

COURT FILE NUMBER 2001-13391
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
APPLICANT ORPHAN WELL ASSOCIATION
RESPONDENT BOW RIVER ENERGY LTD.
DOCUMENT **APPROVAL AND VESTING ORDER**
(Sale by Receiver of certain assets to Dark Warrior Resources Ltd.)


ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

BENNETT JONES LLP
Barristers and Solicitors
4500, 855 – 2nd Street S.W.
Calgary, Alberta T2P 4K7

Attention: Keely Cameron
Telephone No.: 403-298-3324
Fax No.: 403-265-7219
Client File No.: 068775.0005

I hereby certify this to be a true copy of the original Order

Dated this 27 day of April, 2021


for Clerk of the Court

DATE ON WHICH ORDER WAS PRONOUNCED: April 26, 2021
NAME OF JUDGE WHO MADE THIS ORDER: The Honourable Justice R. A. Neufeld
LOCATION OF HEARING: Calgary, Alberta

UPON THE APPLICATION of BDO Canada Limited, solely in its capacity as Court-appointed receiver and manager ("**Receiver**") of the current and future assets, undertakings and properties of the Respondent (the "**Debtor**") for an order approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale between the Receiver and Dark Warrior Resources Ltd. (the "**Purchaser**") dated April 16, 2021, (the "**Sale Agreement**") and appended to the Confidential Supplement dated April 19, 2021 (the "**Confidential Supplement**"), and vesting in the Purchaser (or its nominee) the Debtor's right, title and interest in and to the assets described in the Sale Agreement as the Assets (the "**Purchased Assets**") but excluding all of the Debtor's other assets and interests;

AND UPON HAVING READ the Receivership Order dated October 29, 2020 (the "**Receivership Order**"), the Second Report of the Receiver dated April 19, 2021, and the Confidential Supplement; **AND UPON** hearing counsel for the Receiver and any other interested parties that may be present; **AND UPON IT APPEARING** that all interested and affected parties have been served with notice of this Application; **AND UPON** having read the pleadings, proceedings, orders and other materials filed in this action;

IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE

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.

APPROVAL OF TRANSACTION

2. The Transaction is hereby approved and execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for completion of the Transaction and conveyance of the Purchased Assets to the Purchaser (or its nominee).

VESTING OF PROPERTY

3. Subject only to approval by the AER of transfer of any applicable licenses, permits and approvals pursuant to section 24 of the *Oil and Gas Conservation Act* (Alberta) and section 18 of the *Pipeline Act* (Alberta), upon delivery of a Receiver's certificate to the Purchaser (or its nominee) substantially in the form set out in **Schedule "A"** hereto (the "**Receiver's Closing Certificate**"), all of the Debtor's right, title and interest in and to the Purchased Assets listed at **Schedule "B"** hereto shall vest absolutely in the name of the Purchaser (or its nominee), free and clear of and from any and all caveats, security interests, hypothecs, pledges, mortgages, liens, trusts or deemed trusts, reservations of ownership, royalties, options, rights of pre-emption, privileges, interests, assignments, actions, judgements, executions, levies, taxes, writs of enforcement, charges, or other claims, whether contractual, statutory, financial, monetary or otherwise, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, "**Claims**") including, without limiting the generality of the foregoing:

- (a) any encumbrances or charges created by the Receivership Order;
- (b) any charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Alberta) or any other personal property registry system;
- (c) any liens or claims of lien under the *Builders' Lien Act* (Alberta);
- (d) any linear or non-linear municipal tax claims under the *Municipal Government Act*, or otherwise;
- (e) any outstanding amounts owing in respect of the AER Orphan Fund Levy and Administration Fees; and
- (f) those Claims listed in **Schedule "C"** hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, caveats, interests, easements, and restrictive covenants listed in **Schedule "D"** (collectively, "**Permitted Encumbrances**")).

For greater certainty, this Court orders that all Claims including Encumbrances other than Permitted Encumbrances, affecting or relating to the Purchased Assets are hereby expunged, discharged and terminated as against the Purchased Assets.

4. Upon delivery of the Receiver's Closing Certificate, and upon filing of a certified copy of this Order, together with any applicable registration fees, all governmental authorities including those referred to below in this paragraph (collectively, "**Governmental Authorities**") are hereby authorized, requested and directed to accept delivery of such Receiver's Closing Certificate and certified copy of this Order as though they were originals and to register such transfers, interest authorizations, discharges and discharge statements of conveyance as may be required to convey to the Purchaser or its nominee clear title to the Purchased Assets subject only to Permitted Encumbrances. Without limiting the foregoing:
- (a) the Registrar of Land Titles ("**Land Titles Registrar**") for the lands defined below shall and is hereby authorized, requested and directed to forthwith:
 - (i) cancel existing Certificates of Title for those lands and premises municipally or legally described as "Land Title Lands" in Schedule B (the "**Lands**");

- (ii) issue a new Certificate of Title for the Lands in the name of the Purchaser (or its nominee);
 - (iii) transfer to the New Certificate of Title the existing instruments listed in Schedule "D", to this Order, and to issue and register against the New Certificate of Title such new caveats, utility rights of ways, easements or other instruments as are listed in Schedule "D"; and
 - (iv) discharge and expunge the Encumbrances listed in Schedule "C" to this Order and discharge and expunge any Claims including Encumbrances (but excluding Permitted Encumbrances) which may be registered after the date of the Sale Agreement against the existing Certificate of Title to the Lands;
- (b) Alberta Energy ("**Energy Ministry**") shall and is hereby authorized, requested and directed to forthwith:
- (i) cancel and discharge those Claims including builders' liens, security notices, assignments under section 426 (formerly section 177) of the *Bank Act* (Canada) and other Encumbrances (but excluding Permitted Encumbrances) registered (whether before or after the date of this Order) against the estate or interest of the Debtor in and to any of the Purchased Assets located in the Province of Alberta; and
 - (ii) transfer all Crown leases conveyed under the Sale Agreement standing in the name of the Debtor, to the Purchaser (or its nominee) free and clear of all Claims including Encumbrances but excluding Permitted Encumbrances; and
- (c) the Registrar of the Alberta Personal Property Registry shall and is hereby directed to forthwith cancel and discharge any registrations at the Alberta Personal Property Registry (whether made before or after the date of this Order) claiming security interests (other than Permitted Encumbrances) in the estate or interest of the Debtor in any of the Purchased Assets which are of a kind prescribed by applicable regulations as serial number goods.
5. In order to effect the transfers and discharges described above, this Court directs each of the Governmental Authorities to take such steps as are necessary to give effect to the terms of this Order and the Sale Agreement. Presentment of this Order and the Receiver's Closing Certificate

shall be the sole and sufficient authority for the Governmental Authorities to make and register transfers of title or interest and cancel and discharge registrations against any of the Purchased Assets of any Claims excluding Permitted Encumbrances.

6. No authorization, approval or other action by and no notice to or filing with any governmental authority or regulatory body exercising jurisdiction over the Purchased Assets is required for the due execution, delivery and performance by the Receiver of the Sale Agreement, other than any required approval by the AER referenced in paragraph 3 above.
7. Upon delivery of the Receiver's Closing Certificate together with a certified copy of this Order, this Order shall be immediately registered by the Land Titles Registrar notwithstanding the requirements of section 191(1) of the *Land Titles Act*, RSA 2000, c.L-7 and notwithstanding that the appeal period in respect of this Order has not elapsed. The Land Titles Registrar is hereby directed to accept all Affidavits of Corporate Signing Authority submitted by the Receiver in its capacity as Receiver of the Debtor and not in its personal capacity.
8. For the purposes of determining the nature and priority of Claims, net proceeds from sale of the Purchased Assets (to be held in an interest bearing trust account by the Receiver) shall stand in the place and stead of the Purchased Assets from and after delivery of the Receiver's Closing Certificate and all Claims excluding Permitted Encumbrances shall not attach to, encumber or otherwise form a charge, security interest, lien, or other Claim against the Purchased Assets and may be asserted against the net proceeds from sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale. Unless otherwise ordered (whether before or after the date of this Order), the Receiver shall not make any distributions to creditors of net proceeds from sale of the Purchased Assets without further order of this Court, provided however the Receiver may apply any part of such net proceeds to repay any amounts the Receiver has borrowed for which it has issued a Receiver's Certificate pursuant to the Receivership Order or as against any Receiver's Charge outstanding pursuant to the Receivership Order.
9. Except as expressly provided for in the Sale Agreement or by section 5 of the Alberta *Employment Standards Code*, the Purchaser (or its nominee) shall not, by completion of the Transaction, have liability of any kind whatsoever in respect of any Claims against the Debtor.

10. Upon completion of the Transaction, the Debtor and all persons who claim by, through or under the Debtor in respect of the Purchased Assets, and all persons or entities having any Claims of any kind whatsoever in respect of the Purchased Assets, save and except for persons entitled to the benefit of the Permitted Encumbrances, shall stand absolutely and forever barred, estopped and foreclosed from and permanently enjoined from pursuing, asserting or claiming any and all right, title, estate, interest, royalty, rental, equity of redemption or other Claim whatsoever in respect of or to the Purchased Assets, and to the extent that any such persons or entities remain in the possession or control of any of the Purchased Assets, or any artifacts, certificates, instruments or other indicia of title representing or evidencing any right, title, estate or interest in and to the Purchased Assets, they shall forthwith deliver possession thereof to the Purchaser (or its nominee).
11. The Purchaser (or its nominee) shall be entitled to enter into and upon, hold and enjoy the Purchased Assets for its own use and benefit without any interference of or by the Debtor, or any person claiming by, through or against the Debtor.
12. Immediately upon closing of the Transaction, holders of Permitted Encumbrances shall have no claim whatsoever against the Receiver.
13. The Receiver is directed to file with the Court a copy of the Receiver's Closing Certificate forthwith after delivery thereof to the Purchaser (or its nominee).

MISCELLANEOUS MATTERS

14. Notwithstanding:
 - (a) the pendency of these proceedings and any declaration of insolvency made herein;
 - (b) the pendency of any applications for a 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 the Debtor, and any bankruptcy order issued pursuant to any such applications;
 - (c) any assignment in bankruptcy made in respect of the Debtor; and
 - (d) the provisions of any federal or provincial statute:

the vesting of the Purchased Assets in the Purchaser (or its nominee) pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall

not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a transfer at undervalue, settlement, fraudulent preference, assignment, fraudulent conveyance, or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

15. The Receiver, the Purchaser (or its nominee) and any other interested party, shall be at liberty to apply for further advice, assistance and direction as may be necessary in order to give full force and effect to the terms of this Order and to assist and aid the parties in closing the Transaction.
16. This Honourable Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any of its provinces or territories or in any foreign jurisdiction, to act in aid of and to be complimentary to this Court in carrying out the terms of this Order, to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such order and to provide such assistance to the Receiver, as an officer of the Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.
17. Service of this Order shall be deemed good and sufficient by:
 - (a) Serving the same on:
 - (i) the persons listed on the service list created in these proceedings;
 - (ii) any other person served with notice of the application for this Order;
 - (iii) any other parties attending or represented at the application for this Order;
 - (iv) the Purchaser or the Purchaser's solicitors; and
 - (b) Posting a copy of this Order on the Receiver's website, and service on any other person is hereby dispensed with.

18. Service of this Order may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following transmission or delivery of this Order.

RAM

Justice of the Court of Queen's
Bench of Alberta

Schedule "A"

FORM OF RECEIVER'S CERTIFICATE

CLERK'S STAMP

COURT FILE NUMBER	2001-13391
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
APPLICANT	ORPHAN WELL ASSOCIATION
RESPONDENT	BOW RIVER ENERGY LTD.
DOCUMENT	<u>RECEIVER'S CERTIFICATE</u>
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	BENNETT JONES LLP Barristers and Solicitors 4500, 855 – 2nd Street S.W. Calgary, Alberta T2P 4K7 Attention: Keely Cameron Telephone No.: 403-298-3324 Fax No.: 403-265-7219 Client File No.: 068775.0005

RECITALS

- A. Pursuant to an Order of the Honourable Madam Justice D.L. Shelley of the Court of Queen's Bench of Alberta, Judicial District of Calgary (the "**Court**"), dated October 29, 2020, BDO Canada Limited was appointed as the Receiver (the "**Receiver**") of the undertaking, property and assets of Bow River Energy Ltd. ("**Bow River**").
- B. Pursuant to an Order of the Court dated April 26, 2021 (the "**Vesting Order**"), the Court approved the Transaction (as defined in the Vesting Order) between the Receiver and Dark Warrior Resources Ltd. (the "**Purchaser**") dated as of April 16, 2021 (the "**Sale Agreement**"), and provided for the vesting in the Purchaser of Bow River's right, title and interest in and to the Purchased Assets (as defined in the Vesting Order), which vesting is to be effective with respect to

the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price (as defined in the Sale Agreement) for the Purchased Assets; (ii) that the conditions to closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser (or its nominee) has paid and the Receiver has received the Purchase Price (as defined in the Sale Agreement) for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser (or its nominee); and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver to the Purchaser at [TIME] on [DATE].

BDO CANADA LIMITED in its capacity as Receiver of the undertaking, property and assets of Bow River Energy Ltd., and not in its personal capacity.

Per: _____

Name:

Title:

Schedule "B"

List of Purchased Assets

The Purchased Assets consist of the Assets (as defined in the Sale Agreement, and each subsequent capitalized term herein having the respective meaning as defined therein).

Wells

Licence #	Location	Status	Vendors Interest
0334535	100/11-29-038-01W4/0	Suspended Oil	100%
0334433	102/13-29-038-01W4/0	Suspended Oil	100%

LANDS

Title Document	Land Description	Working Interest	Encumbrances
Alberta Crown Petroleum and Natural Gas Lease #049907480	Twp 38 Rge 1 W4M: NW Sec 29 All P&NG to base Mannville ex NG in Mannville Group	100%	Alberta Crown Lessor Royalty;
Alberta Crown Petroleum and Natural Gas Lease #049907480	Twp 38 Rge 1 W4M: LSD 3 Sec 29 All P&NG to base Mannville ex NG in Mannville Group	100%	Alberta Crown Lessor Royalty;
Alberta Crown Petroleum and Natural Gas Lease #0405110098	Twp 38 Rge 1 W4M: LSD 5,6 Sec 29 All P&NG to base Mannville ex NG in Mannville Group	100%	Alberta Crown Lessor Royalty;

Schedule "C"

Claims

Schedule "D"

Permitted Encumbrances

Permitted Encumbrances consist of the following (with capitalized terms having the definitions given to them in the Sale Agreement, unless otherwise defined in this Order):

- (i) all Encumbrances, including any overriding royalties, net profits interests and other burdens, which are provided for under the Title Documents;
- (ii) the terms and conditions of the Assumed Contracts and the Title Documents, including ROFRs, the requirement to pay any rentals or royalties to the grantor thereof to maintain the Title Documents in good standing and any royalty or other burden reserved to the grantor thereof or any gross royalty trusts applicable to the grantor's interest in any of the Title Documents;
- (iii) the right reserved to or vested in any grantor, Governmental Authority or other public authority by the terms of any Title Document or by Applicable Laws to terminate any Title Document;
- (iv) easements, rights of way, servitudes or other similar rights in land, including rights of way and servitudes for highways, railways, sewers, drains, gas and oil pipelines, gas and water mains, electric light, power, telephone or cable television conduits, poles, wires or cables;
- (v) taxes on Petroleum Substances or the income or revenue therefrom, unless specifically excluded and governmental restrictions on production rates from the Wells or on operations being conducted on the Lands or otherwise affecting the value of any of the Assets;
- (vi) agreements for the sale, processing, transmission or transportation of Petroleum Substances entered into by the Debtor, or the Vendor for and on behalf of the Debtor, subsequent to the date of this Agreement, provided that such agreements can be terminated on less than 1 month's notice;
- (vii) any obligation of the Vendor or the Debtor to hold any portion of their interest in and to any of the Assets in trust for Third Parties;
- (viii) any rights reserved to or vested in any Governmental Authority to control or regulate the ownership, use or operation of any of the Assets in any manner, including governmental requirements imposed by statute or Governmental Authorities as to rates of production from operations or otherwise affecting recoverability of Petroleum Substances;
- (ix) undetermined or inchoate liens incurred or created as security in favour of any Person with respect to the development or operation of any of the Assets, as regards the Vendor's or any Debtor's share of the costs and expenses thereof which are not due or delinquent as of the date hereof;

- (x) the reservations, limitations, provisos and conditions in any grants or transfers from the Crown of any of the Lands or interests therein, and statutory exceptions to title;
- (xi) provisions for penalties and forfeitures under Title Documents as a consequence of non-participation in operations;
- (xii) any requirement to post or maintain any deposits or other form of security required by any Governmental Authority; and
- (xiii) liens granted in the ordinary course of business to a public utility, municipality or Governmental Authority with respect to operations pertaining to any of the Assets as regards the Vendor's or any Debtor's share of amounts owing to such public utility, municipality or Governmental Authority which are not due or delinquent as of the date hereof;

provided that in no circumstance shall any amounts owing by the Debtor to a Governmental Authority prior to the Closing Date in respect of taxes on linear or non linear property (as defined in the Municipal Government Act (Alberta)) be a Permitted Encumbrance.

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