

CLERK'S STAMP

COURT FILE NUMBER 2401-13792
COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
IN THE MATTER OF THE *BANKRUPTCY
AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3,
as amended
AND IN THE MATTER OF ERIKSON
NATIONAL ENERGY INC.

DOCUMENT

AFFIDAVIT

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS
DOCUMENT

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

Attention: Keely Cameron / Kelsey Meyer /
Luc Rollingson
Telephone No.: (403) 298-3323
Fax No.: (403) 265-7219
Client File No.: 87754-38

AFFIDAVIT #2 OF PETER NEELANDS

Sworn on December 6, 2024

I, Peter Neelands, of the City of Toronto, Ontario, SWEAR AND SAY THAT:

1. I am the sole director of the applicant, Erikson National Energy Inc. (“**Erikson**” or the “**Applicant**”), and also hold the title of Director, Investments for Third Eye Capital Corporation (“**TEC**” or “**Agent**”), the agent for the secured lenders of Erikson. I am not a member of the board

of directors of TEC, nor am I a member of any of TEC's governing bodies. I have personal knowledge of the matters deposed to in this Affidavit, except where stated to be based on information and belief, in which case I verily believe same to be true.

2. I make this Affidavit in support of an emergency application for:

- (a) A Order in the nature of mandamus or a mandatory injunction directing the British Columbia Energy Regulator (the "**BCER**") to issue an emergency measures order pursuant to section 52 of the *Energy Resource Activities Act*, SBC 2008, c 36 (the "**ERAA**"), directing Erikson to access and use natural gas from its wells for the sole purpose of heating and maintaining its Wildboy Gas Plant (the "**Plant**") and related work camp (the "**Work Camp**"), notwithstanding that the British Columbia Tenure and Resource Stewardship Branch ("**BC Tenure**") has cancelled Erikson's leases to produce natural gas from those wells (the "**Emergency Measures**");
- (b) A declaration that Erikson carrying out the Emergency Measures shall not constitute an offence pursuant to section 134 of the ERAA;
- (c) An injunction prohibiting BC Tenure from issuing a penalty against Erikson, its employees, agents, directors, officers, or shareholders pursuant to the ERAA or other applicable legislation as a result of it carrying out the Emergency Measures;
- (d) Further, or in the alternative, an Order granting Erikson relief from forfeiture, relieving Erikson, its employees, agents, directors, officers, or shareholders from any penalty that may be issued against it pursuant to the ERAA or otherwise as a result of it carrying out the Emergency Measures.

3. I have read the three affidavits of Marc Horrox, sworn on October 15, 2024 (the "First Horrox Affidavit"), October 18, 2024 (the "Second Horrox Affidavit"), and November 15, 2024 (the "Third Horrox Affidavit", and with the First Horrox Affidavit and Second Horrox Affidavit, collectively, the "Horrox Affidavits"). They provide the background facts regarding Erikson and expand upon the facts since the commencement of the Notice of Intention to Make a Proposal proceedings (the "NOI").

4. I also rely upon my Affidavit sworn December 3, 2024 (the “First Neelands Affidavit”) in support of this application.

5. Capitalized terms not otherwise defined in this Affidavit bear the meanings given them in the Horrox Affidavits and in the First Neelands Affidavit.

Background

6. Erikson is a junior oil and natural gas company, with its head office in Calgary, Alberta. Its assets consist of 414 wells (some of which are sour gas wells), 20 facilities and 346 pipeline sections, which were assumed out of the insolvency of Ranch Energy Corp. Its assets are located in the Fort Nelson and Greater Fort St. John areas of British Columbia. The Plant, which is located in a remote area of Northeastern British Columbia, is one of Erikson’s most significant assets.

7. On or about July 24, 2024, BC Tenure advised Erikson that it had canceled Erikson’s mineral leases in British Columbia. Attached hereto as **Exhibit “1”** is a true copy of the email correspondence in that regard. As a result, while Erikson owns natural gas wells in British Columbia, certain of which are tied into the Plant, Erikson does not have mineral leases to permit it to access or use natural gas from those wells.

8. As set out in the Third Horrox Affidavit, Erikson has been working with BC Tenure with respect to reinstatement of Erikson’s mineral leases for the purpose of transfer of the same to the successful bidder in the SISP.

Winter Maintenance of the Wildboy Gas Plant and Work Camp

9. Part III of the First Neelands Affidavit sets out Erikson’s efforts to provide significant care and maintenance work to ensure its assets are maintained in safe and working order for the benefit of its employees, contractors, the public, and SISP participants. As set out therein, natural gas is required to maintain adequate heat and electricity at Erikson’s facilities, including at the Plant. Erikson has been working with Tidewater and the Canadian Energy Regulator to permit bidirectional gas flow in the applicable Erikson-Tidewater pipeline to enable Erikson to purchase natural gas to heat its facilities throughout the winter until such time that its wells are operating.

Heating Erikson's facilities is of particular importance given the extremely cold weather affecting Northeastern British Columbia where Erikson's assets, including the Plant and the Work Camp are located.

10. In the meantime, before bidirectional gas flow is in place, Erikson's sales line has been packed with natural gas, which its field operators have been drawing down on in order to heat and maintain the Plant, by circulating it through the Plant to prevent the systems from freezing and breaking. Specifically, natural gas must be continuously circulated through the Plant to prevent the piping, the molten salt heaters, and the heat transfer systems from freezing and bursting. The field operators have replenished the glycol in the systems so that they are ready to fire up, and have been recently using the natural gas packed in the sales line to do that.

11. On December 4, 2024, I became aware that as a result of Erikson's use of the natural gas packed in the sales line for heating and maintenance, the line pressures dropped to approximately 1000 kPa. I am advised by George Wollen, Erikson's Production Supervisor, and verily believe that this means there is only sufficient natural gas in the sales line to heat and maintain the Plant for five days (until approximately Sunday December 8, 2024) (the "**Emergency Situation**"). The Emergency Situation was unexpected due to increased consumption of natural gas upon the startup of various Erikson equipment, given the cold temperatures.

12. The Plant is winterized, however winterization does not mean that the Plant and Work Camp can be left unstaffed or unoperated for any period of time. If Erikson is unable to access additional natural gas to heat and maintain the Plant once the Emergency Situation begins on or about Sunday December 8, 2024, I am advised by Mr. Wollen and verily believe that due to extremely cold winter temperatures at the Plant and the lack of heating, there is a high risk that:

- (a) all piping that is not drained or that cannot be drained will freeze, and many of the drain lines and dump lines will crack or rupture upon freezing;
- (b) the furnace salt vessels at the Plant could freeze and explode;
- (c) any water that cannot be drained from any pressure vessels in the facility will freeze, causing a high risk of cracking and leaks in vessels and equipment;

- (d) upon thawing of the piping, vessels and equipment, cracks or ruptures of the same could result in releases, and thus potential environmental damage;
- (e) without power, the programmable logic controllers (“PLCs”) will likely brownout and lead to equipment failure;
- (f) Plant safety detection equipment, servers and networking infrastructure will fail or be damaged, creating further risk, as Erikson will be unable to determine if a further emergency has occurred without this remote monitoring. Given the large geographic area in which Erikson hold assets, remote monitoring is a key element of ongoing safety;
- (g) these risks, in turn, will create significant risk to the safety and well-being of Erikson’s employees and contractors at the Plant;
- (h) repair and replacement costs may range from \$1 Million to more than \$10 Million, depending on the type and degree of damage;
- (i) the value of the Plant, and thus also the transaction contemplated by the Sale Agreement with the identified buyer to purchase all of Erikson’s oil and gas assets, will deteriorate or be destroyed.

13. Natural gas is also required to heat the Work Camp for the Plant. I am advised by Mr. Wollen and verily believe that if Erikson runs out of natural gas to heat the Work Camp:

- (a) the safety and well-being of Erikson’s employees and contractors will be at risk, and they will need to immediately leave the site. The Plant and the Work Camp can only be accessed, at this time of year, by helicopter or snowmobile; a sudden lack of natural gas at the Plant and the Work Camp would result in an emergency situation to evacuate Erikson personnel, with limited options to do so;
- (b) all water from the Work Camp and camp supply tanks would need to be drained, as it will otherwise freeze solid. Some areas of these lines may not be able to be drained completely, and will likely result in cracked water lines and water pumps, both in the Work Camp and water treatment buildings;

- (c) the septic system will not be able to be drained, and will likely freeze and break, potentially creating a hazardous environment;
- (d) once field operations personnel have left the site and the Work Camp has been abandoned, the Work Camp will likely see an abundance of rodents, which will create a hazardous environment if the Work Camp were to be inhabited again; and
- (e) freezing winter temperatures will also cause all safety equipment and supplies, such as eyewash stations, fire suppression, and fire detection, to be compromised.

14. The Plant and the Work Camp will need to be immediately abandoned if natural gas cannot be maintained. In addition to the concerns above, I am advised by Mr. Wollen and verily believe that:

- (a) all servers and networking of the control room in the Plant and of the Work Camp will likely fail due to the lack of moderation of heat and moisture;
- (b) once operations staff leave the site, based on previous experience, there is a high likelihood of trespassers entering the site and causing property damage, theft, and risk of injury. The absence of onsite staff increases the risk of vandalism to the Work Camp and to the Plant, posing a risk of personal injury, a spill or release, and theft of critical infrastructure, such as cabling, generators (including the diesel generator used as a backup for power (but not heat) for the Work Camp), and vehicles, resulting in repair and replacement costs estimated in the millions of dollars, plus labour and transportation;
- (c) the Work Camp, which has been in place since the mid 1990's, would ultimately require replacement, as the damages caused by abandoning the Work Camp would likely be irreparable;
- (d) there is also a Bell cell tower on site which Erikson supplies power to; we are unsure of the complications to their equipment without power for an extended period of time.

15. Aside from the property damage, potential environmental damage, and safety risks set out above (collectively, the “**Risks**”), the Plant is a key driver of the proposed transaction contemplated by the Sale Agreement entered into with the identified buyer to purchase all or substantially all of Erikson’s oil and gas assets. Destruction of the Plant will jeopardize that transaction. Erikson has an application scheduled before this Court on Monday, December 9, 2024, for approval of that transaction.

Potential Resolution of the Emergency Situation

16. Upon becoming aware of the Emergency Situation, Erikson reached out to TC Energy, Tidewater and Canadian Natural Resources Limited, each of which have facilities in the area, to find out if Erikson could purchase natural gas for them. Discussions are ongoing with all three. However, at present, none of these options appear to allow for Erikson to acquire natural gas by Sunday December 8, 2024.

17. For example, in an effort to assist in resolving the situation, on or about December 5, 2024 the Canada Energy Regulator advised that the previously requested engineering study to permit bidirectional gas flow in the applicable Erikson-Tidewater pipeline, as addressed in the First Neelands Affidavit at paragraph 8(b), could be modified to only a “notification” of certain operations and maintenance activities. This notification would not require an engineering study and subsequent CER permission, which eliminates the estimated 6-week period to obtain the engineering study and process the CER permit.

18. However, bidirectional flow in the Erikson-Tidewater pipeline would require that the natural gas also flow through a TC Energy pipeline. The Nova Gas Transmission Ltd. (“**NGTL**”) delivery meter at that location is shut in, and it would be necessary to fly an NGTL technician out to the site to open the valve. Even with Erikson’s offer to attempt to arrange urgent transport by helicopter, it was not possible to locate and transport a technician to the TC Energy pipeline site to open the valve until Tuesday, December 10, 2024. Attached hereto as **Exhibit “2”** is a true copy of a chain of email correspondence between Erikson, TC Energy and Tidewater dated December 5, 2024 in that regard.

19. Erikson could immediately and directly access natural gas to heat and maintain the Plant and the Work Camp through its own natural gas wells, thus preventing the Emergency Situation. The problem is that Erikson is not authorized to do so, due to BC Tenure's cancellation of Erikson's mineral leases.

20. I am advised by legal counsel for Erikson, Keely Cameron of Bennett Jones LLP, and do verily believe that on December 5, 2024, she met and corresponded with legal counsel for BC Tenure, Aaron Welch and Andrea K. Glen, regarding the Emergency Situation. Ms. Cameron asked if, in the circumstances, it would be possible for BC Tenure to permit Erikson to produce natural gas at two of their wells for two to three days, and provided a list of wells that natural gas could be produced from. Ms. Cameron advised that it is anticipated that this would allow Erikson to maintain the Plant for another month, and that Erikson would pay the arrears of rental payments for the two wells and pre-pay royalties for the natural gas to ensure no negative impact to the Crown. Ms. Glen responded that there was no legal basis upon which BC Tenure could issue a lease, or a temporary lease, to Erikson, and stated "To the extent there are any risks to safety or the environment present, the BC Energy Regulator should be engaged." Ms. Cameron responded to advise that Erikson was also in contact with the British Columbia Energy Regulator (the "BCER"), and set out more detailed information regarding the Risks that would occur upon Erikson running out of natural gas to heat and maintain the Plant and the Work Camp. A copy of the email exchange between counsel for Erikson and counsel for BC Tenure is attached hereto as **Exhibit "3"**.

21. Attached hereto as **Exhibit "4"** is a true copy of a chain of email correspondence between counsel for Erikson and counsel for the BCER, also dated December 5, 2024, advising the BCER of the Risks.

22. I am advised by Ms. Cameron and do believe that it would be an offence pursuant to the *Petroleum and Natural Gas Act*, RSBC 1996, c 361 for Erikson to operate and produce natural gas from its wells to heat and maintain the Plant and the Work Camp, in the circumstances where Erikson's mineral leases have been cancelled by BC Tenure. I further understand that the penalties for contravening that Act can be significant.

23. I also understand from the email correspondence sent by the Executive Director of BC Tenure attached hereto as **Exhibit “1”** that if a well continues to produce after a mineral title lease is cancelled, all production subsequent to the cancellation date becomes illegal, and BC Tenure issues an Expired Lease Revenue Invoice to charge for proceeds received by the producer on the sale of the unlawful production, and it reverses royalties that have been charged for the affected production months.

24. The Emergency Situation is, indeed, an emergency situation which, if not resolved before Sunday December 8, 2024, will create irreparable harm and significant risk of property damage, destruction of the value of the Plant, the Work Camp, and thus Erikson as a whole, the termination of the Sale Agreement, environmental damage, and serious risk to the safety of the employees and contractors of Erikson at the Plant and the Work Camp.

25. By contrast, I am not aware of any harm that will be caused if Erikson is permitted to produce natural gas from two wells for the purpose of resolving the Emergency Situation. As is set out in the email correspondence between counsel for Erikson and counsel for BC Tenure dated December 4, 2024 attached as **Exhibit “3”**, Erikson will pay the arrears for the two wells and pre-pay royalties for the gas to ensure no negative impact to the Crown.

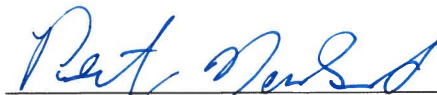
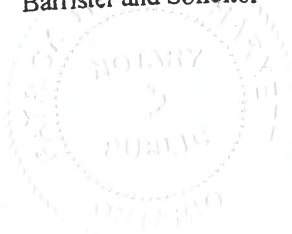
26. I make this Affidavit in support of the application for an Order to resolve the Emergency Situation and for no other or improper purpose.

SWORN BEFORE ME at Toronto, Ontario,)
this 6th day of December, 2024.)



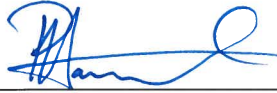
Notary Public in and for the Province of
Ontario

Patrick T. Harnett
Barrister and Solicitor



Peter Neelands

THIS IS **EXHIBIT "1"** TO THE AFFIDAVIT OF
PETER NEELANDS SWORN ON THE 6TH DAY
OF DECEMBER, 2024



A Notary Public in and for the Province of Ontario

Patrick T. Harnett
Barrister and Solicitor



From: [Brulotte, Kathy FIN:EX](#)
To: [Erikson National Energy Inc. \(11034\) \(imelda.martin@eriksonnational.com\)](#)
Cc: [Rielly, Jon FIN:EX](#); [He, Christina FIN:EX](#); [Ritonja, Andrew A FIN:EX](#); [Pasztor, Chris EMLI:EX](#)
Subject: 11034 - Expired Lease Revenue Invoice/Royalty Reversals
Date: Wednesday, July 24, 2024 1:45:08 PM
Attachments: [image001.png](#)
[Erikson National Energy Inc.-BA ID 11034-Expired Lease Revenue Invoice July 11, 2024.pdf](#)
[Erikson National Energy Inc.-BA ID 11034-Expired Lease Revenue Invoice July 11, 2024 BACK UP.xlsx](#)

Good afternoon Imelda,

We have been advised by staff in the Tenure and Resource Stewardship Branch, Ministry of Energy, Mines and Low Carbon Innovation (EMLI) that Erikson National Energy Inc. (BA ID 11034) has defaulted on several lease rentals. As a result, EMLI has cancelled these titles for non-payment of rentals.

If a well event continues to produce after a title is cancelled, all production subsequent to the cancellation date becomes illegal. When this occurs, we do not charge royalties, rather, we issue an Expired Lease Revenue Invoice to charge for proceeds received by Erikson on the sale of the unlawful production, and we reverse royalties that have been charged for the affected production months.

We have recorded the Expired Lease Revenue Invoice, and we reversed relevant royalties in this month's invoice run. When you review your invoice package you will see a non-compliance penalty invoice in the amount of \$4,220,167.65. This is the Expired Lease Revenue Invoice charge. In addition, you will see royalties being reversed for the reasons described above.

I am attaching the Expired Lease Revenue Invoice which outlines the details of revenue charged for each product as well as the backup calculation worksheet. If you have specific questions on the calculation, please let us know.

If you have any questions related to the outstanding rentals, the cancelled leases or are seeking more specific information on why this situation has occurred, please contact:

Chris Pasztor
Executive Director
Tenure and Resource Stewardship Branch
Energy, Mines and Low Carbon Innovation
Chris.Pasztor@gov.bc.ca

Thank you.

Kathy

Kathy Brulotte
Manager, Programs
Mineral, Oil and Gas Revenue Branch

Ministry of Finance

Phone: 778.698.5017 | Fax: 250.952.0191



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Any information provided in this correspondence for the convenience and guidance of clients is not a replacement for the legislation. Every effort has been made to address questions on the basis of the context and assumptions posed in the questions. However, the Mineral, Oil and Gas Revenue Branch does not provide legal advice and in order to obtain absolute certainty the client should obtain the answers to potentially legal questions from the appropriate legal experts.



Province of British Columbia
Mineral, Oil and Gas Revenue Branch
Ministry of Finance

Expired Lease Revenue Invoice

Issued to: ERIKSON NATIONAL ENERGY INC. (BA ID 11034)
Invoice Date: July 11, 2024
Payment Due: July 31, 2024

Invoice for Revenue Received on Illegal Production:

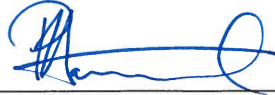
Product	Amount Due \$
Gas	3,077,247.42
Butane	214,989.13
Propane	92,251.88
Pentanes	810,907.38
Condensate	24,771.85
TOTAL	<u><u>\$4,220,167.65</u></u>

Ministry of Finance
Revenue Programs Division
Mineral, Oil and Gas Revenue Branch
www.fin.gov.bc.ca

Location:
2nd Floor, 1810 Blanshard St.
Victoria, BC V8T 4J1

Mailing Address:
PO Box 9328 Stn Prov Govt
Victoria, BC V8W 9N3
Telephone: 250-952-0192
Facsimile: 250-952-0191

THIS IS **EXHIBIT “2”** TO THE AFFIDAVIT OF
PETER NEELANDS SWORN ON THE 6TH DAY
OF DECEMBER, 2024



A Notary Public in and for the Province of Ontario

Patrick T. Harnett
Barrister and Solicitor



Patrick Harnett

From: Goran Miljevic <goran_miljevic@tcenergy.com>
Sent: December 5, 2024 4:51 PM
To: Patrick Harnett; Jason Kulsy; Kelsey Johannson
Cc: Peter Neelands; Mark Horrox; Nicole Shinya; Eric Stephenson; Cayley Moffat; Aryeh Rosenberg; Nominations
Subject: RE: [EXT Email] RE: [EXTERNAL] Urgent Request - Erikson National Energy and Tidewater Midstream CSO Transfer - NGTL / Bootis Hill Arrangements

Caution: External (goran_miljevic@tcenergy.com)

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Hi Patrick and Jason,

I've checked with the operational area, and unfortunately we cannot get the tech out to the site prior to Tuesday next week. The valve will be opened at that time.

Thanks,

Goran Miljevic

Marketing Representative

Commercial, Canadian Natural Gas Pipelines

goran_miljevic@tcenergy.com

Cell: 587-836-9428

ICE: gmiljevic



450 – 1 Street S.W. Calgary, AB
Canada, T2P 5H1

TCEnergy.com

From: Patrick Harnett <patrick@thirdeyecapital.com>

Sent: Thursday, December 5, 2024 2:15 PM

To: Jason Kulsy <jkulsy@tidewatermidstream.com>; Goran Miljevic <goran_miljevic@tcenergy.com>; Kelsey Johannson <kelsey_johannson@tcenergy.com>

Cc: Peter Neelands <peter@thirdeyecapital.com>; Mark Horrox <Mark@thirdeyecapital.com>; Nicole Shinya <nicole@thirdeyecapital.com>; Eric Stephenson <eric@thirdeyecapital.com>; Cayley Moffat <cmoffat@tidewatermidstream.com>; Aryeh Rosenberg <arosenberg@tidewatermidstream.com>; Nominations <nominations@tcenergy.com>

Subject: RE: [EXT Email] RE: [EXTERNAL] Urgent Request - Erikson National Energy and Tidewater Midstream CSO Transfer - NGTL / Bootis Hill Arrangements

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Erikson confirms the same.

Pat



Patrick Harnett | VP, Legal and Restructuring
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From: Jason Kulsky <jkulsky@tidewatermidstream.com>
Sent: December 5, 2024 4:14 PM
To: Goran Miljevic <goran_miljevic@tcenergy.com>; Patrick Harnett <patrick@thirdeyecapital.com>; Kelsey Johannson <kelsey_johannson@tcenergy.com>
Cc: Peter Neelands <peter@thirdeyecapital.com>; Mark Horrox <Mark@thirdeyecapital.com>; Nicole Shinya <nicole@thirdeyecapital.com>; Eric Stephenson <eric@thirdeyecapital.com>; Cayley Moffat <cmoffat@tidewatermidstream.com>; Aryeh Rosenberg <arosenberg@tidewatermidstream.com>; Nominations <nominations@tcenergy.com>
Subject: RE: [EXT Email] RE: [EXTERNAL] Urgent Request - Erikson National Energy and Tidewater Midstream CSO Transfer - NGTL / Bootis Hill Arrangements

Tidewater confirms it will become CSO at both 2709 and 3295. Thanks.

Jason Kulsky | Tidewater Midstream | jkulsky@tidewatermidstream.com | m. 403.863.4653

From: Goran Miljevic <goran_miljevic@tcenergy.com>
Sent: December 5, 2024 1:49 PM
To: Patrick Harnett <patrick@thirdeyecapital.com>; Jason Kulsky <jkulsky@tidewatermidstream.com>; Kelsey Johannson <kelsey_johannson@tcenergy.com>
Cc: Peter Neelands <peter@thirdeyecapital.com>; Mark Horrox <Mark@thirdeyecapital.com>; Nicole Shinya <nicole@thirdeyecapital.com>; Eric Stephenson <eric@thirdeyecapital.com>; Cayley Moffat <cmoffat@tidewatermidstream.com>; Aryeh Rosenberg <arosenberg@tidewatermidstream.com>; Nominations <nominations@tcenergy.com>
Subject: RE: [EXT Email] RE: [EXTERNAL] Urgent Request - Erikson National Energy and Tidewater Midstream CSO Transfer - NGTL / Bootis Hill Arrangements

CAUTION: This email originated outside of Tidewater. Do not click links or open attachments unless you know the content is safe.

Hi Patrick and Jason,

With your confirmations, we can process this CSO change for 2709 Bootis Hill. However, any daily delivery measurement captured at receipt meter station 2709 – Bootis Hill would be moved to the return run station 3295 –

Bootis Hill Sales. This is ultimately where the gas will be allocated. Can you both please confirm if the CSO is changing at both 2709 – Bootis Hill and 3295 – Bootis Hill Sales?

Our Nominations team is CC'd and they can process the change once they receive confirmation from both parties.

We appreciate the urgency of your request. However, getting a Tech out to site on such short notice is proving to be a challenge. We do have a maintenance visit scheduled for Tuesday, December 10th. The tech could swing the valve open at this time. I will keep you updated as we get more information from the field.

Thanks,

Goran Miljevic

Marketing Representative

Commercial, Canadian Natural Gas Pipelines

goran_miljevic@tcenergy.com

Cell: 587-836-9428

ICE: gmiljevic



450 – 1 Street S.W. Calgary, AB
Canada, T2P 5H1

TCEnergy.com

From: Patrick Harnett <patrick@thirdeyecapital.com>

Sent: Thursday, December 5, 2024 1:01 PM

To: Jason Kulsky <jkulsky@tidewatermidstream.com>; Kelsey Johannson <kelsey_johannson@tcenergy.com>; Skylar Wilson <skylar_wilson@tcenergy.com>; Goran Miljevic <goran_miljevic@tcenergy.com>

Cc: Peter Neelands <peter@thirdeyecapital.com>; Mark Horrox <Mark@thirdeyecapital.com>; Nicole Shinya <nicole@thirdeyecapital.com>; Eric Stephenson <eric@thirdeyecapital.com>; Cayley Moffat <cmoffat@tidewatermidstream.com>; Aryeh Rosenberg <arosenberg@tidewatermidstream.com>

Subject: RE: [EXT Email] RE: [EXTERNAL] Urgent Request - Erikson National Energy and Tidewater Midstream CSO Transfer - NGTL / Bootis Hill Arrangements

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Thank you, Kelsey, Goran and Jason. Much appreciated.

Pat



Patrick Harnett | VP, Legal and Restructuring
2830 - 181 Bay Street | Toronto, ON | M5J 2T3
T: 416-601-2280 | M: 437-922-8259 | F: 416-981-3393
patrick@thirdeyecapital.com | www.thirdeyecapital.com

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From: Jason Kulsky <jkulsky@tidewatermidstream.com>

Sent: December 5, 2024 2:52 PM

To: Kelsey Johannson <kelsey_johannson@tcenergy.com>; skylar_wilson@tcenergy.com; Goran Miljevic <goran_miljevic@tcenergy.com>

Cc: Peter Neelands <peter@thirdeyecapital.com>; Mark Horrox <Mark@thirdeyecapital.com>; Nicole Shinya <nicole@thirdeyecapital.com>; Eric Stephenson <eric@thirdeyecapital.com>; Patrick Harnett <patrick@thirdeyecapital.com>; Cayley Moffat <cmoffat@tidewatermidstream.com>; Aryeh Rosenberg <arosenberg@tidewatermidstream.com>

Subject: RE: [EXT Email] RE: [EXTERNAL] Urgent Request - Erikson National Energy and Tidewater Midstream CSO Transfer - NGTL / Bootis Hill Arrangements

Kelsey/Skylar/Goran,

Tidewater hereby accepts the role as CSO per the request below.

Regards,

Jason Kulsky | Tidewater Midstream | jkulsky@tidewatermidstream.com | m. 403.863.4653

From: Kelsey Johannson <kelsey_johannson@tcenergy.com>

Sent: December 5, 2024 12:50 PM

To: Patrick Harnett <patrick@thirdeyecapital.com>; Goran Miljevic <goran_miljevic@tcenergy.com>

Cc: Jason Kulsky <jkulsky@tidewatermidstream.com>; Peter Neelands <peter@thirdeyecapital.com>; Mark Horrox <Mark@thirdeyecapital.com>; Nicole Shinya <nicole@thirdeyecapital.com>; Eric Stephenson <eric@thirdeyecapital.com>

Subject: [EXT Email] RE: [EXTERNAL] Urgent Request - Erikson National Energy and Tidewater Midstream CSO Transfer - NGTL / Bootis Hill Arrangements

CAUTION: This email originated outside of Tidewater. Do not click links or open attachments unless you know the content is safe.

Hi Patrick,

I am looping in Erikson's Marketing Representative, [@Goran Miljevic](#), who will be able to assist.

Kelsey Johannson

Marketing Representative

Commercial, Canadian Natural Gas Pipelines

e. kelsey_johannson@tcenergy.com

p. 403-920-5956

m. 403-461-9476



450 – 1 Street S.W. Calgary, AB
Canada, T2P 5H1

TCEnergy.com

From: Patrick Harnett <patrick@thirdeyecapital.com>

Sent: Thursday, December 5, 2024 12:49 PM

To: Skylar Wilson <skylar_wilson@tcenergy.com>

Cc: Kelsey Johannson <kelsey_johannson@tcenergy.com>; Jason Kulsy <jkulsy@tidewatermidstream.com>; Peter Neelands <peter@thirdeyecapital.com>; Mark Horrox <Mark@thirdeyecapital.com>; Nicole Shinya <nicole@thirdeyecapital.com>; Eric Stephenson <eric@thirdeyecapital.com>

Subject: [EXTERNAL] Urgent Request - Erikson National Energy and Tidewater Midstream CSO Transfer - NGTL / Bootis Hill Arrangements

Importance: High

Some people who received this message don't often get email from patrick@thirdeyecapital.com. [Learn why this is important](#)

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Good afternoon, Skylar:

By way of introduction, I am a colleague of Mark Horrox's and I am assisting with a gas restart involving Erikson National Energy.

We are currently in an **urgent/emergency** situation, as Erikson's Wildboy Gas Plant requires this feed of gas by the weekend to keep the plant heated and operational. Due to the cold weather, our line pack gas levels are critically low.

Erikson is working closely with Jason Kulsy of Tidewater Midstream (copied) to flow gas via NGTL to the Tidewater/Erikson pipeline. We have copied in Jason's contact at TC Energy, Kelsey, to connect you both and discuss next steps.

Given Erikson's current situation, we wish to allow Tidewater to be the common stream operator for efficiency purposes. Please take this email as Erikson's confirmation that it wishes for Tidewater to be the CSO.

Further, we understand that the NGTL delivery meter at Bootis Hill was shut in, and an NGTL person will need to fly out to get that restored. Given the urgency, is there a way that an NGTL representative can fly out to the delivery meter and get things restored ASAP? Erikson has an account with Bailey Helicopters and we may be able to arrange for urgent transport if your personnel are available.

Happy to get on a call ASAP to discuss if you have any questions, but the goal would be to get service via Tidewater restored for tomorrow (Friday, December 6th). Your help is greatly appreciated.

Pat



Patrick Harnett | VP, Legal and Restructuring
2830 - 181 Bay Street | Toronto, ON | M5J 2T3
T: 416-601-2280 | M: 437-922-8259 | F: 416-981-3393
patrick@thirdeyecapital.com | www.thirdeyecapital.com

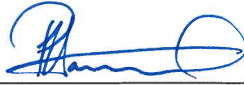
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THIS IS **EXHIBIT “3”** TO THE AFFIDAVIT OF
PETER NEELANDS SWORN ON THE 6TH DAY
OF DECEMBER, 2024



A Notary Public in and for the Province of Ontario

Patrick T. Harnett
Barrister and Solicitor



From: [Keely Cameron](#)
To: [Glen, Andrea AG:EX](#); [Kelsey Meyer](#)
Cc: [Welch, Aaron AG:EX](#); [AG LSB Rev Tax Insolvency Archive AG:EX](#)
Subject: RE: Erikson National Energy Inc. - Request to Produce Gas
Date: Thursday, December 5, 2024 5:44:02 PM
Attachments: [image001.png](#)
[image002.png](#)

Hi Andrea,

Thank you, we are also in contact with the BCER. We followed up with our client to get more detailed information regarding the environmental and safety issues resulting in the request to be permitted to produce minerals for a short number of days to replenish the fuel gas for the purpose of maintaining the Wildboy facility and associated workers camp, We are advised that the plant and camp would need to be left abandoned if gas cannot be maintained and this is currently causing significant stress for the workers. From previous experience, field has advised that once operations staff leave, word will travel and people will likely attend the site causing risk of damage and injury.

Direct impacts of the lack of fuel gas include:

Facility impacts:

- Extremely cold winter temperatures will result in all piping that are not/cannot be drained to freeze. There is a high risk of a lot of these drain lines and dump lines cracking upon freezing. Once things thaw this could result in releases.
- The salt baths if they freeze could explode as the vessels break.
- Any water that cannot be drained from any vessels in the facility will freeze with a high risk of cracking or creating leaks.
- Without power the PLCs' will likely brownout and lead to equipment failure.
- All plant safety detection equipment and supplies will likely be damaged and may fail creating a risk given in ability to know if an emergency has occurred.

Workers Camp impacts:

- Workers would need to leave the site due to freezing temperatures which put their safety at risk.
- They would have to completely drain all water from the camp and camp supply tanks as they will freeze solid. Some areas of these lines may not be able to be drained completely and will likely result in cracked water lines and water pumps, both in the camp and water treatment buildings.
- The septic system will not be able to be drained and with no movement will likely see freezing and breakage with a potential of creating a hazardous environment (ex mold)
- Once operations has left location and camp has been abandoned the camp will very likely see an abundance of rodents which will create a hazardous environment if the camp was to be inhabited again (ex biological hazards)
- Freezing winter temps will also cause all safety equipment and supplies to be compromised. Eyewash, fire suppression, fire detection.
- Backup power (Diesel generator for camp power only and no heat) will likely be stolen.

- All servers and networking of the control room and camp will likely fail due to no moderation of heat/moisture.
- This camp has been in place since the mid 90's and would end up being a replacement. It would be unlikely to repair the damages caused by abandoning.
- There is also a Bell cell tower onsite which we supply power to, we are unsure of the complications to their equipment without power for an extended period of time.

In addition to all of the environmental and safety concerns, we believe that if the site is not protected there will be no purchasers for the Erikson assets resulting in millions in liabilities to the orphan fund and lost royalties.

Keely Cameron (She/Her), *Partner**, Bennett Jones LLP

*Denotes Professional Corporation

T. [403 298 3324](tel:4032983324) | F. [403 265 7219](tel:4032657219) | M. [403 921 7783](tel:4039217783)

From: Glen, Andrea AG:EX <Andrea.Glen@gov.bc.ca>

Sent: Thursday, December 5, 2024 5:37 PM

To: Keely Cameron <CameronK@bennettjones.com>; Kelsey Meyer <MEYERK@bennettjones.com>

Cc: Welch, Aaron AG:EX <Aaron.Welch@gov.bc.ca>; AG LSB Rev Tax Insolvency Archive AG:EX <AGLSBRevTaxInsolvency@gov.bc.ca>

Subject: RE: Erikson National Energy Inc. - Request to Produce Gas

Hi Keely and Kelsey,

Further to our call this afternoon, I confirm that the Petroleum and Natural Gas Act does not contain an emergency provision that would enable the government to issue a temporary lease to Erikson. The minister may only issue and continue leases in accordance with the PNGA and its regs, pursuant to s. 53:

Minister's powers and duties

53 (1) The minister may issue and continue leases only in accordance with this Act and the regulations, and may refuse to issue a lease to a person other than a permittee or licensee who has complied with this Act and the Energy Resource Activities Act.

(2) The minister's refusal under subsection (1) is final.

(3) The minister must not issue or continue a lease to or for an applicant who, in the belief of the minister, is indebted to the government for royalties, taxes or rental with respect to petroleum or natural gas or to the regulator for any reason under the Energy Resource Activities Act.

(4) If the minister refuses to issue or continue a lease, the fees and rental that accompany the application must be refunded.

In light of this, there is no legal basis on which to issue a lease.

To the extent there are any risks to safety or the environment present, the BC Energy Regulator should be engaged.

Thank you,
Andrea

Andrea K. Glen (she/they) | Legal Counsel

Justice, Health & Revenue Group | Legal Services Branch | Ministry of Attorney General
1001 Douglas Street | PO Box 9280 Stn Prov Govt | Victoria, BC V8W 9J7
T: 236.478.2161 | E: andrea.glen@gov.bc.ca

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From: Keely Cameron <CameronK@bennettjones.com>
Sent: Thursday, December 5, 2024 2:18 PM
To: Glen, Andrea AG:EX <Andrea.Glen@gov.bc.ca>; Welch, Aaron AG:EX <Aaron.Welch@gov.bc.ca>
Cc: AG LSB Rev Tax Insolvency Archive AG:EX <AGLSBRevTaxInsolvency@gov.bc.ca>
Subject: RE: Erikson National Energy Inc. - Request to Produce Gas

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Don't know what is wrong with my phone, I will send a teams meeting invite.

Keely Cameron (She/Her), Partner*, Bennett Jones LLP
*Denotes Professional Corporation
T. [403 298 3324](tel:4032983324) | F. [403 265 7219](tel:4032657219) | M. [403 921 7783](tel:4039217783)

From: Glen, Andrea AG:EX <Andrea.Glen@gov.bc.ca>
Sent: Thursday, December 5, 2024 3:12 PM
To: Keely Cameron <CameronK@bennettjones.com>; Welch, Aaron AG:EX

<Aaron.Welch@gov.bc.ca>

Cc: AG LSB Rev Tax Insolvency Archive AG:EX <AGLSBRevTaxInsolvency@gov.bc.ca>

Subject: RE: Erikson National Energy Inc. - Request to Produce Gas

Just tried you – feel free to call.

Andrea K. Glen (she/they) | Legal Counsel

Justice, Health & Revenue Group | Legal Services Branch | Ministry of Attorney General
1001 Douglas Street | PO Box 9280 Stn Prov Govt | Victoria, BC V8W 9J7
T: 236.478.2161 | E: andrea.glen@gov.bc.ca

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From: Keely Cameron <CameronK@bennettjones.com>

Sent: Thursday, December 5, 2024 2:09 PM

To: Glen, Andrea AG:EX <Andrea.Glen@gov.bc.ca>; Welch, Aaron AG:EX <Aaron.Welch@gov.bc.ca>

Cc: AG LSB Rev Tax Insolvency Archive AG:EX <AGLSBRevTaxInsolvency@gov.bc.ca>

Subject: RE: Erikson National Energy Inc. - Request to Produce Gas

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Would it be possible to have a call to discuss further?

Keely Cameron (She/Her), Partner*, Bennett Jones LLP

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From: Glen, Andrea AG:EX <Andrea.Glen@gov.bc.ca>

Sent: Thursday, December 5, 2024 2:46 PM

To: Keely Cameron <CameronK@bennettjones.com>; Welch, Aaron AG:EX <Aaron.Welch@gov.bc.ca>

Cc: AG LSB Rev Tax Insolvency Archive AG:EX <AGLSBRevTaxInsolvency@gov.bc.ca>

Subject: RE: Erikson National Energy Inc. - Request to Produce Gas

Hi Keely,

Unfortunately, there is not a mechanism under the legislation that would allow for the issuance of tenure quickly enough to address the shortage being faced by Erikson. In addition, even if there was an applicable provision, [s. 53\(3\) of the PNGA](#) would be a barrier to issuing a lease to Erikson or an affiliate of Erikson.

Is there not a way to safely shut down the plant and winterize it? The Ministry does not have engineering expertise but I understand BCER would be in a better position to assist with this issue. I understand that the Ministry and BCER are in touch about this.

Andrea

Andrea K. Glen (she/they) | Legal Counsel

Justice, Health & Revenue Group | Legal Services Branch | Ministry of Attorney General
1001 Douglas Street | PO Box 9280 Stn Prov Govt | Victoria, BC V8W 9J7
T: 236.478.2161 | E: andrea.glen@gov.bc.ca

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From: Keely Cameron <CameronK@bennettjones.com>

Sent: Thursday, December 5, 2024 1:30 PM

To: Glen, Andrea AG:EX <Andrea.Glen@gov.bc.ca>; Welch, Aaron AG:EX <Aaron.Welch@gov.bc.ca>

Cc: AG LSB Rev Tax Insolvency Archive AG:EX <AGLSBRevTaxInsolvency@gov.bc.ca>

Subject: RE: Erikson National Energy Inc. - Request to Produce Gas

[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Andrea,

It appears that the other options will not work, TC just got back to us and the earliest a meter could be installed is Tuesday. Any chance you can get back to us today? If Tenure can accommodate this we would want to know the cost and get funds wired as soon as possible and need time to get field staff mobilized.

Thank you, happy to schedule a call as needed.

Keely Cameron (She/Her), *Partner**, Bennett Jones LLP

*Denotes Professional Corporation

T. [403 298 3324](tel:4032983324) | F. [403 265 7219](tel:4032657219) | M. [403 921 7783](tel:4039217783)

From: Glen, Andrea AG:EX <Andrea.Glen@gov.bc.ca>
Sent: Thursday, December 5, 2024 10:11 AM
To: Keely Cameron <CameronK@bennettjones.com>; Welch, Aaron AG:EX <Aaron.Welch@gov.bc.ca>
Cc: AG LSB Rev Tax Insolvency Archive AG:EX <AGLSBRevTaxInsolvency@gov.bc.ca>
Subject: RE: Erikson National Energy Inc. - Request to Produce Gas

Thank you for confirming the details of Erikson's request, Keely. We will follow up as soon as we can.

Andrea

Andrea K. Glen (she/they) | Legal Counsel

Justice, Health & Revenue Group | Legal Services Branch | Ministry of Attorney General
1001 Douglas Street | PO Box 9280 Stn Prov Govt | Victoria, BC V8W 9J7
T: 236.478.2161 | E: andrea.glen@gov.bc.ca

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From: Keely Cameron <CameronK@bennettjones.com>
Sent: Wednesday, December 4, 2024 6:37 PM
To: Glen, Andrea AG:EX <Andrea.Glen@gov.bc.ca>; Welch, Aaron AG:EX <Aaron.Welch@gov.bc.ca>
Subject: Erikson National Energy Inc. - Request to Produce Gas

[EXTERNAL] This email came from an external source. Only open attachments or links that you are expecting from a known sender.

Good evening,

Thank you for taking my call earlier. As mentioned, Erikson's sales line has been packed with gas which their field operators have been drawing down for Wildboy plant needs. This includes heating the systems to avoid freezing damage to our molten salt heaters and our heat transfer systems. They have replenished the glycol in the systems so that they are ready to fire up, and have been recently using that sales line pack gas to do that. Unfortunately, upon today's use of the gas for this heating, the line pressures dropped to ~1000kpa which means they have about 5 days of gas in the line. If the

plant is allowed to freeze up, I am told by Erikson that all undrainable pipes, vessels and equipment will freeze and potentially rupture, with repair and replacement costs ranging from \$1 Million to more than \$10 Million, depending on the type and degree of damage to the plant's equipment. Additionally, without heat and electrical power, the plant's safety detection equipment, servers and networking infrastructure may fail or be damaged. Furthermore, the absence of onsite staff increases the risk of vandalism to the camp and the plant, posing a risk of personal injury or potentially leading to a spill/release, and theft of critical infrastructure, such as cabling, generators, and vehicles, resulting in repair and replacement costs of at least \$2.5 Million in hard costs, plus labour and transportation. Besides the environmental risk, this is also concerning as the Wildboy plant asset is a key driver of the transaction for all of Erikson's assets that it seeks to advance.

Erikson has reached out to TC Energy, Tidewater and CNRL who are in the area to see if they may be able to get gas, which of course Erikson would pre-pay. Discussions are ongoing with all three.

Should the above options not pan out by tomorrow, we are wondering if it would be possible to permit Erikson to produce gas at 2 of their wells (Pad 24 in July Lake) for 2-3 days? Here is the list of options for the wells.

- B-24-G/94-P-10 July Lk
- B-B24-G/94-P-10 July Lk
- B-D24-G/94-P-10 July Lk
- D-E24-G/94-P-10 July Lk
- D-F24-G/94-P-10 July Lk
- D-G24-G/94-P-10 July Lk
- B-H24-G/94-P-10 July Lk

It is anticipated that this would get them through another month and further they would pay the arrears for the two wells and pre-pay royalties for the gas to ensure no negative impact to the crown. We could even find a different company to hold the temporary mineral lease if needed. Please let me know if you have any questions and thank you for your consideration.

Keely Cameron (She/Her)

*Partner**, Bennett Jones LLP

*Denotes Professional Corporation

4500 Bankers Hall East, 855 - 2nd Street SW, Calgary, AB, T2P 4K7

T. [403 298 3324](tel:4032983324) | F. [403 265 7219](tel:4032657219) | M. [403 921 7783](tel:4039217783)

BennettJones.com





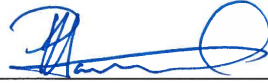
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PETER NEELANDS SWORN ON THE 6TH DAY
OF DECEMBER, 2024



A Notary Public in and for the Province of Ontario

Patrick T. Harnett
Barrister and Solicitor



From: [Reid, James](#)
To: [Keely Cameron](#)
Cc: [Jessica Cameron](#); [Kelsey Meyer](#)
Subject: Re: [**EXT**] Wildboy Gas for Maintenance
Dates: Thursday, December 5, 2024 8:20:08 PM
Attachments: [image001.png](#)
[image011be0.PNG](#)

Mike is speaking to compliance in the morning to try and get an order.

Stay tuned.

Sincerely,

On Dec 5, 2024, at 5:46 PM, Keely Cameron <CameronK@bennettjones.com> wrote:

Thanks James,

Can the BCER issue the order directing Erikson to produce for that purpose? Below is some information regarding the environmental and safety issues resulting in the request to be permitted to produce minerals for a short number of days to replenish the fuel gas for the purpose of maintaining the Wildboy facility and associated workers camp. We are advised that the plant and camp would need to be left abandoned if gas cannot be maintained and this is currently causing significant stress for the workers. From previous experience, field has advised that once operations staff leave, word will travel and people will likely attend the site causing risk of damage and injury.

Direct impacts of the lack of fuel gas include:

Facility impacts:

- Extremely cold winter temperatures will result in all piping that are not/cannot be drained to freeze. There is a high risk of a lot of these drain lines and dump lines cracking upon freezing. Once things thaw this could result in releases.
- The salt baths if they freeze could explode as the vessels break.
- Any water that cannot be drained from any vessels in the facility will freeze with a high risk of cracking or creating leaks.
- Without power the PLCs will likely brownout and lead to equipment failure.
- All plant safety detection equipment and supplies will likely be damaged and may fail creating a risk given in ability to know if an emergency has occurred.

Workers Camp impacts:

- Workers would need to leave the site due to freezing temperatures which put their safety are risk.
- They would have to completely drain all water from the camp and camp supply tanks as they will freeze solid. Some areas of these lines may not be able to be drained completely and will likely result in cracked water lines and water pumps, both in the camp and water treatment buildings.
- The septic system will not be able to be drained and with no movement will likely see freezing and breakage with a potential of creating a hazardous environment (ex mold)
- Once operations has left location and camp has been abandoned the camp will very likely see an abundance of rodents which will create a hazardous environment if the camp was to be inhabited again (ex biological hazards)
- Freezing winter temps will also cause all safety equipment and supplies to be compromised. Eyewash, fire suppression, fire detection.
- Backup power (Diesel generator for camp power only and no heat) will likely be stolen.
- All servers and networking of the control room and camp will likely fail due to no moderation of heat/moisture.
- This camp has been in place since the mid 90's and would end up being a replacement. It would be unlikely to repair the damages caused by abandoning.
- There is also a Bell cell tower onsite which we supply power to, we are unsure of the complications to their equipment without power for an extended period of time.

In addition to all of the environmental and safety concerns, we believe that if the site is not protected there will be no purchasers for the Erikson assets resulting in millions in liabilities to the orphan fund and lost royalties.

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From: Reid, James <jwreid@millerthomson.com>
Sent: Thursday, December 5, 2024 5:35 PM
To: Jessica Cameron <jcameron@fasken.com>; Keely Cameron <CameronK@bennettjones.com>
Subject: Fwd: [**EXT**] FW: Wildboy Gas for Maintenance

FYI.

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[<image001.png>](#)

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From: Janzen, Mike
Sent: Thursday, December 5, 2024 4:23 PM
To: Pasztor, Chris EMU:EX <Chris.Pasztor@gov.bc.ca>
Cc: McDavid, Dorothy <Dorothy.McDavid@bc-er.ca>
Subject: Wildboy Gas for Maintenance

Hi Chris,

Further to our call, counsel to the Erikson trustee has advised of the need for additional gas to be temporarily fed into the Wildboy plant for ongoing maintenance of equipment. While they explore potential sources, the most straight-forward option is to provide the gas from an Erikson well into the gathering system. I don't suspect that they will be able to identify another source from another operator on a short turn around. They are expected to run out of gas by this Sunday.

I have confirmed with our compliance and enforcement staff and we agree that the gas supply must be maintained for cycling and maintenance – we cannot have the plant go down over the winter months, and the implications for integrity are severe.

We are hoping to determine whether there are processes at the Ministry that allow for production without title for these types of situations. Our compliance staff are able to produce an order that would require the trustee to produce the gas for emergency maintenance. It would be our expectation that it be completed for protection of public safety and the environment.

Let me know your thoughts. I understand the tight timing is not ideal.

[<image001.png>](#) [<image002.png>](#)

[<image003.png>](#)

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