning bids for the 321 Main Street and 124 Main Street properties in the respective amounts of \$69,690 and \$19,000. The Receiver closed the transactions resulting from the Second Auction in November 2024.

Increase to Receiver’s Charge

- 10. The Receiver’s Charge set out in the Receivership Order is in the amount of \$50,000. The fees and disbursements of the Receiver and its counsel in these proceedings have exceeded that amount. Accordingly, the Receiver submits that it is reasonable to increase the Receiver’s Charge to \$130,000.

Order of Mandamus re: Tax Roll

- 11. As is discussed below, proceeds derived from the sale of the Debtors’ property will be insufficient to retire debts ranking ahead of the outstanding tax debts owing to Beaver County. To give effect to the SAVO, the Receiver thus seeks an order of mandamus requiring Beaver County to amend its tax roll to show no municipal taxes owing in respect of the 321 Main Street and 124 Main Street properties the tax years of 2024 and earlier. This Court is empowered to gran such order of

mandamus by its authority pursuant to paragraph 27 of the Receivership Order and paragraph 19 of the SAVO.

Distributions

12. As of January 13, 2026, the Receiver maintains \$848.00 received in this matter in its trust account and DLA holds \$78,360 in its trust account.
13. As is particularized in Appendix "G" to the Second Report, receipts and disbursements of the Receiver (exclusive of the proceeds derived from the sale of the 321 Main Street and 124 Main Street properties) in these proceedings are \$168,392 and \$167,543, respectively, current to January 7, 2025.
14. The Receiver has identified four claims against the assets of the Debtors that it believes rank in priority to the indebtedness owing by the Debtors to BMO:
 - a) funds borrowed by the Receiver from BMO pursuant to the Receiver's Borrowing Charge in the amount of \$57,800;
 - b) a claim of CRA for unremitted source deductions of Gill's in the amount of \$87,082 impressed with a "deemed trust" pursuant to the *Income Tax Act*, RSC 1985, c 1 (the "*ITA*");
 - c) a claim of CRA for unremitted GST of Gill's accruing in 2022 in the amount of \$6,414, impressed with a "deemed trust" pursuant to the *Excise Tax Act*, RSC 1985, c E-15 (the "*ETA*"); and
 - d) unpaid municipal property taxes owing to Beaver County in respect of the 321 Main Street and 124 Main Street properties in the amount of \$7,000.
15. The Receiver proposes to distribute the amount of \$57,800 to BMO for repayment of the Receiver's borrowings under the Receiver's Borrowing Charge.
16. The Receiver proposes to allocate the remaining balance of amounts held by it and its counsel, being \$21,408, towards the Holdback for the purpose of payment of the fees and disbursements of the Receiver and DLA. In the event that a balance of the Holdback remains at the time of the Receiver's filing of the Affidavit of Licensed Insolvency Trustee, the Receiver proposes to pay such balance to CRA, whose claims against the Debtors rank first following the Receiver's Charge and the Receiver's Borrowing Charge.
17. The Receiver does not propose to make any distribution to Beaver County, whose interest in the proceeds from the sale of the 321 Main Street and 124 Main Street properties falls subordinate to the interest of CRA in such proceeds by operation of the "deemed trust" provisions of the *ITA* and the *ETA*.

Outstanding Matters

18. To discharge its outstanding obligations owing under its mandate in these proceedings, the Receiver must:
 - a) distribute the net funds realized by the Receiver in these proceedings;
 - b) ensure that titles to the 321 Main Street and 124 Main Street properties register in the name of the purchasers thereof; and
 - c) file the Affidavit of Licensed Trustee.

Approval of Receiver's Activities and Conduct and Request for Discharge

19. The Receiver submits that it has carried out its duties imposed on it pursuant to the *BIA*, the Receivership Order, and common law honestly and in good faith. In so doing, the Receiver has dealt with the property of the Debtors in a commercially reasonable manner.
20. The Receiver, therefore, respectfully submits that this Honourable Court may exercise its authority to approve the fees and conduct of the Receiver and to discharge the Receiver of such duties upon the completion of the outstanding matters particularized in the draft Discharge Order.

Material or evidence to be relied on:

21. The Receiver's First Report, dated May 13, 2024, and the Receiver's Second Report, dated January 13, 2025.
22. Fee Affidavit of Kristin Gray, dated January 13, 2025.
23. The pleadings and proceedings taken herein.
24. (draft) Discharge Order.
25. (draft) Discharge Order redlined against the template Discharge Order approved by the Court of King's Bench of Alberta.
26. Such further and other material as counsel may advise.

Applicable rules:

27. Rules 6.3(1) and 6.9(1) of the *Alberta Rules of Court*, Alta Reg. 124/2010.

Applicable Acts and regulations:

28. *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3.
29. *Personal Property Security Act*, RSA 2000, c P-7.
30. *Income Tax Act*, RSC 1985, c 1.
31. *Excise Tax Act*, RSC 1985, c E-15.

Any irregularity complained of or objection relied on:

32. Not applicable to this Application.

How the application is proposed to be heard or considered:

33. Via WebEx, in Virtual Courtroom 86, before the Honourable Justice Neilson, accessible at <https://albertacourts.webex.com/meet/virtual.courtroom86>.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and 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.

Schedule "A"

COURT FILE NUMBER	2203 09349
COURT	COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE	EDMONTON
PLAINTIFF	BANK OF MONTREAL
DEFENDANTS	GILL'S VACUUM SERVICE LTD., ONE EARTH ENVIRONMENTAL SOLUTIONS INC., 2012613 ALBERTA LTD., and NEIL GILLARD
DOCUMENT	ORDER FOR FINAL DISTRIBUTION, APPROVAL OF RECEIVER'S FEES AND DISBURSEMENTS, APPROVAL OF RECEIVER'S ACTIVITIES AND DISCHARGE OF RECEIVER
APPLICANT	MNP LTD. in its capacity as Receiver of GILL'S VACUUM SERVICE LTD., ONE EARTH ENVIRONMENTAL SOLUTIONS INC., and 2012613 ALBERTA LTD.



ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	DLA Piper (Canada) LLP Barristers and Solicitors Suite 2700, Stantec Tower 10220 103rd Avenue Edmonton, AB T5J 0K4 Phone: 780.429.6835 Fax: 780.670.4239 Email: jerritt.pawlyk@dlapiper.com/kevin.hoy@dlapiper.com Attention: Jerritt Pawlyk and Kevin Hoy
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DATE ON WHICH ORDER WAS PRONOUNCED:	<u>January 23, 2025</u>
LOCATION WHERE ORDER WAS PRONOUNCED:	<u>Edmonton, Alberta</u>
NAME OF MASTER/JUDGE WHO MADE THIS ORDER:	<u>The Honourable Justice J.T. Nielson</u>

UPON THE APPLICATION of MNP Ltd. in its capacity as the Court-appointed receiver (the "**Receiver**") of the undertakings, property and assets of Gill's Vacuum Service Ltd., One Earth Environmental Solutions Inc., and 2012613 Alberta Ltd. (collectively, the "**Debtor**") for an Order for the final distribution of proceeds, approval of the Receiver's fees and disbursements, approval of the Receiver's activities and discharge of the Receiver; AND UPON hearing read the Receiver's Second Report dated January 13, 2025 (the "**Receiver's Report**"); AND UPON hearing counsel for the Receiver, counsel for the Debtor and counsel for various creditors and other interested parties present; **AND UPON** being satisfied that it is appropriate to do so, **IT IS ORDERED THAT:**

1. Service of notice of this application and supporting materials is hereby declared to be good and sufficient, and no other person is required to have been served with notice of this application, and time for service of this application is abridged to that actually given.
2. The Receiver's Charge, as defined in paragraph 18 of the November 18, 2022, Receivership Order of the Honourable Justice J.A. Fagnan, (the "**Receivership Order**") granted in these proceedings, is increased from the sum of \$50,000.00 to the sum of \$130,000.00.
3. The Municipal District of Beaver County, Alberta, ("**Beaver County**") is ordered and directed to make all necessary amendments to its tax roll, as defined in section 327(1) of the *Municipal Government Act*, RSA 2000, c M-26, to show that no taxes, charges, or other amounts are claimable by Beaver County for the tax years of 2024 and all tax years prior to 2024 in respect of the titles legally described as follows:

Plan 654NY
Lot B

and

Plan 1562W Block 5
Lots 10 to 12

(the "**Gill's Lands**")
4. The Receiver's accounts for fees and disbursements, as set out in the Receiver's Report are hereby approved without the necessity of a formal passing of its accounts.
5. The accounts of the Receiver's legal counsel DLA Piper (Canada) LLP ("**DLA Piper**"), for its fees and disbursements, as set out in the Receiver's Report are hereby approved without the necessity of a formal assessment of its accounts.
6. The Receiver's activities as set out in the Receiver's Report and in all of its other reports filed herein, and the Statement of Receipts and Disbursements as attached to the Receiver's Report, are hereby ratified and approved
7. The Receiver is authorized and directed to make the following distributions:
 - (a) To Bank of Montreal ("**BMO**"), the sum of \$57,800.00, in respect of the Receiver's borrowings drawn pursuant to the Receiver's Borrowing Charge, as defined in paragraph 21 of the Receivership Order;
 - (b) To the Receiver, the sum of \$21,408 (the "**Holdback**") to be held in trust to allocate towards the professional fees and disbursements of the Receiver, up to a maximum of \$11,408.00, and to the professional fees and disbursements of DLA Piper, up to a maximum of \$10,000.00, incurred in connection with matters required to complete the administration of the Receivership, together with any other incidental expenses; and
 - (c) To the Canada Revenue Agency, the balance of the Holdback, if any, remaining at the time of the filing of the Affidavit described in paragraph 10 of this Order.
8. On the evidence before the Court, the Receiver has satisfied its obligations under and pursuant to the terms of the Orders granted in the within proceedings up to and including the date hereof, and the Receiver shall not be liable for any act or omission on its part including, without limitation, any act or omission pertaining to the discharge of its duties in the within proceedings, save and except for any liability arising out of any in fraud, gross negligence or willful misconduct on the part of

the Receiver, or with leave of the Court. Subject to the foregoing any claims against the Receiver in connection with the performance of its duties are hereby stayed, extinguished and forever barred.

9. No action or other proceedings shall be commenced against the Receiver in any way arising from or related to its capacity or conduct as Receiver, except with prior leave of this Court on Notice to the Receiver, and upon such terms as this Court may direct.
10. Upon the Receiver filing with the Clerk of the Court a sworn Affidavit of a licensed Trustee employed by the Receiver confirming that:
 - (a) All matters set out in paragraph 7 of this Order have been completed; and
 - (b) The title to the Gill's Lands have registered in the names of the purchasers thereof in the Land Titles Registry for the Province of Alberta.

then the Receiver shall be discharged as Receiver of the Debtor, provided however, that notwithstanding its discharge herein (a) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein, and (b) the Receiver 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 the Receiver in its capacity as Receiver.

11. This Order must be served only upon those interested parties attending or represented at the within application and service may be effected by Facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following the transmission or delivery of such documents.
12. Service of this Order on any party not attending this application is hereby dispensed with.

Justice of the Court of King's Bench of Alberta