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1. INTRODUCTION AND PURPOSE OF REPORT

Introduction

1. On February 14, 2020, the Receiver filed its first report which described, among other things, the & R P S D assets located in the Northwest Territories. Consequently, a separate receivership order was granted for the Northwest Territories assets.
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3. On July 6, 2020, the Receiver filed its second report which contained details of the results of the purchase and sale agreement with [redacted] (the "Purchase Agreement"). See PSA and [redacted] 2020.

Purpose of the Report

5. The Receiver's Report (which has been prepared to provide the Court with:
 - a) An update on the actions of the Receiver since the [redacted] Report

- b) 7KH 5HFHLYHU¶V UHTXHVW IRU DGYLFH DQG GLUHFWLRQV
 Interim Audited Estimated final statement of receipts and disbursements
- c) The 5HFHLYHU¶V DQG ¶V FSLNDLQJ¶V FRQWDLQHU¶V FRQWDLQHU¶V FRQWDLQHU¶V
 to WKH SURSRVHG 5HFHLYHU¶V GLVFKDUJH
 Wesland Midland F&M FRQWDLQHU¶V FRQWDLQHU¶V FRQWDLQHU¶V
 June 1 2020
- d) 7KH 5HFHLYHU¶V UHTXHVW IRU DGYLFH DQG GLUHFWLRQV
 funds as between the AER and NWT;
- e) TKH 5HFHLYHU¶V UHTXHVW IRU DGYLFH DQG GLUHFWLRQV
 discharge and
- f) 7KH 5HFHLYHU¶V UHTXHVW IRU DGYLFH DQG GLUHFWLRQV

Terms of Reference

6. All materials filed with the Court and all orders granted by the Court in connection with the receivership proceedings will be made available to creditors and other interested parties in electronic format.
 IRUPDW RQ WKH 5HFHLYHU¶V UHTXHVW IRU DGYLFH DQG GLUHFWLRQV
<http://www.kdmq.com/zh/est/val/wh>
7. In preparing this Report, the Receiver has been provided with, and has relied upon, unaudited and other financial information from the Receiver's clients and other representatives.
 LQIRUPDWLRQ ERRNV DQG LQFRRO GVSURSDUHFQW LEXH
 &RPSDQ\ DQG RU LWV UHSUHVHQWDWLYHV DQG GLVFXVVL
8. The Receiver has reviewed the Information for reasonableness, consistency and use in the context in which it was provided. The 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 Canadian Auditing Standards pursuant to the Chartered Professional Accountants Handbook and accordingly the Receiver expresses no opinion or other form of assurance in respect of the Information.
9. The information contained in this Report is not intended to be relied upon by any prospective purchaser or investor in any transaction with the Receiver.
10. Unless otherwise stated, all monetary amounts noted herein are expressed in Canadian dollars.

2. ACTIVITIES OF THE RECEIVER SINCE THE SECOND REPORT

Operations

11. As detailed in the Second Report, the Receiver completed the shut-in of the & R P S D operating assets in the Marlowe area. There are no remaining active assets held by the Company.
12. Upon the Court's approval of the Tallahassee PSA, the Receiver coordinated activities with Tallahassee to close the sale. This has included the transfer of numerous leases and AER licenses attached to the sold assets. The sale is now complete, and Tallahassee now holds the leases and licenses to commence operations.
13. Upon shut-in of the Marlowe assets, the Receiver terminated the employees and contractors no longer required for operating activities in this area. Three employees have been retained to assist the Receiver with its requirements as license holder of the unsold assets, and the completion of the transaction under the Tallahassee PSA.
14. As the license holder of oil and gas assets in Alberta, the Receiver has been required to conform with various ongoing environmental and regulatory requirements issued by the Alberta Energy Regulator (the "AER"). The Receiver has been required to perform various activities to conform to these regulations, including, but not limited to, the following:
 - a) Negotiation for the retention of specialized equipment and contractors;
 - b) Arrangements for the prepayment of contractor invoices;
 - c) Arrangements for contractor travel and use of third party facilities;
 - d) Correspondence and negotiations with partners and stakeholders of leased properties;
 - e) Regular maintenance and repair of oil and gas assets;
 - f) Quarterly and annual inspections of various properties;
 - g) Issuance of various environmental and health and safety compliance reports; and
 - h) Assessment and remediation of minor leaks and spills

15. Due to the activities as described above the Receiver is of the opinion that the RP SDQ \ V \$ O E H U based assets are in as safe a state as possible, with risk of environmental or health and safety issues minimized. The Receiver will be required to continue the ongoing maintenance activities until the Receiver is discharged, at which point the AER will resume its process to identify responsible parties to conduct abandonment and reclamation, such as remaining working interest participants, or the Orphan Well Association (OWA).
16. The Receiver has carried out the following routine administrative tasks:
- a) Prepared and filed various statutory returns, which include, without limitation, GST returns;
 - b) Reported to and liaised with the AER and the NWT Receiver on various statutory, administrative, and environmental matters;
 - c) Attended to processing of weekly disbursements.
17. The Receivership is effectively concluded and accordingly the Receiver is seeking discharge. Currently, abandonment and reclamation obligations for the remaining facilities are estimated at approximately \$0.4 million and the estate has insufficient funds available to undertake this work.
18. Accordingly, the Receiver understands that upon its discharge, remaining wells, facilities and pipelines will be directed to be abandoned and reclaimed according to the appropriate legislation and regulation.

3. STATEMENT OF RECEIPTS AND DISBURSEMENTS

19. The operations of receivership, and ongoing production revenues up to the date of the shut-in, and disbursements primarily relate to operations of producing oil and gas assets, and of the operations, and ongoing inspection, maintenance and repair of the assets.
20. From January 28, 2020 to October 26, 2020

Interim Statement of Receipts and Disbursements	
January 28, 2020 to October 26, 2020	
	Amount (CAD \$)
Cash Receipts	
Opening cash balance	5,507,410
Production revenues	3,338,031
Sale to TEI	200,000
GST collections	167,471
GST refunds	76,542
Refund of deposits	64,349
TEI tax preparation	20,000
Interest	1,325
Total cash receipts	9,375,127
Cash disbursements	
Contractor and operational disbursements	(4,306,735)
Payroll	(1,082,855)
Insurance	(625,574)
Receiver fees	(280,024)
GST paid	(226,993)
Legal fees	(134,026)
Rent	(119,741)
Utilities	(76,028)
Telephone, cable and internet	(61,816)
Office expenses	(47,694)
GST remitted	(17,611)
Bank fees	(1,594)
Total cash disbursements	(6,980,691)
Excess receipts over disbursements	2,394,436

21. As the Receiver continues to act as the license holder of the & R P S D&S Oil and gas assets, the Receiver must continue to conform with the requirements of the AER to ensure the assets are maintained in a safe state. The inspection and maintenance activities are anticipated to cost approximately \$348,500 to discharge.

22. The Receiver continues to retain three specialized employees to assist with ongoing inspection and maintenance requirements, and final sale and receivership matters. Future payroll costs are anticipated to amount to approximately \$100,000 to discharge.

23. Additionally, the Receiver is attempting to monetize approximately \$150,000 of Gas Cost Allowance (GCA). Strategic usually receives certain credits from the Alberta Government for their share of capital and operating costs related to its operated gas processing facilities. The GCA is currently held by the Alberta Government who are holding these funds. The Department's standard practice in creditor protection or insolvency proceedings is to refuse a refund of credit balances in royalty client accounts, to ensure that royalty obligations arising from ongoing gas production, as well as adjustments to claimed costs, are satisfied." The Receiver is currently of the view that no royalty obligations or adjustments are outstanding and that the Alberta Government will demand payment of same. The Receiver will demand payment of same.

24. The Receiver is maintaining cash holdbacks to address the following disbursements:

- a) \$405,000 for Scientific Research and Experimental Development (SRED) credits. The sum of approximately \$405,000 of SRED credits was received and included in cash on hand on the date of receivership. SRED credits are contingent upon CRA review and issuance of clearance certificate, with a potential requirement to repay a portion or all credits received. Due to COVID-19, this clearance certificate has been delayed and currently there is no estimated time for completion. Upon issuance of clearance certificate in full, payment to the service provider for the preparation of the SRED credit return in the amount of \$126,000 will be required from the holdback amount.
- b) Approximately \$205,800 to address property taxes payable on unsold assets. Property taxes attached to assets sold have been assumed by Tallahassee.

25. The Receiver is currently of the view that no royalty obligations or adjustments are outstanding and that the Alberta Government will demand payment of same. The Receiver will demand payment of same.

Estimated Final Statement of Receipts and Disbursements	
January 28, 2020 to Discharge	
	Amount (CAD \$)
Cash Receipts	
Opening cash balance	5,507,410
Production revenues	3,338,031
Sale to TEI	200,000
GST collections	167,471
GST refunds	76,542
Refund of deposits	64,349
TEI tax preparation	20,000
Interest	1,325
Total cash receipts	9,375,127
Cash disbursements	
Contractor and operational disbursements	(4,634,374)
Payroll	(1,182,855)
Final distribution of funds	(881,944)
Insurance	(625,574)
Receiver fees	(547,892)
CRA SRED holdback	(405,000)
Legal fees	(298,586)
GST paid	(248,612)
Property taxes payable	(205,806)
Rent	(119,741)
Utilities	(76,028)
Telephone, cable and internet	(61,816)
Office expenses	(47,694)
Income tax preparation	(20,000)
GST remitted	(17,611)
Bank fees	(1,594)
Total cash disbursements	(9,375,127)
Excess receipts over disbursements	-

26. Upon discharge, it is estimated that the Receiver will have approximately \$1,900 of remaining funds for distribution

27. The remaining funds will be distributed in accordance with the case of *Orphan Well Association v Grant Thornton Ltd.*, 2019 SCC 5 (*Redwater*”), as outlined further in the Report

28. The Receiver has paid Professional Fees of \$202,511 and \$130,786 respectively, for the period of June 1, 2020 to October 26, 2020. In addition, the Receiver has paid and disbursements to conclude the estate to be approximately \$25,000 and \$40,000 respectively (the Completion Professional Fees). A summary of all receivership professional fees is set out below:

4. DISTRIBUTION OF REMAINING FUNDS

31. Upon discharge, the Receiver intends to make certain payments to creditors, from the remaining funds realized in the course of the administration of the Debtors' receivership estate, for certainty, wholly in relation to the Alberta Property, and distribute the remaining funds in accordance with the principles and priority structure set out in Redwater. Accordingly, the Receiver intends to make a distribution to the AER of the estimated \$81,900 UHPDLQLQJ LQ WKH UHFHLYHUVKLS HVWD account of outstanding environmental and regulatory obligations of the Debtors in the Province of Alberta. For certainty, any further funds received by the Receiver (including, but not limited to, any receipts in respect of the outstanding GCA amounts the Receiver potentially receive and the release of the above described holdbacks) will form part of the Remaining Funds and treated as such.
32. For certainty, included within the Remaining Funds is the sum of up to \$100,000 for the payment of VXFK IXUWKHU 5HFHLYHU ¶V IHHV DQG FRVWV LQFOXGLQJ Z fees and disbursements) not included in the final statement of receipts and disbursements that may be LQFXUUHG LQ WKH HYHQW WKDW DV D UHVXOW RI WKH SR discretion, the Receiver is required to take part in future discussions and/or court proceedings related to the competing claims over the Remaining Funds.
33. However, the Receiver is aware that there may be competing claims to the Remaining Funds as between the AER and GNW ¶V 2IILFH RI WKH 5HJXODWRU OROGO LQ DQG * D
34. \$FFRUGLQJO\ WKH 5HPDLQLQJ)XQGV LQ WKH 5HFHLYHU ¶V pending resolution of the competing claims to the Remaining Funds between ER and the government of the Northwest Territories Office of the Regulator of Oil and Gas Operations. With the H[FHSWLRQ RI WKH UHWDLQHG IRU IXWXUH 5HFHLYHU above, which should be permitted to be used for the payment of such fees and costs, the Remaining Funds are not to be utilized prior to such a resolution.
35. Pursuant to the above, the 5HFHLYHU ¶V conducted a high level review of certain relevant jurisprudence and the current situation relating to OROGO and ER and has attempted to analyze the situation

Background

- 36. On October 4, 2019, OROGO issued an order (the OROGO Order) requiring Strategic to post a security deposit in the amount of \$48,702,033 to be applied against the estimated cost to abandon and reclaim the environmental liabilities of Strategic. The AER Order was issued on January 22, 2020, pursuant to a request by counsel to OROGO to provide the Court with the background and certain relevant facts, taken to review, evaluate and understand the nature of the competing claims by reviewing the law as it applies to a claim pursuant to *Redwater* made by an out-of-province regulator.
- 37. In the affidavit filed with this court dated January 22, 2020 by Amanda Reitenbach (at the time the Chief Operating Officer of Strategic) Ms. Reitenbach stated that “Strategic was disappointed when OROGO issued [the OROGO Order]”.
- 38. The AER issued an AER Order on January 20, 2020. The AER Order required Strategic to post a security deposit in the amount of \$48,702,033 to be applied against the estimated cost to abandon and reclaim the environmental liabilities of Strategic. The AER Order was issued on January 20, 2020, pursuant to a request by counsel to OROGO to provide the Court with the background and certain relevant facts, taken to review, evaluate and understand the nature of the competing claims by reviewing the law as it applies to a claim pursuant to *Redwater* made by an out-of-province regulator.
- 39. The Receiver takes the position that it is not responsible for disproving the assertions presented by Strategic. The Receiver argues that the onus is on the party arguing otherwise to prove the position taken is incorrect (*lexin*, para 31).
- 40. Notwithstanding the foregoing the Receiver has pursuant to a request by counsel to OROGO to provide the Court with the background and certain relevant facts, taken to review, evaluate and understand the nature of the competing claims by reviewing the law as it applies to a claim pursuant to *Redwater* made by an out-of-province regulator.

Analysis

- 41. The analysis of this matter focused on three key questions:
 - a) What does the *Redwater* case stand for? Does *Redwater* stand for the proposition that the first available funds be used for attending to environmental regulatory obligations?
 - b) Are there material differences between the orders of the GNWT and the AER such that one would create a greater entitlement to the remaining funds than the other?
 - c) Can an out-of-province regulator have priority over remaining funds when the province regulator has not first had all their claims covered in whole?

Does Redwater stand for the proposition that the first available funds must be used for attending to environmental regulatory obligations?

42. There are three tests outlined in Redwater; although previously articulated in Supreme Court of Canada, Redwater has already modified and further explained the meaning of the various steps in the test.

- a) 3) LUVW WKHUH PXVW EH D GHEW OLDELOLW\ RU DQ
- b) 3 6 HFRQG WKH GHEW OLDELOLW before the REO became bankrupt
- c) 3 7 KLUG LW PXVW EH SERVED WR WR HD W M DW K OLDELOLW

43. Pursuant to the second part of the test is not clear, however, whether the third step in the test is met without a better understanding of the remediation policies in the Northwest Territories. If it is found that OROGO itself will ultimately perform the remediation work then arguably this step in the test would likely be met. A key indicator would be whether OROGO is under a statutory obligation to perform such work.

44. The AER claim meets the first and second part of the test. The AER Order fails to satisfy the sufficient certainty test. The AER, as it was in Redwater, is not in the business of performing abandonments. The AER is unlikely to perform the remediation work itself.

Are there differences between the orders of the GNWT and the AER to create priority for either one?

45. The orders issued by OROGO and the AER are different however, nothing on the face of either that would suggest one holds priority over the other.

46. The OROGO Order was issued earlier than the AER Order however, unless both orders are found to be claims provable in bankruptcy, the date of issuance and no jurisprudence was identified which discussed how to determine priority between competing Redwater claims and specifically by regulators in different provinces

47. Before characterizing both the OROGO Order and the AER Order as Redwater claims, the test for claims provable in bankruptcy should be applied to both. If an order is found to constitute a claim

provable in bankruptcy it will not be a *Redwater* claim and so will not have an entitlement to the first available funds from the bankruptcy process as an unsecured creditor of the bankrupt debtor.

Can an out-of-province regulator have priority over funds when the in-province regulator has not first had all its claims covered in whole?

48. No statute or decision was identified which decided nor even discussed priority as between an in province and an out-of-province regulator regarding outstanding environmental liabilities.
49. This is not surprising for two reasons. First, the novelty of the *Redwater* decision makes it unlikely that all the legal issues stemming from the decision have been properly explored, considered and adjudicated. Second, the novelty of a split receivership between a province and a territory also makes it unlikely such a fact-specific issue has previously been considered.
50. The *Redwater* decision does not contemplate or discuss the priority between an in-province regulator and an out of province regulator. As such, the Receiver is unable to determine the priority of remaining funds on hand between the AER and the NWT.
51. Accordingly, in an attempt to resolve the competing claims, the Receiver and its counsel have encouraged the AER and the NWT to engage in discussions to negotiate a settlement or allocation of funds. Notwithstanding many months of email correspondence and telephone conference calls, date no resolution has been brought forward.
52. The ongoing receivership activities, while this matter is debated, continue to deplete the receivership estate of remaining funds. Furthermore, as the Receiver must uphold certain regulatory requirements as license holder, significant costs continue to be expended to conform with these requirements. In addition, the Receiver remains exposed to significant costs should a major unforeseen event occur in respect of the oil and gas assets. As no further receipts are anticipated, the Receiver estimates it will only have sufficient resources to continue with required maintenance and oversight of the assets for a maximum of three months and has insufficient funds to deal with any significant unexpected matters that may arise.
53. The Receiver believes the most appropriate step is to be discharged and for the remaining wells facilities, and pipelines to be discharged, so that AER will resume its procedures to identify responsible parties to conduct abandonment and reclamation.

54. Additionally, the Receiver believes the most appropriate step, to avoid additional erosion of the Remaining Funds and to efficiently resolve the dispute as to priority between the AER and the OROGO over same, is for the Remaining Funds to be distributed to the AER to be held in trust pending a resolution of the noted claim over the Remaining Funds, and for the Remaining Funds to be utilized for any further operating matters.
55. Given the unprecedented situation, however, the Receiver is seeking advice and directions from the Court regarding dealing with the Remaining Funds

