



COM C120146  
Dec 9, 2024

COURT FILE NUMBER 2401 - 13792  
COURT COURT OF KING'S BENCH OF ALBERTA  
JUDICIAL CENTRE CALGARY  
IN THE MATTER OF THE RECEIVERSHIP OF  
ERIKSON NATIONAL ENERGY INC.  
APPLICANTS BRITISH COLUMBIA ENERGY REGULATOR  
RESPONDENTS ERIKSON NATIONAL ENERGY INC.  
DOCUMENT **SUPPLEMENTAL AFFIDAVIT OF MICHAEL JANZEN**  
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT MILLER THOMSON LLP  
Barristers and Solicitors  
525 – 8<sup>th</sup> Avenue SW, 43<sup>rd</sup> Floor  
Calgary, AB, T2P 1G1

Attention: James W. Reid / Gavin Finlayson  
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Email: [jwreid@millerthomson.com](mailto:jwreid@millerthomson.com)  
[gfinlayson@millerthomson.com](mailto:gfinlayson@millerthomson.com)

File No. 0287465.0001

**SUPPLEMENTAL AFFIDAVIT OF MICHAEL JANZEN**  
**Affirmed on December 3, 2024**

I, Michael Janzen, of the City of Victoria, in the Province of British Columbia, SOLEMNLY AFFIRM AND DECLARE:

1. I am the Executive Director, Orphans & Restoration at the British Columbia Energy Regulator, formerly named the BC Oil and Gas Commission (the "BCER"). As such, I have personal knowledge of the facts and matters herein, except where stated to be based upon information and belief, and where so stated I verily believe the same to be true. I am authorized to make this Supplemental Affidavit on behalf of the BCER.
2. This Supplemental Affidavit is sworn in support of an originating application (the "Receivership Application") by the BCER filed on October 3, 2024, in the Court of King's Bench of Alberta (the "Court") for the appointment of a receiver and manager (the "Receiver") over all of the assets, undertakings and properties of Erikson National Energy Inc. ("Erikson") pursuant to section 13(2) of the *Judicature Act*, RSA 2000, c. J-2, section

99(a) of the *Business Corporations Act*, RSA 2000, c. B-9 and section 39 of the *Law and Equity Act*, RSBC 1996, c. 253.

3. This Supplemental Affidavit is to be read in conjunction with my affidavit filed on October 3, 2024, and is filed to update the Court since the Receivership Application was adjourned *sine die* on the consent of the BCER and Erikson on October 11, 2024. The Receivership Application was adjourned in order to allow Erikson to run a 30-day, single phase sale and investment solicitation process (the “**SISP**”) in its Notice of Intention to Make a Proposal Proceeding in Estate No. 25-3135903 (the “**NOI Proceeding**”).

### The SISP and the Adjournment of the Receivership Application

4. The Receivership Application was filed on October 3, 2024, and was initially returnable on October 7, 2024, but was rescheduled to October 11, 2024, at the request of counsel for Erikson.
5. At the time of filing the Receivership Application, it was suspected, but not known to the BCER, that Erikson had commenced the NOI Proceeding.
6. On October 11, 2024, just prior to the commencement of the Receivership Application, the BCER and Erikson agreed that the BCER would adjourn the Receivership Application *sine die* in order to allow Erikson to conduct the SISP with its sale advisor, Sayer Energy Advisors (“**Sayer**”), under the oversight of its proposal trustee, KSV Restructuring Inc. (the “**Proposal Trustee**”). A copy of the transcript of the proceeding on October 11, 2024 is attached as **Exhibit “A”**.
7. Erikson and the BCER agreed that the Receivership Application would be rescheduled to November 21, 2024, in the event the SISP did not produce a Successful Bidder (as defined in the SISP). In connection with the BCER agreeing to the adjournment, Erikson provided the BCER with a signed form of Consent Receivership Order. A copy of the Consent Receivership order as provided by Erikson is attached as **Exhibit “B”**. I understand Erikson is not prepared to consent to a receivership order. Correspondence amongst counsel to the BCER and counsel to Erikson to this effect is collectively attached as **Exhibit “C”**.
8. On October 21, 2024, Erikson sought and obtained, among other things, an order approving an extension of the stay period in the NOI Proceeding up to and including November 30, 2024, and approval of the SISP. In accordance with the BCER’s agreement

to adjourn the Receivership Application, the BCER took no position at this application. A copy of the Order approving the SISP is attached as **Exhibit "D"**.

#### **Extension of the SISP and Further Adjournment of the Receivership Application**

9. At the November 14, 2024 binding bid deadline under the SISP, Erikson received three expressions of interest for its properties, however none met the requirements of the SISP and were thus not designated by the Proposal Trustee as Qualified Bids (as defined in the SISP).
10. On November 15, 2024, Erikson filed an application returnable November 21, 2024, seeking an extension of the stay period in the NOI Proceeding to January 15, 2025, and an increase to the interim financing from \$250,000 to \$950,000.
11. At the November 21, 2024 hearing, the BCER agreed to further adjourn the Receivership Application to December 9, 2024, but it opposed a stay extension into the New Year.
12. The adjournment of the Receivership Application by the BCER and the extension of the stay in the NOI Proceedings to December 10, 2024, was to allow Erikson to pursue the expressions of interest received in the SISP to see if they could be sufficiently advanced. A copy of the transcript of the November 21, 2024 hearing is attached as **Exhibit "E"**.

#### **The BCER's Support and Assistance with the SISP**

13. The BCER has supported Erikson, Sayer and the Proposal Trustee with their administration of the SISP.
14. The BCER agreed to adjourn the Receivership Application twice, and agreed to extend the binding bid deadline in the SISP by approximately three-weeks.
15. In addition, the BCER has provided its assistance to Sayer, the Proposal Trustee, and Erikson by:
  - (a) immediately scheduling meetings with Sayer and any potential bidders brought forward by Sayer that have requested meetings with the BCER; and
  - (b) promptly responding to all enquiries and information requests of Sayer, Erikson, the Proposal Trustee and potential purchasers.

16. Importantly, counsel to the BCER advised Erikson, the Proposal Trustee, Sayer and Third Eye Capital Corporation that there would be security requirements associated with any proposed transactions. It further advised that such security amounts could be reduced by potential purchasers taking steps such as providing a financially-backed accelerated closure plan for those Erikson dormant sites that it was proposing to acquire (an "**Accelerated Closure Plan**").

#### **The Extended Bid Deadline and Lack of Qualified Bids**

17. Following the November 21, 2024 hearing, the BCER, Erikson, the Proposal Trustee, Sayer and Third Eye Capital Corporation agreed to retroactively extend the SISP's binding bid deadline to 12:00 pm (Calgary time) on December 2, 2024 (the "**Extended Bid Deadline**").
18. Prior to the Extended Bid Deadline, the BCER met with Sayer and two potential bidders to discuss the Erikson properties and regulatory obligations associated therewith.
19. For a bid to be a Qualified Bid under the SISP, a bidder must, among other things, provide financial disclosure and credit quality support to allow Erikson, the Proposal Trustee and the BCER to determine such bidders' financial capabilities to consummate a transaction and comply with any regulatory obligations associated with the purchased property.
20. This is important as the SISP requires that purchasers assume all regulatory obligations associated with any property it purchases pursuant to the SISP.
21. As at the time of this Supplemental Affidavit, the BCER has not been able to assess if any potential purchaser is capable of complying with the regulatory obligations associated with Erikson's assets.
22. As at the time of this Supplemental Affidavit, the BCER is unaware of any potential bidders having prepared an Accelerated Closure Plan.
23. As at the time of this Supplemental Affidavit, the BCER is unaware of any formal binding offers having been submitted by the Extended Bid Deadline in accordance with the SISP.

**The Unsolicited Kingscrest Offer**

24. In July 2024, counsel to Erikson introduced the BCER to counsel to Kingscrest Acquisition Corp. ("**Kingscrest**") in respect of a proposed transaction whereby Kingscrest would acquire Erikson. A copy of the introduction email is attached as **Exhibit "F"**.
25. Beginning in July 2024, the BCER attended several meetings and responded to numerous enquiries in respect of the proposed transaction and provided Kingscrest the regulatory consequences of the potential transaction.
26. On September 3, 2024, the BCER agreed to support a transaction structure proposed by Kingscrest, whereby Kingscrest would acquire and assume a substantial portion of Erikson's properties, with nearly \$34,853,190 in deemed liability, while other properties would remain with a residual company. The high-level terms of the arrangement that was proposed to the BCER by Kingscrest is attached as **Exhibit "G"**.
27. It is the BCER's understanding that Kingscrest and Erikson continued to negotiate the proposed transaction until October 7, 2024, when Kingscrest's counsel advised counsel to the BCER via letter that it had terminated negotiations with Erikson and Third Eye Capital Corporation. Kingscrest advised it would work with the BCER and a receiver to consummate the transaction. This correspondence is Exhibit H to the Secretarial Affidavit of Marica Ceko sworn October 9, 2024 in this proceeding.
28. On November 14, 2024, following the initial bid deadline in the SISP, counsel to Kingscrest sent Sara Gregory, Chief Legal Counsel at the BCER, an unsolicited offer letter proposing to acquire certain assets of Erikson. This offer letter included a draft form of Acquisition Agreement (collectively, the "**Unsolicited Kingscrest Offer**"). The Unsolicited Kingscrest Offer is not attached because Kingscrest is claiming it is confidential and proprietary to Kingscrest.
29. Apart from receiving the Unsolicited Kingscrest Offer, no staff at the BCER has had communications with Kingscrest or its counsel since agreeing to adjourn the Receivership Application to permit Erikson to run the SISP. The BCER has not responded to the Unsolicited Kingscrest Offer.
30. It was advised by counsel to Erikson at a questioning of me on my Affidavit that took place on November 29, 2024, that the form of Acquisition Agreement that is part of the Unsolicited Kingscrest Offer is in a standard form Bennett Jones LLP format.

31. On November 26, 2024, counsel to the Proposal Trustee invited Kingscrest to submit the Unsolicited Kingscrest Offer in the SISP. Counsel to Kingscrest responded on November 28, 2024 advising that it would not participate in the SISP due to certain perceived concerns it had with the NOI Proceeding and the SISP. Counsel to the Proposal Trustee responded to counsel to Kingscrest on November 29, 2024. A copy of the correspondences between counsel to the Proposal Trustee and counsel to Kingscrest is collectively attached as **Exhibit "H"**.
32. On November 30, 2024, counsel to Erikson wrote to counsel to the BCER encouraging the BCER to reach out to Kingscrest to have it submit a bid in the SISP.
33. The BCER has chosen not to communicate with counsel to Kingscrest in respect of the SISP as that process is managed by Erikson and Sayer.

#### **THE APPOINTMENT OF A RECEIVER IS NECESSARY AND APPROPRIATE**


34. In addition to losing confidence in Erikson's ability to appropriately and competently address its outstanding statutory and environmental obligations as set out in my October 2, 2024 affidavit, Erikson has failed to secure a viable bid through the SISP.
35. The following further supports the BCER's application for the appointment of a receiver:
  - (a) the absence of any qualified bids by the SISP bid deadline of November 14, 2024, as extended to December 2, 2024;
  - (b) the absence of any potential bidders submitting to the BCER an Accelerated Closure Plan or assurance that adequate security would be provided to satisfy regulatory obligations;
  - (c) the absence of any potential bidder providing evidence of any financial and operational capabilities and acceptable schedules to manage the outstanding and ongoing regulatory obligations associated with Erikson's properties;
  - (d) a key potential bidder, Kingscrest, refusing to participate in the SISP; and
  - (e) the sole director and officer of Erikson having resigned on November 25, 2024, and being replaced with the director of investments at Third Eye Capital Corporation.

- 36. The BCER continues to evaluate potential purchasers identified through the SISP but failing any significant progress, is seeking to bring back the Receivership Application on December 9, 2024.
- 37. The appointment of a receiver and manager over Erikson and its property is necessary to ensure the safe care and custody of such properties.
- 38. I make this Supplemental Affidavit in support of the Receivership Application.

AFFIRMED BEFORE ME at the City of )  
Victoria in the Province of British Columbia, )  
this 3<sup>rd</sup> day of December, 2024. )

)  
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)  
A Notary Public in and for the Province of )  
British Columbia )

**Dorothy McDaid**  
Barrister and Solicitor  
BC Energy Regulator  
2950 Jutland Rd.  
Victoria, B.C. V8T 5K2

  
\_\_\_\_\_  
Michael Janzen

This is Exhibit "A" referred to in the Supplemental Affidavit of Michael Janzen affirmed before me at Victoria, BC this 3rd day of December, 2024



---

A Notary Public in and for the Province of British Columbia

**Dorothy McDaid**  
Barrister and Solicitor  
BC Energy Regulator  
2950 Jutland Rd.  
Victoria, B.C. V8T 5K2



Action No.: 2401-13792  
E-File Name: EVK24ERIKSON  
Appeal No.: \_\_\_\_\_

IN THE COURT OF KING'S BENCH OF ALBERTA  
JUDICIAL CENTRE OF EDMONTON

IN THE MATTER OF THE NOTICE OF THE RECEIVERSHIP  
OF ERIKSON NATIONAL ENERGY INC.

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PROCEEDINGS

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Edmonton, Alberta  
October 11, 2024

Transcript Management Services  
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1 Proceedings taken in the Court of King's Bench of Alberta, Courthouse, Edmonton, Alberta

2

3 October 11, 2024 Afternoon Session

4

5 The Honourable (remote appearance) Court of King's Bench of Alberta

6 Justice Dunlop

7

8 J. Reid (remote appearance) For BC Energy Regulator

9 D. McDaid (remote appearance) For BC Energy Regulator

10 K. Cameron (remote appearance) For Erikson National Energy

11 L. R. Rollingson (remote appearance) For Erikson National Energy

12 J. Cameron (remote appearance) For KSV Restructuring Inc.

13 E. Paplawski For Canadian Natural Resources

14 D. R. Peterson For Kingscrest

15 P. Harnett For Third Eye Capital Corporation

16 A. Welch For the Province of BC

17 A. Glen For the Province of BC

18 D. R. Peterson For Kingscrest

19 M. Meenu Court Clerk

20

21

22 THE COURT CLERK: All right. So we started the recording. Justice  
23 Dunlop will also be joining us virtually and he will join in just a few moments.

24

25 MR. REID: Thank you. I believe everybody indicated they  
26 wanted to attend it here so we are ready to start.

27

28 THE COURT CLERK: Excellent. Thank you.

29

30 THE COURT: Good afternoon, madam clerk. It is Justice  
31 Dunlop speaking. Can you hear me?

32

33 THE COURT CLERK: Yes, Justice, I can hear you.

34

35 THE COURT: All right. So we are here on the receivership  
36 application brought by the British Columbia Energy Regulator against Erikson National  
37 Energy. I am expecting -- I thought I saw a minute ago Mr. Reid, counsel for the applicant.  
38 Mr. Reid, if you would please introduce the other people here and who they represent.

39

40 **Submissions by Mr. Reid**

41

1 MR. REID: Thank you, Sir. James Reid of Miller Thomson.  
2 I'm counsel to the applicant, the British Columbia Energy Regulator and I'm joined by my  
3 client Dorothy McDaid at the Regulator's office. Others in attendance -- and I am just going  
4 to go with who is on the Webex line -- I see Ms. Keely Cameron of Bennett Jones. She  
5 represents the respondent Erikson National Energy and she is joined with her colleague  
6 Luc Rollingson. Jessica Cameron of the Baskin firm is here. She represents Erikson's  
7 proposal trustee, KSV Restructuring Inc. I don't believe anybody from (INDISCERNIBLE)  
8 office is in attendance. We have Emily Paplawski of the Osler firm who is counsel to  
9 Canadian Natural Resources Limited. I see Aaron Welch and Andrea Glen who are counsel  
10 to the Minister of Energy and Attorney General of British Columbia. Darrell Peterson of  
11 the McMillan Law Firm is here. Mr. Peterson is counsel to Kingscrest (phonetic). Patrick  
12 Harnett, he is counsel to Third Eye Capital Corporation which is senior secured creditor to  
13 Erikson. And I believe that's everybody, Sir.

14  
15 THE COURT: Okay. And you referred to a proposal trustee. I  
16 do not think I have seen a proposal. Has one been filed?

17  
18 MR. REID: A notice of intention to make a proposal has been

19  
20 THE COURT: Oh, it has been filed.

21  
22 MR. REID: -- filed -- has been filed, but no proposal.

23  
24 THE COURT: Okay. And the Notice of Intention did not make  
25 its way to my file for whatever reason.

26  
27 MR. REID: No, Sir, but I believe I did reference it in -- in our  
28 materials.

29  
30 THE COURT: I think I saw that, yes. So the first issue is service.  
31 Oh, is everyone here whom you were expecting?

32  
33 MR. REID: Yes, Sir, and as you can expect, there's been  
34 many, many, many hours put in by my friend Ms. Cameron from the Bennett Jones firm as  
35 well, Ms. Cameron from the Fasken firm, lots of phone calls and discussions with me and  
36 my client. I would have given you more of a heads up but we only really finalized a  
37 potential resolution here about 30 minutes ago, Sir.

38  
39 But the long and the short is that there is an agreement where we are going to adjourn our  
40 application to appoint a receiver today sine die. I won't get into the terms but some of the  
41 things that are public you may have seen from the secretarial affidavit sworn October 9th.

1 There has been correspondences between myself and Ms. Cameron and they -- in those  
2 correspondence they reference a 30-day single phase marketing and sales process and we're  
3 prepared to -- or the Regulation is prepared to allow the company to run that 30-day process  
4 with its sale advisor Sayer Energy Advisors under the oversight of its proposal trustee KSV.  
5

6 Some of the -- some of the other terms I don't think are controversial or that I think I can  
7 put on the record as Erikson has agreed it will maintain the site in a safe and working order  
8 and the Regulator will have full consultation and visibility rights on the process, including  
9 access to the sale advisor and proposal trustee.  
10

11 So long and short, Sir, I would have liked to have given your office a bit more of a notice  
12 that I wasn't going to proceed today but I think this is a positive development and the  
13 product of a lot of hard work on the part of Ms. Cameron's office as well as her  
14 communications with me.  
15

16 THE COURT: So I understand you to be saying there is a  
17 consent adjournment sine die and if that is all there is from me, I do not think you need a  
18 form of order to do that. Just do it on the record. But if there are other terms you are talking  
19 about important to be in an order, well, they could be in an order.  
20

21 MR. REID: We're not asking for an order, Sir. We are just  
22 adjourning sine die and we did want to put those notes on the record as well as because  
23 there are a lot of -- as you can tell -- stakeholders that attended today that wouldn't have  
24 had notice of the adjournment like yourself, Sir.  
25

26 THE COURT: Okay. Anything else on the adjournment, Mr.  
27 Reid?  
28

29 MR. REID: Nothing from me, Sir. I do note I did get a call  
30 from at least one other party, Ms. Paplawski. She mentioned that she might want to say a  
31 few words on the record and I believe Ms. Cameron might also want to speak.  
32

33 THE COURT: So I will just say is there anybody -- I am happy  
34 to hear from anybody about anything but is anybody opposing this adjournment sine die?  
35 Nobody is speaking up so if anybody wants to address it, I am happy to hear whatever you  
36 have to say. Just unmute yourself and start talking.  
37

38 **Submissions by Ms. Paplawski**  
39

40 MS. PAPLAWSKI: Sir, good afternoon. E. Paplawski. For the  
41 record, counsel for Canadian Natural Resources Limited. CNRL is a significant stakeholder

1 in any proceedings of Erikson, they are a working interest partner in a significant portion  
2 of the assets of Erikson's licensed assets in British Columbia. They are also a judgment  
3 creditor of Erikson. While we're not opposing the adjournment, CNRL does support the  
4 receivership and Erikson being placed into receivership. They do not support any  
5 continuing self-directed process that Erikson may wish to undertake and the intention is  
6 they're intending to oppose any stay extension or charges that Erikson may seek in its NOI  
7 proceeding. Canadian Natural's view is that the company should be in receivership for a  
8 whole host of reasons which we will put on the record at the applicable time.  
9

10 THE COURT: Okay. Thank you, Ms. Paplawski. Anyone else  
11 wish to address the adjournment? All right. Thank you all for being here. The adjournment  
12 sine die is granted unopposed, largely on consent. Anything else you wish to do today, Mr.  
13 Reid?  
14

15 MR. REID: That's everything, Sir. Thank you for making the  
16 time just before the long weekend.  
17

18 THE COURT: Okay. Anyone else have anything they wish to  
19 say before I adjourn? All right. Thank you, all. I will adjourn.  
20

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23 PROCEEDINGS ADJOURNED  
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1 **Certificate of Record**

2  
3 I, Meenu Meenu, certify that this recording is the record made of the evidence in the  
4 proceedings in the Court of King's Bench held in courtroom number 516 at Edmonton,  
5 Alberta, on the 11th day of October and I, Meenu, was the court official in charge of the  
6 sound-recording machine during the proceedings.

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1 **Certificate of Transcript**

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I, Carol Barrett, certify that

(a) I transcribed the record, which was recorded by a sound-recording machine, to the best of my skill and ability and the foregoing pages are a complete and accurate transcript of the contents of the record, and

(b) the Certificate of Record for these proceedings was included orally on the record and is transcribed in this transcript.

Carol Barrett, Transcriber  
Order Number: TDS-1070429  
Dated: October 21, 2024



This is Exhibit "B" referred to in the Supplemental Affidavit of Michael Janzen affirmed before me at Victoria, BC this 3rd day of December, 2024



---

A Notary Public in and for the Province of British Columbia

**Dorothy McDaid**  
Barrister and Solicitor  
BC Energy Regulator  
2950 Jutland Rd.  
Victoria, B.C. V8T 5K2

---

**From:** Keely Cameron <CameronK@bennettjones.com>  
**Sent:** Friday, October 11, 2024 2:30 PM  
**To:** Reid, James  
**Cc:** Grant Stapon  
**Subject:** RE: Consent Receivership Order [BJ-WSLegal.FID6337063]  
**Attachments:** Consent Receivership Order - signed - circ.pdf

James,

Please find attached the executed Consent Receivership Order which is provided on the following trust conditions:

1. That in accordance with yesterday's agreement, the Consent Receivership Order will not be utilized unless at the conclusion of the sales process, the process does not result in a real bidder emerging that is acceptable to both Erikson and BCER; and
2. The blanks in the Consent Receivership Order will not be filled in unless and until the parties agree or the Court makes a decision on who the Receiver shall be.

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

\*Denotes Professional Corporation

T. 403 298 3324 | F. 403 265 7219 | M. 403 921 7783

**From:** Reid, James <jwreid@millertomson.com>  
**Sent:** Friday, October 11, 2024 2:13 PM  
**To:** Keely Cameron <CameronK@bennettjones.com>  
**Subject:** RE: Consent Receivership Order

See attached.

I didn't think 32 was a problem since it isn't a priming charge.

**JAMES W. REID**

Partner

**MILLER THOMSON LLP**

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**From:** Keely Cameron <CameronK@bennettjones.com>  
**Sent:** Friday, October 11, 2024 2:09 PM  
**To:** Reid, James <jwreid@millerthomson.com>  
**Subject:** **[\*\*EXT\*\*]** RE: Consent Receivership Order

Hi James,

You did not delete paragraph 32, can you please remove it and I will get it signed by Erikson right away.

**Keely Cameron (She/Her), Partner\***, Bennett Jones LLP  
\*Denotes Professional Corporation  
T. 403 298 3324 | F. 403 265 7219 | M. 403 921 7783

**From:** Reid, James <jwreid@millerthomson.com>  
**Sent:** Friday, October 11, 2024 2:06 PM  
**To:** Keely Cameron <CameronK@bennettjones.com>  
**Subject:** Consent Receivership Order

Execution version attached.

Please return the signed document.

Sincerely,

**JAMES W. REID**  
Partner

**MILLER THOMSON LLP**  
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Clerk's Stamp:

COURT FILE NUMBER

COURT

COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY

IN THE MATTER OF THE RECEIVERSHIP OF  
ERIKSON NATIONAL ENERGY INC.

APPLICANT

BRITISH COLUMBIA ENERGY REGULATOR

RESPONDENT

ERIKSON NATIONAL ENERGY INC.

DOCUMENT

**CONSENT RECEIVERSHIP ORDER**

ADDRESS FOR SERVICE  
AND CONTACT  
INFORMATION OF PARTY  
FILING THIS DOCUMENT

MILLER THOMSON LLP  
Barristers and Solicitors  
525-8<sup>th</sup> Avenue SW, 43<sup>rd</sup> Floor  
Calgary, AB, Canada T2P 1G1

Attention: James W. Reid / Pavin Takhar  
Telephone: 403-298-2418 / 403-298-2432  
Email: [jwreid@millერთhompson.com](mailto:jwreid@millერთhompson.com)  
[ptakhar@millერთhompson.com](mailto:ptakhar@millერთhompson.com)

File No. 0287465.0001

**DATE ON WHICH ORDER WAS PRONOUNCED:**

**LOCATION OF HEARING:**

**NAME OF JUSTICE WHO GRANTED THIS ORDER:**

**UPON** the application of the British Columbia Energy Regulator (the "**BCER**") in respect of Erikson National Energy Inc. (the "**Debtor**");

**AND UPON** reading the consent of \_\_\_\_\_ to act as receiver (the "**Receiver**") of the Debtor, filed;

**AND UPON** hearing counsel for the BCER, counsel for the proposed Receiver, counsel for the Debtor, and any other counsel or other interested parties present;

**IT IS HEREBY ORDERED AND DECLARED THAT:**

**Service**

1. The time for service of the notice of application for this order (the "**Order**") is hereby abridged and deemed good and sufficient if applicable and this application is properly returnable today.

**Appointment**

2. Pursuant to and sections 13(2) of the *Judicature Act*, RSA 2000, c.J-2, 99(a) of the *Business Corporations Act*, RSA 2000, c.B-9 and section 39 of the *Law and Equity Act*, RSBC 1996, c. 253, \_\_\_\_\_ is hereby appointed Receiver, without security, of all of the Debtor's current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof (the "**Property**").

**Receiver's Powers**

3. The Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:
  - (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property, which shall include the Receiver's ability:
    - i. to abandon, dispose of, or otherwise release any interest in any of the Debtor's real or personal property, or any right in any immovable; and
    - ii. upon further order of the Court, to abandon, dispose of, or otherwise release any license or authorization issued by the BCER, or any other similar government authority;
  - (b) to receive, preserve and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;

- (c) to manage, operate and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to or by the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to undertake environmental or workers' health and safety assessments of the Property and operations of the Debtor;
- (j) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding, and provided further that nothing in this Order shall authorize the Receiver to defend or settle the action in which this Order is made unless otherwise directed by this Court;
- (k) to market any or all the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;



- (l) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business with the approval of this Court in respect of any transaction and in each such case notice under section 59(10) of the *Personal Property Security Act*, RSBC 1996, c. 359 and subsection 60(8) of the *Personal Property Security Act*, RSA 2000, c. P-7 or any other similar legislation in any other province or territory shall not be required;
- (m) to apply for any vesting order or other orders (including, without limitation, confidentiality or sealing orders) necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (n) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (o) to register a copy of this Order and any other orders in respect of the Property against title to any of the Property, and when submitted by the Receiver for registration this Order shall be immediately registered by the Land Title and Survey Authority of British Columbia and Registrar of Land Titles of Alberta, or any other similar government authority, notwithstanding sections 134 and 210 of the *Land Titles Act*, RSBC 1996, c. 250 and section 191 of the *Land Titles Act*, RSA 2000, c. L-4, or the provisions of any other similar legislation in any other province or territory, and notwithstanding that the appeal period in respect of this Order has not elapsed and the Registrar of Land Titles of British Columbia and Registration of Land Titles of Alberta, as applicable, shall 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;
- (p) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;

- (q) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (r) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have;
- (s) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations; and
- (t) to assign the Debtor into bankruptcy;

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons, including the Debtor, and without interference from any other Person (as defined below).

#### **Duty to Provide Access and Co-operations to the Receiver**

4. (i) The Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property (excluding Property subject to liens the validity of which is dependent on maintaining possession) to the Receiver upon the Receiver's request.
5. All Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be

disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or documents prepared in contemplation of litigation or due to statutory provisions prohibiting such disclosure.

6. If any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names, and account numbers that may be required to gain access to the information.

#### **No Proceedings Against the Receiver**

7. No proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

#### **No Proceedings Against the Debtor or the Property**

8. No Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court, provided, however, that nothing in this Order shall: (i) prevent any Person from commencing a proceeding regarding a claim that might otherwise become barred by statute or an existing agreement if such proceeding is not commenced before the expiration of the stay provided by this paragraph; and (ii) affect a Regulatory Body's investigation in respect of the Debtor or an action, suit or proceeding that is taken in respect of the debtor by or before the Regulatory Body, other than the enforcement of a payment order by the Regulatory Body

or the Court. "**Regulatory Body**" means a person or body that has powers, duties or functions relating to the enforcement or administration of an Act of Parliament or of the legislature of a Province.

**No Exercise of Rights of Remedies**

9. All rights and remedies of any Person, whether judicial or extra-judicial, statutory or non-statutory (including, without limitation, set-off rights) against or in respect of the Debtor or the Receiver or affecting the Property are hereby stayed and suspended and shall not be commenced, proceeded with or continued except with leave of this Court, including, without limitation, any rights or remedies or provisions in any agreement, construction, ownership and operating agreement, joint venture agreement or any such similar agreement or agreements to which the Debtor is a party that purport to effect or cause a cessation of operatorship as a result of the occurrence of any default or non-performance by or the insolvency of the Debtor, the making or filing of these proceedings or any allegation, admission or evidence in these proceedings and under no circumstances shall the Debtor be replaced as operator pursuant to any such agreements without further order of this Court provided, however, that this stay and suspension does not apply in respect of any "eligible financial contract" (as defined in the BIA), and further provided that nothing in this Order shall:
  - (a) empower the Debtor to carry on any business that the Debtor is not lawfully entitled to carry on;
  - (b) prevent the filing of any registration to preserve or perfect a security interest;
  - (c) prevent the registration of a claim for lien; or
  - (d) exempt the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment.
  
10. Nothing in this Order shall prevent any party from taking an action against the Debtor where such an action must be taken in order to comply with statutory time limitations in order to preserve their rights at law, provided that no further steps shall be taken by such party except in accordance with the other provisions of this Order, and notice in writing of such action be given to the Receiver at the first available opportunity.

### **No Interference with the Receiver**

11. No Person shall accelerate, suspend, discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, except with the written consent of the Debtor and the Receiver, or leave of this Court.

### **Continuation of Services**

12. All persons having:
  - (a) statutory or regulatory mandates for the supply of goods and/or services; or
  - (b) oral or written agreements or arrangements with the Debtor, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation, services, utility or other services to the Debtor,

are hereby restrained until further order of this Court from discontinuing, altering, interfering with, suspending or terminating the supply of such goods or services as may be required by the Debtor or exercising any other remedy provided under such agreements or arrangements. The Debtor shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the usual prices or charges for all such goods or services received after the date of this Order are paid by the Debtor in accordance with the payment practices of the Debtor, or such other practices as may be agreed upon by the supplier or service provider and each of the Debtor and the Receiver, or as may be ordered by this Court.

### **Receiver to Hold Funds**

13. All funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net

of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further order of this Court.

### **Employees**

14. Subject to employees' rights to terminate their employment, all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3 (the "**BIA**"), other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*, SC 2005, c.47 ("**WEPPA**").
15. Pursuant to clause 7(3)(c) of the Personal Information Protection and Electronic Documents Act, SC 2000, c. 5, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

### **Limitations on Environmental Liabilities**

16. (a) Notwithstanding anything in any federal or provincial law, the Receiver is not personally liable in that position for any environmental condition that arose or environmental damage that occurred:
  - i. before the Receiver's appointment; or

- ii. after the Receiver's appointment unless it is established that the condition arose or the damage occurred as a result of the Receiver's gross negligence or wilful misconduct.
- (b) Nothing in sub-paragraph (a) exempts a Receiver from any duty to report or make disclosure imposed by a law referred to in that sub-paragraph.
- (c) Notwithstanding anything in any federal or provincial law, but subject to sub-paragraph (a) hereof, where an order is made which has the effect of requiring the Receiver to remedy any environmental condition or environmental damage affecting the Property, the Receiver is not personally liable for failure to comply with the order, and is not personally liable for any costs that are or would be incurred by any person in carrying out the terms of the order,
- i. if, within such time as is specified in the order, within 10 days after the order is made if no time is so specified, within 10 days after the appointment of the Receiver, if the order is in effect when the Receiver is appointed, or during the period of the stay referred to in clause ii below, the Receiver:
    - A. complies with the order, or
    - B. on notice to the person who issued the order, abandons, disposes of or otherwise releases any interest in any real property affected by the condition or damage;
  - ii. during the period of a stay of the order granted, on application made within the time specified in the order referred to in clause (i) above, within 10 days after the order is made or within 10 days after the appointment of the Receiver, if the order is in effect when the Receiver is appointed, by:
    - A. the court or body having jurisdiction under the law pursuant to which the order was made to enable the Receiver to contest the order; or
    - B. the court having jurisdiction in bankruptcy for the purposes of assessing the economic viability of complying with the order; or

- iii. if the Receiver had, before the order was made, abandoned or renounced or been divested of any interest in any real property affected by the condition or damage.

#### **Limitation on the Receiver's Liability**

17. Except for gross negligence or wilful misconduct, as a result of its appointment or carrying out the provisions of this Order the Receiver shall incur no liability or obligation that exceeds an amount for which it may obtain full indemnity from the Property. Nothing in this Order shall derogate from any limitation on liability or other protection afforded to the Receiver under any applicable law, including, without limitation, Section 14.06, 81.4(5) or 81.6(3) of the BIA.

#### **Receiver's Accounts**

18. The Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case, incurred at their standard rates and charges. The Receiver and counsel to the Receiver shall be entitled to the benefits of and are hereby granted a charge (the "**Receiver's Charge**") on the Property as security for their professional fees and disbursements incurred at the normal rates and charges of the Receiver and such counsel, both before and after the making of this Order in respect of these proceedings, and the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, deemed trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person but subject to section 14.06(7), 81.4(4) and 81.6(2) and 88 of the BIA.
19. The Receiver and its legal counsel shall pass their accounts from time to time.
20. Prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including the legal fees and disbursements, incurred at the normal rates and charges of the Receiver and its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

#### **Funding of the Receivership**

21. The Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$500,000 (or



such greater amount as this Court may by further order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, deemed trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges set out in sections 14.06(7), 81.4(4) and 81.6(2) and 88 of the BIA.

22. Neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.
23. The Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "**Receiver's Certificates**") for any amount borrowed by it pursuant to this Order.
24. The monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.
25. The Receiver shall be authorized to repay any amounts borrowed by way of Receiver's Certificates out of the Property or any proceeds, including any proceeds from the sale of any assets without further approval of this Court.

#### **Allocation**

26. Any interested party may apply to this Court on notice to any other party likely to be affected, for an order allocating the Receiver's Charge and Receiver's Borrowings Charge amongst the various assets comprising the Property

#### **General**

27. The Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

28. Notwithstanding Rule 6.11 of the *Alberta Rules of Court*, unless otherwise ordered by this Court, the Receiver will report to the Court from time to time, which reporting is not required to be in affidavit form and shall be considered by this Court as evidence. The Receiver's reports shall be filed by the Court Clerk notwithstanding that they do not include an original signature.
29. Nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.
30. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any foreign jurisdiction 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 orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Receiver in any foreign proceeding, or to assist the Receiver and its agents in carrying out the terms of this Order.
31. The Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings
32. Any interested party may apply to this Court to vary or amend this Order on not less than 7 days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

#### **Filing**

33. This Order is issued and shall be filed in Court of King's Bench Action No. **2401-13792**.
34. The Receiver shall establish and maintain a website in respect of these proceedings at \_\_\_\_\_ (the "**Receiver's Website**") and shall post there as soon as practicable:
  - (a) all materials prescribed by statute or regulation to be made publicly available; and
  - (b) all applications, reports, affidavits, orders and other materials filed in these proceedings by or on behalf of the Receiver, or served upon it, except such



SCHEDULE "A"

RECEIVER CERTIFICATE

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. THIS IS TO CERTIFY that \_\_\_\_\_ the receiver and manager (the "**Receiver**") of all of the assets, undertakings and properties of Erikson National Energy Inc. appointed by Order of the Court of King's Bench of Alberta and Court of King's Bench of Alberta in Bankruptcy and Insolvency (collectively, the "**Court**") dated [●] ("**Order**") made in action number [●], has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of [●], being part of the total principal sum of [●] that the Receiver is authorized to borrow under and pursuant to the Order.
2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [monthly] after the date hereof at a notional rate per annum equal to the rate of [●] per cent above the prime commercial lending rate of the Bank of [●] from time to time.
3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property (as defined in the Order), in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.
4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at [●].
5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.
6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the \_\_\_\_\_ day of \_\_\_\_\_, 2024

\_\_\_\_\_, solely in its capacity as Receiver of the Property (as defined in the Order), and not in its personal capacity or corporate capacity

Per: \_\_\_\_\_

Name:

Title:

This is Exhibit "C" referred to in the Supplemental Affidavit of Michael Janzen affirmed before me at Victoria, BC this 3rd day of December, 2024



---

A Notary Public in and for the Province of British Columbia

**Dorothy McDaid**  
Barrister and Solicitor  
BC Energy Regulator  
2950 Jutland Rd.  
Victoria, B.C. V8T 5K2



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November 25, 2024

VIA EMAIL  
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James W. Reid  
Partner  
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[jwreid@millerthomson.com](mailto:jwreid@millerthomson.com)

File No. 0287465.0001

Attention: Keely Cameron

**Re: Consent Receivership Order**

---

Dear Madam:

We write further to the Consent Receivership Order from Erikson National Energy Inc. ("**Erikson**") in respect of the British Columbia Energy Regulator's (the "**BCER**") adjourned application, which is now returnable December 9, 2024. A copy of the Consent Receivership Order is attached as Schedule A.

For the British Columbia Energy Regulator (the "**BCER**") to rely on the Consent Receiver Order at the conclusion of Erikson's sales process, the BCER is required to produce to counsel to Erikson all communications between it and Kingscrest Acquisition Corp. ("**Kingscrest**") or counsel to Kingscrest. Accordingly, please find enclosed the requested communications.

Please be advised that should the Erikson's sales process (as it may be extended to December 2, 2024 on the consent of the parties) not result in a bidder emerging that is acceptable to both Erikson and the BCER, the BCER will be relying on this Consent Receivership Order at the application scheduled December 9, 2024.

If Erikson has preferences for the blanks in the Consent Receivership Order that will be relied upon by the BCER should there be no acceptable binding bids by noon Calgary Time on December 2, 2024, please advise by noon Calgary Time November 29, 2024, and we will take it into consideration.

Yours truly,

MILLER THOMSON LLP

Per:

A handwritten signature in black ink, appearing to read 'James W. Reid', written in a cursive style.

James W. Reid  
Enclosures

c. Gavin Finlayson (Miller Thomson LLP)  
Grant Stapon (Bennett Jones LLP)







MILLER THOMSON LLP  
525 - 8TH AVENUE S.W., 43RD FLOOR  
EIGHTH AVENUE PLACE EAST  
CALGARY, AB T2P 1G1  
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\_\_\_\_\_  
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## Schedule A Consent Receivership Order

Clerk's Stamp:

COURT FILE NUMBER

COURT

COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY

IN THE MATTER OF THE RECEIVERSHIP OF  
ERIKSON NATIONAL ENERGY INC.

APPLICANT

BRITISH COLUMBIA ENERGY REGULATOR

RESPONDENT

ERIKSON NATIONAL ENERGY INC.

DOCUMENT

**CONSENT RECEIVERSHIP ORDER**

ADDRESS FOR SERVICE  
AND CONTACT  
INFORMATION OF PARTY  
FILING THIS DOCUMENT

MILLER THOMSON LLP  
Barristers and Solicitors  
525-8<sup>th</sup> Avenue SW, 43<sup>rd</sup> Floor  
Calgary, AB, Canada T2P 1G1

Attention: James W. Reid / Pavin Takhar  
Telephone: 403-298-2418 / 403-298-2432  
Email: [jwreid@millerthomson.com](mailto:jwreid@millerthomson.com)  
[ptakhar@millerthomson.com](mailto:ptakhar@millerthomson.com)

File No. 0287465.0001

**DATE ON WHICH ORDER WAS PRONOUNCED:**

**LOCATION OF HEARING:**

**NAME OF JUSTICE WHO GRANTED THIS ORDER:**

**UPON** the application of the British Columbia Energy Regulator (the "**BCER**") in respect of Erikson National Energy Inc. (the "**Debtor**");

**AND UPON** reading the consent of \_\_\_\_\_ to act as receiver (the "**Receiver**") of the Debtor, filed;

**AND UPON** hearing counsel for the BCER, counsel for the proposed Receiver, counsel for the Debtor, and any other counsel or other interested parties present;

**IT IS HEREBY ORDERED AND DECLARED THAT:**

**Service**

1. The time for service of the notice of application for this order (the “**Order**”) is hereby abridged and deemed good and sufficient if applicable and this application is properly returnable today.

**Appointment**

2. Pursuant to and sections 13(2) of the *Judicature Act*, RSA 2000, c.J-2, 99(a) of the *Business Corporations Act*, RSA 2000, c.B-9 and section 39 of the *Law and Equity Act*, RSBC 1996, c. 253, \_\_\_\_\_ is hereby appointed Receiver, without security, of all of the Debtor's current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof (the “**Property**”).

**Receiver's Powers**

3. The Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:
  - (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property, which shall include the Receiver's ability:
    - i. to abandon, dispose of, or otherwise release any interest in any of the Debtor's real or personal property, or any right in any immovable; and
    - ii. upon further order of the Court, to abandon, dispose of, or otherwise release any license or authorization issued by the BCER, or any other similar government authority;
  - (b) to receive, preserve and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;

- (c) to manage, operate and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to or by the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to undertake environmental or workers' health and safety assessments of the Property and operations of the Debtor;
- (j) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding, and provided further that nothing in this Order shall authorize the Receiver to defend or settle the action in which this Order is made unless otherwise directed by this Court;
- (k) to market any or all the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;

- (l) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business with the approval of this Court in respect of any transaction and in each such case notice under section 59(10) of the *Personal Property Security Act*, RSBC 1996, c. 359 and subsection 60(8) of the *Personal Property Security Act*, RSA 2000, c. P-7 or any other similar legislation in any other province or territory shall not be required;
- (m) to apply for any vesting order or other orders (including, without limitation, confidentiality or sealing orders) necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (n) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (o) to register a copy of this Order and any other orders in respect of the Property against title to any of the Property, and when submitted by the Receiver for registration this Order shall be immediately registered by the Land Title and Survey Authority of British Columbia and Registrar of Land Titles of Alberta, or any other similar government authority, notwithstanding sections 134 and 210 of the *Land Titles Act*, RSBC 1996, c. 250 and section 191 of the *Land Titles Act*, RSA 2000, c. L-4, or the provisions of any other similar legislation in any other province or territory, and notwithstanding that the appeal period in respect of this Order has not elapsed and the Registrar of Land Titles of British Columbia and Registration of Land Titles of Alberta, as applicable, shall 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;
- (p) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;

- (q) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (r) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have;
- (s) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations; and
- (t) to assign the Debtor into bankruptcy;

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons, including the Debtor, and without interference from any other Person (as defined below).

#### **Duty to Provide Access and Co-operations to the Receiver**

4. (i) The Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property (excluding Property subject to liens the validity of which is dependent on maintaining possession) to the Receiver upon the Receiver's request.
5. All Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be

disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or documents prepared in contemplation of litigation or due to statutory provisions prohibiting such disclosure.

6. If any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names, and account numbers that may be required to gain access to the information.

#### **No Proceedings Against the Receiver**

7. No proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

#### **No Proceedings Against the Debtor or the Property**

8. No Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court, provided, however, that nothing in this Order shall: (i) prevent any Person from commencing a proceeding regarding a claim that might otherwise become barred by statute or an existing agreement if such proceeding is not commenced before the expiration of the stay provided by this paragraph; and (ii) affect a Regulatory Body's investigation in respect of the Debtor or an action, suit or proceeding that is taken in respect of the debtor by or before the Regulatory Body, other than the enforcement of a payment order by the Regulatory Body

or the Court. “**Regulatory Body**” means a person or body that has powers, duties or functions relating to the enforcement or administration of an Act of Parliament or of the legislature of a Province.

### **No Exercise of Rights of Remedies**

9. All rights and remedies of any Person, whether judicial or extra-judicial, statutory or non-statutory (including, without limitation, set-off rights) against or in respect of the Debtor or the Receiver or affecting the Property are hereby stayed and suspended and shall not be commenced, proceeded with or continued except with leave of this Court, including, without limitation, any rights or remedies or provisions in any agreement, construction, ownership and operating agreement, joint venture agreement or any such similar agreement or agreements to which the Debtor is a party that purport to effect or cause a cessation of operatorship as a result of the occurrence of any default or non-performance by or the insolvency of the Debtor, the making or filing of these proceedings or any allegation, admission or evidence in these proceedings and under no circumstances shall the Debtor be replaced as operator pursuant to any such agreements without further order of this Court provided, however, that this stay and suspension does not apply in respect of any “eligible financial contract” (as defined in the BIA), and further provided that nothing in this Order shall:
  - (a) empower the Debtor to carry on any business that the Debtor is not lawfully entitled to carry on;
  - (b) prevent the filing of any registration to preserve or perfect a security interest;
  - (c) prevent the registration of a claim for lien; or
  - (d) exempt the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment.
10. Nothing in this Order shall prevent any party from taking an action against the Debtor where such an action must be taken in order to comply with statutory time limitations in order to preserve their rights at law, provided that no further steps shall be taken by such party except in accordance with the other provisions of this Order, and notice in writing of such action be given to the Receiver at the first available opportunity.



### **No Interference with the Receiver**

11. No Person shall accelerate, suspend, discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, except with the written consent of the Debtor and the Receiver, or leave of this Court.

### **Continuation of Services**

12. All persons having:
  - (a) statutory or regulatory mandates for the supply of goods and/or services; or
  - (b) oral or written agreements or arrangements with the Debtor, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation, services, utility or other services to the Debtor,

are hereby restrained until further order of this Court from discontinuing, altering, interfering with, suspending or terminating the supply of such goods or services as may be required by the Debtor or exercising any other remedy provided under such agreements or arrangements. The Debtor shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the usual prices or charges for all such goods or services received after the date of this Order are paid by the Debtor in accordance with the payment practices of the Debtor, or such other practices as may be agreed upon by the supplier or service provider and each of the Debtor and the Receiver, or as may be ordered by this Court.

### **Receiver to Hold Funds**

13. All funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net

of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further order of this Court.

### **Employees**

14. Subject to employees' rights to terminate their employment, all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3 (the "**BIA**"), other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*, SC 2005, c.47 ("**WEPPA**").
15. Pursuant to clause 7(3)(c) of the Personal Information Protection and Electronic Documents Act, SC 2000, c. 5, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

### **Limitations on Environmental Liabilities**

16. (a) Notwithstanding anything in any federal or provincial law, the Receiver is not personally liable in that position for any environmental condition that arose or environmental damage that occurred:
  - i. before the Receiver's appointment; or

- ii. after the Receiver's appointment unless it is established that the condition arose or the damage occurred as a result of the Receiver's gross negligence or wilful misconduct.
- (b) Nothing in sub-paragraph (a) exempts a Receiver from any duty to report or make disclosure imposed by a law referred to in that sub-paragraph.
- (c) Notwithstanding anything in any federal or provincial law, but subject to sub-paragraph (a) hereof, where an order is made which has the effect of requiring the Receiver to remedy any environmental condition or environmental damage affecting the Property, the Receiver is not personally liable for failure to comply with the order, and is not personally liable for any costs that are or would be incurred by any person in carrying out the terms of the order,
  - i. if, within such time as is specified in the order, within 10 days after the order is made if no time is so specified, within 10 days after the appointment of the Receiver, if the order is in effect when the Receiver is appointed, or during the period of the stay referred to in clause ii below, the Receiver:
    - A. complies with the order, or
    - B. on notice to the person who issued the order, abandons, disposes of or otherwise releases any interest in any real property affected by the condition or damage;
  - ii. during the period of a stay of the order granted, on application made within the time specified in the order referred to in clause (i) above, within 10 days after the order is made or within 10 days after the appointment of the Receiver, if the order is in effect when the Receiver is appointed, by:
    - A. the court or body having jurisdiction under the law pursuant to which the order was made to enable the Receiver to contest the order; or
    - B. the court having jurisdiction in bankruptcy for the purposes of assessing the economic viability of complying with the order; or

- iii. if the Receiver had, before the order was made, abandoned or renounced or been divested of any interest in any real property affected by the condition or damage.

#### **Limitation on the Receiver's Liability**

17. Except for gross negligence or wilful misconduct, as a result of its appointment or carrying out the provisions of this Order the Receiver shall incur no liability or obligation that exceeds an amount for which it may obtain full indemnity from the Property. Nothing in this Order shall derogate from any limitation on liability or other protection afforded to the Receiver under any applicable law, including, without limitation, Section 14.06, 81.4(5) or 81.6(3) of the BIA.

#### **Receiver's Accounts**

18. The Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case, incurred at their standard rates and charges. The Receiver and counsel to the Receiver shall be entitled to the benefits of and are hereby granted a charge (the "**Receiver's Charge**") on the Property as security for their professional fees and disbursements incurred at the normal rates and charges of the Receiver and such counsel, both before and after the making of this Order in respect of these proceedings, and the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, deemed trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person but subject to section 14.06(7), 81.4(4) and 81.6(2) and 88 of the BIA.
19. The Receiver and its legal counsel shall pass their accounts from time to time.
20. Prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including the legal fees and disbursements, incurred at the normal rates and charges of the Receiver and its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

#### **Funding of the Receivership**

21. The Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$500,000 (or

such greater amount as this Court may by further order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, deemed trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges set out in sections 14.06(7), 81.4(4) and 81.6(2) and 88 of the BIA.

22. Neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.
23. The Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "**A**" hereto (the "**Receiver's Certificates**") for any amount borrowed by it pursuant to this Order.
24. The monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.
25. The Receiver shall be authorized to repay any amounts borrowed by way of Receiver's Certificates out of the Property or any proceeds, including any proceeds from the sale of any assets without further approval of this Court.

#### **Allocation**

26. Any interested party may apply to this Court on notice to any other party likely to be affected, for an order allocating the Receiver's Charge and Receiver's Borrowings Charge amongst the various assets comprising the Property

#### **General**

27. The Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

28. Notwithstanding Rule 6.11 of the *Alberta Rules of Court*, unless otherwise ordered by this Court, the Receiver will report to the Court from time to time, which reporting is not required to be in affidavit form and shall be considered by this Court as evidence. The Receiver's reports shall be filed by the Court Clerk notwithstanding that they do not include an original signature.
29. Nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.
30. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any foreign jurisdiction 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 orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Receiver in any foreign proceeding, or to assist the Receiver and its agents in carrying out the terms of this Order.
31. The Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings
32. Any interested party may apply to this Court to vary or amend this Order on not less than 7 days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

#### **Filing**

33. This Order is issued and shall be filed in Court of King's Bench Action No. **2401-13792**.
34. The Receiver shall establish and maintain a website in respect of these proceedings at \_\_\_\_\_ (the "**Receiver's Website**") and shall post there as soon as practicable:
  - (a) all materials prescribed by statute or regulation to be made publicly available; and
  - (b) all applications, reports, affidavits, orders and other materials filed in these proceedings by or on behalf of the Receiver, or served upon it, except such

materials as are confidential and the subject of a sealing order or pending application for a sealing order.

35. 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 or otherwise served with notice of 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; and

(b) posting a copy of this Order on the Receiver's Website

and service on any other person is hereby dispensed with.

36. 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.

**CONSENTED TO BY ERIKSON  
NATIONAL ENERGY INC.**

*Mark Horrox*

\_\_\_\_\_  
Per: Mark Horrox

\_\_\_\_\_  
Justice of the Court of King's Bench of Alberta

**SCHEDULE "A"**

**RECEIVER CERTIFICATE**

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. THIS IS TO CERTIFY that \_\_\_\_\_ the receiver and manager (the "**Receiver**") of all of the assets, undertakings and properties of Erikson National Energy Inc. appointed by Order of the Court of King's Bench of Alberta and Court of King's Bench of Alberta in Bankruptcy and Insolvency (collectively, the "**Court**") dated [●] ("**Order**") made in action number [●], has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of [●], being part of the total principal sum of [●] that the Receiver is authorized to borrow under and pursuant to the Order.
2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [**monthly**] after the date hereof at a notional rate per annum equal to the rate of [●] per cent above the prime commercial lending rate of the Bank of [●] from time to time.
3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property (as defined in the Order), in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.
4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at [●].
5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.
6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.



7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the \_\_\_\_\_ day of \_\_\_\_\_, 2024

\_\_\_\_\_, solely in its capacity as Receiver of the Property (as defined in the Order), and not in its personal capacity or corporate capacity

Per: \_\_\_\_\_

Name:

Title:



**Bennett Jones**

Bennett Jones LLP

4500 Bankers Hall East, 855 - 2nd Street SW

Calgary, Alberta, Canada T2P 4K7

Tel: 403.298.3100 Fax: 403.265.7219

**Keely Cameron**

Partner

Direct Line: 403.298.3324

e-mail: cameronk@bennettjones.com

Our File No.: 087754.00038

November 25, 2024

**Via E-Mail** [jwreid@millertthomson.com](mailto:jwreid@millertthomson.com)

Miller Thomson LLP  
525 – 8<sup>th</sup> Avenue SW, 43<sup>rd</sup> Floor  
Eighth Avenue Place East  
Calgary, AB T2P 1G1

Dear Mr. Reid:

**Re: Consent Receivership Order**

We write in response to your letter of today's date.

The terms of the agreement for a Consent Receivership Order were never complied with by the British Columbia Energy Regulator (“**BCER**”), therefore there is no binding agreement between Erikson National Energy Corp. (“**Erikson**”) and the BCER for a Consent Receivership Order.

Specifically, the BCER failed to produce all communications between it and Kingscrest or counsel to Kingscrest by October 22, 2024.

This breach was acknowledged by you in our previous discussion and it was on this basis that you advised you would be bringing a receivership application, not on consent. That application was provided to Justice Burns at last week's application and I anticipate it has been provided to the Court for consideration at the application scheduled for December 9, 2024.

Erikson is not prepared to consent to a receivership at this time. The BCER has failed to demonstrate any benefits associated with same. Erikson is concerned that a receivership will impede the advancement of the Court approved sales process and result in unnecessary costs and inefficiencies to the detriment of Erikson's employees and other stakeholders.

Yours truly,

**BENNETT JONES LLP**

*Keely Cameron*

Keely Cameron

This is Exhibit "D" referred to in the Supplemental Affidavit of Michael Janzen affirmed before me at Victoria, BC this 3rd day of December, 2024



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A Notary Public in and for the Province of British Columbia

**Dorothy McDaid**  
Barrister and Solicitor  
BC Energy Regulator  
2950 Jutland Rd.  
Victoria, B.C. V8T 5K2



COURT FILE NUMBER	B301-135903 25-3135903
COURT	COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PROCEEDING	IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF ERIKSON NATIONAL ENERGY INC.
DOCUMENT	<b><u>ORDER</u></b>
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	<b>BENNETT JONES LLP</b> Barristers and Solicitors 4500 Bankers Hall East 855 – 2 Street SW Calgary, Alberta T2P 4K7  Attention: Keely Cameron/Luc Rollingson Telephone No.: 403-298-4485 Fax No.: 403-265-7219 Client File No.: 87754.38
DATE ON WHICH ORDER WAS PRONOUNCED:	October 21, 2024
LOCATION WHERE ORDER WAS PRONOUNCED:	Calgary, Alberta
NAME OF JUSTICE WHO MADE THIS ORDER:	Justice P. Johnston

UPON the application of the Applicant, Erikson National Energy Inc. ("**Erikson**" or the "**Applicants**"); AND UPON having reviewed the Affidavit of Mark Horrox, sworn October 15, 2024 (the "**Horrox Affidavit**"), AND UPON reviewing the Certificate of Filing of a Notice of Intention to Make a Proposal filed, October 1, 2024; AND UPON noting the support of KSV

Restructuring Inc. as Proposal Trustee ("**Proposal Trustee**"); AND UPON reviewing the First Report of the Proposal Trustee; AND UPON having heard counsel for Erikson, the Proposal Trustee and counsel for any other interested parties;

IT IS HEREBY ORDERED AND DECLARED THAT:

**SERVICE**

1. Service of this Application and its supporting materials is deemed good and sufficient, and the time for service of this Application and its supporting materials is abridged to the time actually given.

**EXTENSION AND STAY**

2. Erikson is granted an extension of 40 days, to November 30, 2024 ("**Proposal Extension Date**") to file a proposal to its creditors, under section 50.4 of the *Bankruptcy and Insolvency Act*, RSA 1985, c. B-3, as amended ("**BIA**").
3. The stay of proceedings in the within matter is extended by 40 days to and including November 30, 2024.

**NO INTERFERENE WITH RIGHTS**

4. Until and including the Proposal Extension Date, no individual firm, corporation, governmental body, or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") shall accelerate, suspend, discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicant, or take any further action to issue or enforce any garnishee summons, except with the written consent of the Applicant and the Proposal Trustee, or leave of this Court.

**CONTINUATION OF SERVICES**

5. Until and including the Proposal Extension Date, all Persons having:
  - (a) Statutory or regulatory mandates for the supply of goods and/or services; or

- (b) oral or written agreements or arrangement with the Applicant, including without limitation all purchase orders, supply agreements, computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Applicant

are hereby restrained until further order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Applicant or exercising any other remedy provided under such agreements or arrangements. The Applicant shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the usual prices or charges for all such goods or services received after the date of this Order are paid by the Applicant in accordance with the payment practices of the Applicant, or such other practices as may be agreed upon by the supplier or service provider and each of the Applicant and the Proposal Trustee or as may be ordered by this Court.

#### **SALES ADVISOR**

6. Sayer Energy Advisors (the “**Sales Advisor**”) is appointed to carry out the SISP (defined below) in cooperation with the Proposal Trustee. The Engagement Letter as set out in the Confidential Appendix “1” to the Proposal Trustee’s First Report is approved.

#### **APPROVAL OF SALE AND INVESTMENT SOLICITATION PROCESS**

7. The Sale and Investment Solicitation Process attached hereto as Schedule “A” (“**SISP**”) is approved. The Proposal Trustee and Sales Advisor are authorized and directed to perform their respective obligations and to do all things reasonably necessary to perform their obligations under the SISP, including seeking approval of this Court as soon as reasonably practicable following the selection of a successful bid or bids under the SISP, if applicable.
8. The Sale Advisor and the Proposal Trustee shall incur no liability or obligation whatsoever to any person or party for any act or omission related to the SISP, except to

the extent such act or omission is the result of gross negligence or willful misconduct of the Sales Advisor or the Proposal Trustee, as applicable.

#### **ADMINISTRATION CHARGE**

9. The Proposal Trustee, counsel for the Proposal Trustee and the Applicant's counsel, as security for the professional fees and disbursements incurred both before and after the granting of this Order, shall be entitled to the benefits of and hereby granted a charge ("**Administration Charge**") on the Property (as defined below), which charge shall not exceed an aggregate amount of \$200,000, as security for their professional fees and disbursements incurred at the normal rates and charges of the Proposal Trustee and such counsel. The Administration Charge shall have the priority set out in paragraphs 10 through 14 herein.

#### **VALIDITY AND PRIORITY OF CHARGE**

10. The priority of the Administration Charge shall be as follows:  
  
First – Administration Charge (to the maximum amount of \$200,000).
11. The filing, registration or perfection of the Administration Charge shall not be required, and the Administration Charge shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Administration Charge coming into existence, notwithstanding any such failure to file, register, record, or perfect.
12. The Administration Charge shall constitute a charge on the Applicant's current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"); and shall rank in priority to all other security interests, trusts, liens, charges, encumbrances, and claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favor of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**").

13. Except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicant shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with the Administration Charge, unless the Applicant also obtains the prior written consent of the beneficiaries of the Administration Charge (the “**Chargee**”), or by further order of this Court.
14. The Administration Charge shall not be rendered invalid or unenforceable and the rights and remedies of the Chargee thereunder shall not otherwise be limited or impaired in any way by:
  - (a) the pendency of these proceedings and the declarations of insolvency made in this Order;
  - (b) any application(s) for a bankruptcy or receivership order made in respect of the Applicant;
  - (c) the filing of any assignment for the general benefit of creditors made pursuant to the *BIA*;
  - (d) the provisions of any federal or provincial statutes; or
  - (e) any negative covenants, prohibitions or similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) that binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:
    - (i) neither the creation of the Administration Charge nor the execution, delivery, perfection, registration or performance of any documents in respect thereof shall create or be deemed to constitute a new breach by the Applicant of any Agreement to which it is a party;
    - (ii) the Chargee shall not have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Administration Charge; and



- (iii) the payments made by the Applicant pursuant to this Order, and the granting of the Administration Charge, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct or other challengeable or voidable transactions under any applicable law.

**SEALING ORDER**

- 15. The Confidential Appendix 1 to the Proposal Trustee's First Report shall be sealed on the Court file and shall not form part of the public record.
- 16. Erikson is empowered and authorized, but not directed, to provide the Confidential Appendix 1 or any portion thereof to any interested entity or person that it, along with the Proposal Trustee, considers reasonable in the circumstances, subject to confidentiality arrangements satisfactory to Erikson and the Proposal Trustee.
- 17. The Clerk of the Court shall file the Confidential Appendix in a sealed envelope attached to a notice that sets out the style of cause of these proceedings and states:

THIS ENVELOPE CONTAINS CONFIDENTIAL MATERIALS  
FILED IN COURT FILE NO. B301-135903 PURSUANT TO  
THE SEALING ORDER ISSUED BY THE  
HONOURABLE JUSTICE P. JOHNSTON ON OCTOBER 21,  
2024

18. Leave is hereby granted to any person, entity or party affected by this sealing order to apply to this Court for a further order vacating, substituting, modifying or varying the terms of this Order, with such application to be brought on not less than 7 days' notice to the Monitor and any other affected party pursuant to the Alberta Rules of Court, Alta Reg 124/2010 and this Order.

*BB Johnston*

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J.C.K.B.A.

## Schedule "A"

### SALE AND INVESTMENT SOLICITATION PROCESS Erikson National Energy Inc.

#### INTRODUCTION

On October 1, 2024, Erikson National Energy Inc. ("**Erikson**") filed a Notice of Intention to Make a Proposal under subsection 50.4(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3.

KSV Restructuring Inc. ("**KSV**") is a licensed insolvency trustee and the Proposal Trustee for Erikson. Additionally, Erikson has retained the services of Sayer Energy Advisors ("**Sayer**") to act as the sale advisor for the purposes of its sale and investment solicitation process ("**Erikson SISP**") described herein.

Erikson intends to, with the assistance and oversight of the Proposal Trustee and assistance from Sayer, conduct the Erikson SISP. All qualified interested parties as defined herein will be provided with an opportunity to participate in the Erikson SISP. The Erikson SISP is intended to solicit interest in an acquisition of the business or a sale of all or some of the assets and/or the business of Erikson.

This document (the "**Erikson SISP Procedure**") outlines the Erikson SISP, comprised principally of 3 stages: pre-marketing, marketing and offering and evaluation.

#### OPPORTUNITY AND SISP SUMMARY

1. The Erikson SISP is intended to solicit interest in, and opportunities for, a sale of all or some of Erikson's assets (a "**Sale Proposal**"), or an investment in Erikson and its business (an "**Investment Proposal**"), which are primarily comprised of various oil and gas interests located in the Wildboy and Greater Fort St. John areas of British Columbia (the "**Opportunity**").
2. In addition to the Opportunity, the shareholders of Erikson are prepared to consider offers for the sale of their shares to facilitate a corporate transaction.
3. Except to the extent otherwise set forth in a definitive sale or investment agreement with a successful bidder, any transaction will be on an "as is, where is" basis and without surviving representations or warranties of any kind, nature, or description by the Proposal Trustee, Sayer, or Erikson or any of their respective affiliates, agents, advisors or estates, and, in the event of a sale, all of the right, title and interest of Erikson in and to the property to be acquired will be sold free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options, and interests therein and thereon pursuant to Court orders, except as otherwise provided in such Court orders.
4. Solicitation of interest will be on an unpriced basis whereby no set asking price will be stipulated but any such purchase shall, at a minimum, assume all regulatory obligations associated with the purchased property to the British Columbia Energy Regulator ("**BCER**").

5. As described more fully in this Erikson SISP, the major stages in the Erikson SISP Procedure will be comprised of the following:
- (a) Pre-Marketing: preparation of all marketing material, assembly of all relevant due diligence material, establishment of an electronic data room and preparation of potential buyer/investor lists;
  - (b) Marketing: advertising, contacting potential buyers/investors, disseminating marketing material to potential buyers and investors and responding to requests for information, and allowing Qualified Bidders (defined below) to perform due diligence; and
  - (c) Offer Submission and Evaluation: receipt of, evaluation and negotiation of offers from potential buyers and investors, as described below.
6. The Pre-Marketing and Marketing stages will be led by Sayer and the Proposal Trustee, with requests for engagement with Erikson or the BCER to be provided to Sayer.
7. The offer submission and evaluation stage of the Erikson SISP will be comprised of a single phase offering process whereby Qualified Bidders (as defined below) will be entitled to submit formal binding offers to Erikson and the Proposal Trustee.
8. Information related to this process, including any bids received will be shared with both Erikson and the BCER.
9. In assessing the Potential Bidders, Qualified Bidders, Final Bids and Qualified Bids and in selecting Successful Bidders and Successful Bids (each as defined herein), Erikson, Sayer and the Proposal Trustee shall have the ability to consult with the BCER and Erikson's secured creditors with respect to all aspects of the SISP, and the bidders who are participating in the SISP, to assess, among other things, the bidders' ability to meet the BCER's regulatory and eligibility requirements, the amount of recovery that will be available for secured creditors, the assumption of regulatory obligations and liabilities, the financial capability of the bidders and the ability of bidders to consummate a transaction.

#### **TIMELINE**

10. The complete schedule for the Erikson SISP is set out below:

<b>Milestone</b>	<b>Date</b>
Marketing Launch	<b>October 16, 2024</b>
Bid Deadline	<b>November 14, 2024</b>
Sale Approval Application	<b>November 25, 2024</b>
Target Closing Date	<b>November 30, 2024</b>

## PRE-MARKETING STAGE

11. As soon as reasonably practicable:
- (a) Sayer, in consultation with the Proposal Trustee, will prepare: (i) a process summary (the "**Teaser Letter**") describing the Opportunity, outlining the process under the Erikson SISP and inviting recipients of the Teaser Letter to express their interest pursuant to the Erikson SISP; (ii) a non-disclosure agreement in form and substance satisfactory to Erikson and the Proposal Trustee, and their respective counsel (an "**NDA**"); and (iii) a Confidential Information Memorandum ("**CIM**"). The CIM will specifically stipulate that Erikson and the Proposal Trustee and their respective advisors make no representation or warranty as to the accuracy or completeness of the information contained in the CIM, the Data Room (as defined below), or otherwise made available pursuant to the Erikson SISP or otherwise, except to the extent expressly contemplated in any definitive sale or investment agreement with a Successful Bidder (as defined below) ultimately executed and delivered by Erikson;
  - (b) Erikson and Sayer will gather and review all required due diligence material to be provided to interested parties and together with the Proposal Trustee shall establish a secure, electronic data room (the "**Data Room**") which will be maintained and administered by Sayer during the Erikson SISP;
  - (c) Erikson and the Proposal Trustee will develop a draft form of a purchase and sale agreement or investment agreement for use during the Erikson SISP (the "**Draft Agreement**"), which will be uploaded by Sayer to the Data Room; and
  - (d) Erikson, in consultation with Sayer and the Proposal Trustee, will prepare a list of potential bidders, including: (i) parties that have approached Erikson or Sayer indicating an interest in the Opportunity; and (ii) local, national and international strategic and financial parties who Erikson, Sayer and the Proposal Trustee believe may be interested in the Opportunity (collectively, "**Known Potential Bidders**").

## MARKETING STAGE

### *Marketing*

12. Sayer will arrange for a notice of the Erikson SISP (and such other relevant information as the Proposal Trustee and Sayer, in consultation with Erikson, considers appropriate) (the "**Notice**") to be published in the Daily Oil Bulletin, and any other newspaper or journals as Erikson, Sayer and the Proposal Trustee consider appropriate, if any.
13. Sayer will send the Teaser Letter and NDA to all Known Potential Bidders and to any other party who responds to the Notice as soon as reasonably practicable after such request or identification, as applicable.

14. Any party who expresses a wish to participate in the Erikson SISP (a "**Potential Bidder**") must, prior to being given any additional information such as the CIM and access to the Data Room, provide to Sayer and the Proposal Trustee:
  - (a) an NDA executed by it, and which shall inure to the benefit of any ultimate Successful Bidder, and a letter setting forth the identity of the Potential Bidder, the contact information for such Potential Bidder and full disclosure of the direct and indirect principals of the Potential Bidder. If a Potential Bidder has previously delivered an NDA and letter of this nature to Erikson or Sayer in respect of Erikson and the NDA remains in effect, the Potential Bidder is not required to deliver a new NDA, unless otherwise requested by Sayer or the Proposal Trustee.
15. If it is determined by Sayer and the Proposal Trustee in their reasonable business judgment that a Potential Bidder has delivered the documents contemplated in paragraph 15 above then such Potential Bidder will be deemed to be a "**Qualified Bidder**".

### *Due Diligence*

16. Erikson, Sayer and the Proposal Trustee shall in their reasonable business judgment and subject to competitive and other business considerations, afford each Qualified Bidder such access to due diligence materials through the Data Room and information relating to the Opportunity as they deem appropriate. Due diligence access may further include on-site inspections, and other matters which a Qualified Bidder may reasonably request and to which Erikson and the Proposal Trustee, in their reasonable business judgment, may agree. Sayer will designate a representative to coordinate all reasonable requests for additional information and due diligence access from Qualified Bidders and the manner in which such requests must be communicated. Neither Sayer, BCER, Erikson nor the Proposal Trustee will be obligated to furnish any information relating to the Opportunity to any person other than to Qualified Bidders. Further and for the avoidance of doubt, selected due diligence materials may be withheld from certain Qualified Bidders if Erikson and the Proposal Trustee determine such information to represent proprietary or sensitive competitive information.
17. Requests for information and access will be directed to Sayer at the contact information listed in Schedule "A" hereto. All printed information shall remain the property of Erikson and, if requested by Erikson, shall be returned without further copies being made and/or destroyed with an acknowledgement that all such material has either been returned and/or destroyed and no electronic information has been retained.

## **OFFER SUBMISSION AND EVALUATION STAGE**

### *Submission of Final Bids*

18. Qualified Bidders that wish to make a Sale Proposal or an Investment Proposal shall submit to Sayer and the Proposal Trustee a sealed, final, binding offer (a "**Final Bid**") that complies with all of the following requirements at the addresses specified in Schedule "A" hereto (including by email or fax transmission), so as to be received by Sayer and the Proposal Trustee not later than 12:00 PM (Calgary time) on November 15, 2024, or as may

be modified by the Proposal Trustee in consultation with the BCER and Erikson or the Court (the "**Bid Deadline**"):

- (a) it is submitted on or before the Bid Deadline by a Qualified Bidder;
- (b) if the bid is a sale proposal, it identifies or contains the following:
  - (i) the purchase price, in Canadian dollars, including details of any liabilities to be assumed by the Qualified Bidder;
  - (ii) a description of property and assets that are expected to be subject to the transaction and any of the property, obligations or liabilities in relation to the property and assets which are expected to be excluded;
  - (iii) a form of financial disclosure and credit quality support or enhancement that allows Erikson, the Proposal Trustee and the BCER to make a reasonable determination as to the Potential Bidder's financial and other capabilities to consummate a Sale Proposal or Investment Proposal, as applicable and meet applicable regulatory obligations; and
  - (iv) any other terms or conditions of the Sale Proposal that the Qualified Bidder believes are material to the transaction;
- (c) if the bid is an investment proposal, it identifies the following:
  - (i) a description of how the Qualified Bidder proposes to structure the proposed investment in the business;
  - (ii) the aggregate amount of the equity and/or debt investment to be made in Erikson in Canadian dollars;
  - (iii) the underlying assumptions regarding the *pro forma* capital structure;
  - (iv) a specific indication of the sources of capital for the Qualified Bidder and the structure and financing of the transaction;
  - (v) a detailed description of any property, assets and liabilities which the Qualified Bidder proposes to be excluded; and
  - (vi) any other terms or conditions of the Investment Proposal that the Qualified Bidder believes are material to the transaction;
- (d) cash and/or the assumption of BCER regulatory obligations are the preferred form of consideration, but if the bid utilizes other consideration, a description of the material terms of the consideration shall be provided;
- (e) the bid (either individually or in combination with other bids that make up one bid) is an offer to purchase or make an investment in some or all of the property or

business on terms and conditions reasonably acceptable to Erikson, the BCER and the Proposal Trustee;

- (f) unless otherwise agreed, the bid shall take the form of the Draft Agreement and shall include a letter stating that the Final Bid is irrevocable until the selection of the Successful Bidder (as defined below), provided that if such Qualified Bidder is selected as the Successful Bidder, its offer shall remain irrevocable until the closing of the transaction with the Successful Bidder;
- (g) it includes duly authorized and executed transaction agreements as listed in the Draft Agreement together with all exhibits and schedules thereto, the name or names of the ultimate beneficial owner(s) of the Qualified Bidder including their respective percentage interests;
- (h) to the extent that a bid is conditional upon new or amended agreements being entered into with other parties, the interested parties shall provide the proposed terms of such amended or new agreements and identify how such agreements may differ from existing agreements to which Erikson may be a party. A Qualified Bidder's willingness to proceed without such conditions and, where such conditions are included in the bid, the likelihood of satisfying such conditions shall be an important factor in evaluating the bid;
- (i) the bid includes written evidence of a firm, irrevocable commitment for financing or other evidence of ability to consummate the proposed transaction that will allow Erikson and the BCER, with the assistance of the Proposal Trustee, to make a determination as to the Qualified Bidder's financial and other capabilities to consummate the proposed transaction, including any regulatory obligations associated with the purchased property;
- (j) the bid should not be conditioned on the outcome of unperformed due diligence by the Qualified Bidder, apart from, to the extent applicable, the disclosure of due diligence materials that represent proprietary or sensitive competitive information which was withheld from the Qualified Bidder;
- (k) the bid fully discloses the identity of each entity that will be entering into the transaction or the financing, or that is participating or benefiting from such bid;
- (l) the bid includes a commitment by the Qualified Bidder to provide a refundable deposit in the amount of not less than the greater of \$10,000 or 10% of the purchase price or investment offered upon the Qualified Bidder being selected as the Successful Bidder, which shall be paid to the Proposal Trustee in trust (the "**Deposit**"). One half of the Deposit shall be paid to the Proposal Trustee in trust upon the submission of the Qualified Bidder's bid. The second half of the Deposit shall be submitted to the Proposal Trustee upon the Qualified Bidder being selected as the Successful Bidder. The Successful Bidder's Deposit shall be applied as against the Purchase Price and all other Deposits submitted by Qualified Bidders



who are not selected as the Successful Bidder shall be returned within one week of obtaining Court Approval for the Successful Bid;

- (m) the bid includes acknowledgments and representations of the Qualified Bidder that: (i) it has had an opportunity to conduct any and all due diligence regarding the property, business and Erikson prior to making its bid (apart from, to the extent applicable, the disclosure of due diligence materials that represent proprietary or sensitive competitive information which were withheld from the Qualified Bidder); (ii) it has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the property in connection with the Erikson SISP, its bid, and any transaction it enters into with Erikson; and (iii) it did not rely upon any written or oral statements, representations, warranties, or guarantees whatsoever made by Erikson or by the Proposal Trustee, whether express, implied, statutory or otherwise, regarding the Business, Property, or Erikson or the accuracy or completeness of any information provided in connection therewith, except as expressly stated in the definitive transaction agreement(s) signed by Erikson;
  - (n) all required corporate approvals of the Qualified Bidder will have been obtained prior to the submission of the bid;
  - (o) it contains such other information as may reasonably be requested by Sayer, the Proposal Trustee or by Erikson, in consultation with the Proposal Trustee; and
  - (p) the bid contemplates a schedule for closing the transaction set out therein which is on or before the target closing date of November 30, 2024.
19. Following the Bid Deadline, Erikson and the Proposal Trustee, with the assistance of Sayer, will assess the Final Bids received. Erikson and the Proposal Trustee will designate the most competitive Final Bids that comply with the foregoing requirements to be "**Qualified Bids**". No Final Bids received shall be deemed to be Qualified Bids without the approval of the Proposal Trustee. Only Qualified Bidders whose Final Bids have been designated as Qualified Bids are eligible to become the Successful Bidder(s).
20. Erikson and the Proposal Trustee may waive strict compliance with any one or more of the requirements specified above and deem such non-compliant Final Bids to be a Qualified Bid.
21. The Proposal Trustee shall notify each Qualified Bidder in writing as to whether its Final Bid constituted a Qualified Bid within seven (7) days of the Bid Deadline, or at such later time as Erikson and the Proposal Trustee deem appropriate.
22. If Erikson, the BCER and the Proposal Trustee are not satisfied with the number or terms of the Qualified Bids, Erikson and the Proposal Trustee, in conjunction with the BCER, may extend the Bid Deadline.

23. Erikson may with the approval of the Proposal Trustee, terminate, at any time, further participation in the Erikson SISP by any interested party, or modify dates or procedures as deemed appropriate or necessary, or to terminate the process.
24. Erikson and the Proposal Trustee may aggregate separate bids from Qualified Bidders to create one or more "Qualified Bids".

#### *Evaluation of Competing Qualified Bids*

25. A Qualified Bid will be evaluated based upon several factors, including, without limitation, items such as the Purchase Price and the net value and form of consideration to be paid provided by such bid, the identity, circumstances and ability of the Qualified Bidder to successfully complete such transactions, including any conditions attached to the bid and the expected feasibility of such conditions, the proposed transaction documents, factors affecting the speed, certainty and value of the transaction, the assets included or excluded from the bid, any related restructuring costs, and the likelihood and timing of consummating such transactions, and the ability of the bidder to finance and ultimately consummate the proposed transaction within the timeline established by the Proposal Trustee, each as determined by Erikson, with the assistance of the Proposal Trustee.

#### *Selection of Successful Bid*

26. Erikson and the Proposal Trustee will together: (a) review and evaluate each Qualified Bid and the applicable Qualified Bidder, in consultation with the BCER, and such Qualified Bid may be amended, modified or varied as a result of negotiations with such Qualified Bidder, and (b) identify the highest or otherwise best bid or combination of bids (the "**Successful Bid(s)**"), and the Qualified Bidder(s) making such Successful Bid (the "**Successful Bidder(s)**") for any particular property or the business in whole or part. The determination of any Successful Bid by Erikson, in consultation with the Proposal Trustee and the BCER shall be subject to approval by the Court.
27. Erikson shall have no obligation to enter into a Successful Bid, and it reserves the right, after consultation with the Proposal Trustee and BCER, to reject any or all Qualified Bids.

#### *Sale Approval Motion Hearing*

28. At the hearing of the motion to approve any transaction with a Successful Bidder (the "**Sale Approval Application**") Erikson shall seek, among other things, approval from the Court to consummate any Successful Bid. All the Qualified Bids other than the Successful Bid, if any, shall be deemed rejected by Erikson on and as of the date of approval of the Successful Bid by the Court.

#### *Confidentiality and Access to Information*

29. Participants and prospective participants in the Erikson SISP shall not be permitted to receive any information that is not made generally available to all participants relating to the number or identity of Potential Bidders, Qualified Bidders, Qualified Bids, the details of any bids submitted or the details of any confidential discussions or correspondence

between Erikson, the Proposal Trustee, or Sayer and such other bidders or Potential Bidders in connection with the Erikson SISP. Erikson and the Proposal Trustee may however disclose to the BCER such information for the purpose of seeking to combine separate bids from Qualified Bidders.

*Supervision of the Erikson SISP*

30. The Proposal Trustee will participate in the Erikson SISP in the manner set out in this Erikson SISP Procedure and the SISP Order and is entitled to receive all information in relation to the Erikson SISP.
31. This Erikson SISP does not, and will not be interpreted to create any contractual or other legal relationship between Sayer, Erikson or the Proposal Trustee and any Qualified Bidder or any other party, other than as specifically set forth in a definitive agreement that may be signed with Erikson and approved by the Court.
32. Without limiting the preceding paragraph, neither Erikson, Sayer or the Proposal Trustee shall have any liability whatsoever to any person or party, including without limitation any Potential Bidder, Qualified Bidder, the Successful Bidder, or any other creditor or other stakeholder of Erikson, for any act or omission related to the process contemplated by this Erikson SISP Procedure, except to the extent such act or omission is the result from gross negligence or willful misconduct. By submitting a bid, each Qualified Bidder or Successful Bidder shall be deemed to have agreed that it has no claim against Erikson, Sayer or the Proposal Trustee for any reason whatsoever, except to the extent such claim is the result from gross negligence or willful misconduct.
33. Participants in the Erikson SISP are responsible for all costs, expenses and liabilities incurred by them in connection with the submission of any bid, due diligence activities, and any further negotiations or other actions whether or not they lead to the consummation of a transaction.
34. Erikson and the Proposal Trustee, in consultation with the BCER and Third Eye Capital Corporation, shall have the right to modify the Erikson SISP and the deadlines set out herein if, in their reasonable business judgment, such modification will enhance the process or better achieve the objectives of the Erikson SISP.
35. At any time during the Erikson SISP, Erikson, Sayer, or the Proposal Trustee may apply to the Court for advice and directions with respect to any aspect of the Erikson SISP or the discharge of their respective powers and duties hereunder.
36. In the event that there is a disagreement as to the interpretation or application of the Erikson SISP, the Court will have jurisdiction to hear and resolve such dispute.

## Schedule "A"

### Sales Advisor

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This is Exhibit "E" referred to in the Supplemental Affidavit of Michael Janzen affirmed before me at Victoria, BC this 3rd day of December, 2024



---

A Notary Public in and for the Province of British Columbia

**Dorothy McDaid**  
Barrister and Solicitor  
BC Energy Regulator  
2950 Jutland Rd.  
Victoria, B.C. V8T 5K2

Action No.: 2401-13792

E-File Name: EVK24ERIKSON  
Appeal No.: \_\_\_\_\_

IN THE COURT OF KING'S BENCH OF ALBERTA  
JUDICIAL CENTRE OF EDMONTON

IN THE MATTER OF THE NOTICE OF THE RECEIVERSHIP OF  
ERIKSON NATIONAL ENERGY INC.

Action No.: B301-13590

AND:

IN THE MATTER OF THE BANKRUPTCY AND INSOLVENCY ACT,  
RSC 1985 c B-3, AS AMENDED

AND IN THE MATTER OF THE BANKRUPTCY OF  
ERIKSON NATIONAL ENERGY INC.

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P R O C E E D I N G S

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Edmonton, Alberta  
November 21, 2024

Transcript Management Services  
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1 Proceedings taken in the Court of King's Bench of Alberta, Courthouse, Edmonton, Alberta

2

3

4 November 21, 2024

Morning Session

5

6 The Honourable Justice Burns

Court of King's Bench of Alberta

7

8 A. K. Glen (remote appearance)

For His Majesty the King in right of the Province  
of British Columbia

9

10 K. Cameron (remote appearance)

For Erikson National Energy Inc.

11 L. R. Rollingson (remote appearance)

For Erikson National Energy Inc.

12 J. Reid (remote appearance)

For BC Energy Regulator (remote appearance)

13 P. Harnett (remote appearance)

For Third Eye Capital Corporation

14 J. Cameron (remote appearance)

For KSV Restructuring Inc. (remote appearance)

15 E. Paplawski (remote appearance)

For Canadian Natural Resources Limited  
(remote appearance)

16

17 H. Kaur

Court Clerk

18

19

20 THE COURT:

Thank you. Good morning. For those of you  
who do not know, I am Justice Burns. I just need a moment. Okay. So we are here on the  
receivership of Erikson National Energy Inc. and I would like to know who's online. And  
perhaps we should have, I think it's Ms. Cameron, who is on for Erikson today.

24

25 MS. K. CAMERON:

Good -- good morning, Justice Burns. And just  
a correction for the record. The proceedings that Erikson is currently in are pursuant to the  
*Bankruptcy and Insolvency Act*. These are NOI proceedings.

28

29 THE COURT:

Right. Yeah.

30

31 MS. K. CAMERON:

I think you may have been referring to my  
friends on behalf of the Energy Regulator are considering bringing a receivership  
application --

34

35 THE COURT:

Yeah.

36

37 MS. K. CAMERON:

-- in December if they're not --

38

39 THE COURT:

Yeah.

40

41 MS. K. CAMERON:

-- satisfied with the progress being made.

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THE COURT:

Yeah. Okay.

MS. K. CAMERON:

who has checked in.

I can proceed to introduce the parties based on

THE COURT:

Thank you.

MS. K. CAMERON:

So appearing -- appearing with me on behalf of Erikson is my colleague, Luc Rollingson. Ms. Jessica Cameron is appearing from Fasken on behalf of KSV Restructuring, the Proposal Trustee. Andrea Glen, counsel for His Majesty the King in right of the Province of British Columbia, is in attendance.

THE COURT:

Sorry, who is that again?

MS. K. CAMERON:

Dorothy -- Andrea Glen, on behalf of the Province of -- of British Columbia. Dorothy McDaid, internal counsel for the British Columbia Energy Regulator, is in attendance, and their external counsel, James Reid, from Miller Thomson is also in attendance. Patrick Harnett from Third Eye Capital Corporation, the secured creditor of Erikson and the interim lender to Erikson, is also in attendance. Andrew Basi from KSV Restructuring is in attendance. Emily Paplawski of Osler is in attendance on behalf of Canadian National -- Natural Resources Limited. And internal counsel for Canadian Natural Resources Limited, Jelena Molnar, is also in attendance. And then I believe the other parties are just observing.

THE COURT:

Okay. All right. So I have read a ton of material. It keeps coming. So even this morning, I got material, which included a transcript of an appearance in front of Justice Dunlop. And I've tried to read it and digest it, but quite frankly, it just seems to be a real moving target. And so I want to know what you expect from this hearing today.

MS. K. CAMERON:

Thank you, Justice Burns. What we're seeking today is an extension of the stay and the period of time for filing a proposal. We understand that relief is not objected to, other than counsel for the Energy Regulator's position is that the stay and the extension should be more limited to what is being sought. So the dispute is whether it should be extended to December 10th or whether it should be extended into January.

THE COURT:

So you're --

MS. K. CAMERON:

The other remedies being sought --

1  
2 THE COURT: Just a second. You're seeking January 15th,  
3 correct?

4  
5 MS. K. CAMERON: Correct.

6  
7 THE COURT: And the BCER --

8  
9 MS. K. CAMERON: And actually it should -- it should actually be  
10 January 14th. That's the 45 day mark.

11  
12 THE COURT: Okay.

13  
14 MS. K. CAMERON: And the BCER is seeking until December 10th.

15  
16 THE COURT: Right. Okay. So that's one thing we're going to  
17 have to figure out, the extension. Okay.

18  
19 MS. K. CAMERON: And then -- and then the other two pieces of relief  
20 are an increase to the interim lending to get us through to the -- through the stay extension  
21 period, as well as a sealing order with respect to the confidential exhibit to the second report  
22 of the Proposal Trustee.

23  
24 THE COURT: Okay.

25  
26 MS. K. CAMERON: And that application will be dealt with by  
27 counsel for the Proposal Trustee.

28  
29 THE COURT: Okay. Okay. So make your application.

30  
31 **Submissions by Ms. K. Cameron (Stay Extension and Interim Financing)**

32  
33 MS. K. CAMERON: Thank you. So -- so just to confirm, in terms of  
34 the materials relevant for today's application, it's the stay application filed on November  
35 18th; the second affidavit of Mark Horrox, filed November 18th; the second report of the  
36 Proposal Trustee, filed November 19th; the application of the -- and then the application  
37 of the Proposal Trustee for an order sealing the confidential appendix 1 to the second report.  
38 And then on Tuesday, we had provided a revised proposed form of order, which was  
39 intended to address a typo that we noted in the interim financing order that was granted on  
40 October 21st. It had stated that the administration charge was 250,000, but it actually  
41 should have been 200,000. So we assume that's not controversial, because it actually

1 reduces the charge over the assets.

2

3 THE COURT: Okay. And I can --

4

5 MS. K. CAMERON: In terms of --

6

7 THE COURT: I was going to say I can confirm that I read all of  
8 that material in addition to more material, because I did read the first affidavit of Horrox,  
9 as well. So ...

10

11 MS. K. CAMERON: Perfect. And then also, in terms of service, we  
12 did file an affidavit of service of Stephanie Doolan (phonetic) on November 20th.  
13 Stephanie Doolan's affidavit lays out that the application and affidavit of Mark Horrox  
14 were served on the service list by email on November 15th. That was done in accordance  
15 with an extension that we had received from you, Justice Burns, as we were waiting until  
16 the deadline under the sales process had passed, which was on November 14th, to  
17 determine what really would actually be sought at today's application.

18

19 THE COURT: Okay. So service is in order, is what --

20

21 MS. K. CAMERON: So we --

22

23 THE COURT: -- you're saying?

24

25 MS. K. CAMERON: Yes. It's (INDISCERNIBLE) order and we're  
26 seeking to have it abridged to -- the deadline abridged to November 15th.

27

28 THE COURT: All right.

29

30 MS. K. CAMERON: So as mentioned, the relief sought today, specific  
31 to Erikson, is to extend the stay of proceedings and the time to file a proposal to January  
32 14th. That's the maximum 45 day period that is -- an extension can be granted under the  
33 *Bankruptcy and Insolvency Act*. And we're also seeking an increase in the maximum  
34 interim financing from 250,000 to 950,000 to ensure there's sufficient funding to get  
35 through the stay period sought.

36

37 THE COURT: Okay. So technically, though, it's only at 200  
38 right now?

39

40 MS. K. CAMERON: 200,000 is for the admin charge.

41

- 1 THE COURT: Oh, okay.
- 2
- 3 MS. K. CAMERON: 250,000 is the current lending that --
- 4
- 5 THE COURT: Interim financing. Okay.
- 6
- 7 MS. K. CAMERON: -- borrowing that was authorized by the previous
- 8 order.
- 9
- 10 THE COURT: Okay.
- 11
- 12 MS. K. CAMERON: So by way of very brief background, Erikson is
- 13 a junior oil and gas company. Its assets are primarily located in the Fort Nelson and greater
- 14 Fort John (sic) areas of British Columbia. It was established to own and operate assets that
- 15 were acquired from a previous insolvency. It owes its secured lender just over \$31 million.
- 16 And under the previous application that was heard by Justice Johnston, Erikson was
- 17 granted an extension to the end of November. So November 30th is currently when the
- 18 expiry is to occur for this stay and the period of time to file a proposal. And also, as part
- 19 of that application, a sale and solicitation investment process was approved. That process
- 20 provided for a very brief sales process. It's just about 30 days and it was a 1 day sales
- 21 process, given concerns some of the stakeholders have that the assets have been previously
- 22 marketed and there's some concern on how successful the process would be. As you'll
- 23 have seen from the Proposal Trustee's report, there were bids that were received as a result
- 24 of the process that has proceeded.
- 25
- 26 THE COURT: Okay. But none of them were qualified bidders?
- 27
- 28 MS. K. CAMERON: Correct.
- 29
- 30 THE COURT: Okay.
- 31
- 32 MS. K. CAMERON: Yeah. And so just on that point, under these bid
- 33 processes, normally what's typical, as you're -- you're likely aware, is normally you do a
- 34 two-phase process where you get letters of intent in the first phase and then the second
- 35 phase would be the full binding bids that could then be negotiated and further advanced.
- 36 In this case, we did a very abbreviated process and Erikson is working with the bidders to
- 37 get them -- try to get them qualified in advance. Erikson is well aware that all of its
- 38 stakeholders, from its lender and -- lender and the Regulator, wants to see this matter
- 39 concluded as soon as possible.
- 40
- 41 And so in terms of the relief sought and the power to grant the extension that's being

1 sought, that's under section 50.4 of the *Bankruptcy and Insolvency Act*, which allows this  
2 Court to grant an (INDISCERNIBLE) an extension for up to 45 days. As noted, we are  
3 seeking the full 45 day period to be granted to provide time to negotiate one or more of the  
4 transactions and to try to get that qualified bid that could be moved forward for execution  
5 and court approval. In seeking the full 45 days, we were aware of holidays coming up in  
6 December that may impact the ability to advance matters, as well as trying to ensure  
7 adequate access and availability to book court time, should an arrangement be reached.

8  
9 In terms of the test and what's to be considered when considering whether to grant an  
10 extension, the Court is to have regard to whether the insolvent person has acted and is  
11 acting in good faith and with due diligence, whether the insolvent person would likely be  
12 able to make a viable proposal if an extension being applied for was granted, and whether  
13 a creditor would be materially prejudiced if the extension were granted.

14  
15 So dealing first with regards to the good faith, the activities of Erikson are set out in  
16 paragraph 16 of the second Horrox affidavit and include working diligently as part of the  
17 sales process, including providing information, helping to prepare the form of agreement,  
18 reviewing proposed amendments to the confidentiality agreements, and corresponding with  
19 potential bidders. Also engaging with the Tenure and Resources Stewardship Branch to  
20 understand the process and what would be required to try to get the mineral leases  
21 reinstated as part of the sale of any -- sale of any of the assets. Continuing to make  
22 payments to Erikson's employees, contractors, and suppliers. Preparing revised statements  
23 of cashflows, and negotiating an amendment and waiver under the interim financing  
24 agreement with the lender with regards to -- there was a default provision that had required  
25 Erikson to get the mineral leases reinstated by a certain period of time. That hasn't  
26 occurred. We were able to work with the lender to get that condition waived. Erikson has  
27 also worked on negotiating additional borrowings from the lender to enable the process to  
28 continue. And then we note that the Proposal Trustee, at their report in section 6, supports  
29 a finding that Erikson has and is continuing to act in good faith. So we support on that  
30 basis the first prong of the test is satisfied.

31  
32 Turning to whether there's evidence of a viable proposal, we say it's too early to make a  
33 distinctive determination, but there is terms of -- of a plan and proposal as a result of the  
34 offers that have received and that more time is required to be able to fully advance a  
35 proposal. And that is not uncommon in these types of proceedings, that extensions be  
36 granted to allow a sales process to continue to proceed in order to determine the viability  
37 of a proposal. And so on that prong, too, we submit that it's been satisfied.

38  
39 And turning to the third prong, on material prejudice, we submit that there's no material  
40 prejudice with granting an extension. Rather, it'll enable the process to proceed so Erikson  
41 can seek to advance one or more of the transactions for the benefit of its stakeholders. As

1 demonstrated to you by the cashflow, part of the funds sought to be borrowed are to enable  
2 further work to occur with regards to the assets. And so -- also, by allowing the process to  
3 proceed, it ensures that the assets are looked after for the benefit of stakeholders, that  
4 employees are able to be -- continued to be paid and maintained, which also provides a  
5 benefit. The Proposal Trustee, in their report at section 4, also notes that there's no  
6 prejudice to any parties in granting the extension. It's also noted that Third Eye Capital  
7 Corporation and the secured lender, who is also seeking to fund the extension, supports --  
8 supports an extension being granted. And this extension will provide further breathing  
9 room to enable time to negotiate a transaction, which hopefully, if successful, will result in  
10 all environmental liabilities being addressed and assets being able to resume operations.

11  
12 In terms of the question of whether the extension should be granted to December 10th or  
13 January 14th, our -- our main concern with regards to the shorter stay extension is that to  
14 the extent -- the extent that discussions are progressing with regards to a transaction, it  
15 necessitates another court application in December, which is going to require the company  
16 to expend funds it hadn't planned for in its cashflows, which may impede its ability to  
17 extend through to the whole stay extension that's being sought. It also imposes, in our  
18 view, an arbitrary deadline in terms of the December 10th date that may impede  
19 negotiations with the various bidders, in terms of they may or may not be able to get a full  
20 agreement in place by that date, and to the extent discussions, though, are still progressing  
21 and it's looking positive, it may impede those discussions. And also it would negatively  
22 impact Erikson's bargaining power if bidders think they have until December 10th, which  
23 I would say they'd actually have less, given filing deadlines for us to file materials, in order  
24 to advance those transactions.

25  
26 I note, too, that there would be no prejudice to the BCR if the extension was granted to  
27 January, because they could still bring an application in December if they're not satisfied  
28 with the progress, seeking to convert to a receivership. So they would not be impeded, as  
29 any stay extension would be without prejudice to their ability to proceed. Also, in terms  
30 of granting the extension into January, as sought, it does also provide some additional  
31 certainty for Erikson's employees, which is important, especially with the holidays  
32 proceeding, for them to know whether they're going to continue to have jobs and that we  
33 have parties in place to continue to look after the assets.

34  
35 Turning to the amendments to the interim financing sought. So Third Eye Capital provided  
36 interim financing in accordance with the interim financing order that was granted on  
37 October 21st, 2024. Under the -- under those terms of the initial order, they can lend up to  
38 250 -- 250,000, and there's a maturity date under the existing interim financing agreement  
39 of December 15th, 2024. Erikson has worked with Third Eye Capital to work out an  
40 extension and additional financing. So under the amended agreement that we're seeking  
41 approval of, it provides the ability to extend the interim borrowing to January 15th, based

1 on the payment of a \$5,000 fee. The interest rate continues to be the 12 percent, which  
2 was approved under the previous borrowing. And under -- in terms of what this fund is  
3 intended to be used for, it's intended to be used for salaries, operating expenses while the  
4 sites are shut down. There are staff who are maintained at a camp to ensure the sites are  
5 protected and they're able to respond in the event of an emergency and just to maintain the  
6 assets. Additionally, there's other expenses, including insurance and utilities to maintain  
7 power at the various sites, and also the funds are sought to be used, of course, for  
8 professional fees, as well.

9  
10 The Court's approval to authorize borrowings and amendments is -- is under section 50.6  
11 of the *Bankruptcy and Insolvency Act* and provides some non-exhaustive factors in terms  
12 of what's to be considered when authorizing interim financing. Those include the period  
13 during which the debtor is expected to be subject to a proceedings under this Act. In this  
14 case, we're requesting that these proceedings continue at least until January, although it is  
15 anticipated there may -- we may seek to come back for further extensions to fully conclude  
16 a process under these proceedings. In -- another consideration is how the debtor's business  
17 and financial affairs are being managed during the proceedings. As noted, Erikson has  
18 limited operations, which are focused on preserving the assets. There continues to be  
19 employees carrying out that function. The operations, the business and financial affairs of  
20 Erikson are over -- are being presided on under the oversight of the Proposal Trustee.

21  
22 Another consideration is whether the debtor's management has the confidence of its major  
23 creditors. The largest and main creditor of Erikson is Third Eye Capital, who is also the  
24 party providing the proposed borrowing, which is evidence of its continued confidence in  
25 this process.

26  
27 The other consideration is whether the borrowing would enhance the prospects of a viable  
28 proposal being made, and we submit that the borrowing would enhance the prospects, as  
29 funding is necessary in order for this process to proceed and to enable potential -- a  
30 potential transaction to be concluded, as well as to maintain and preserve the assets in the  
31 interim.

32  
33 Another consideration is the nature and the value of the debtor's property. Here it's oil and  
34 gas assets. The reality is if there's a sale, the interim financing would be paid first, along  
35 with the admin charge from any proceeds, and if there is no sale, there is risk to the lender  
36 that the funds advanced will not be repaid.

37  
38 And then the last factor provided is whether any creditor would be materially prejudiced  
39 as a result of the increased borrowings and the resulting charge. And in this case, the main  
40 creditor who would be impacted would be the secured creditor, Third Eye Capital, who  
41 seems to be okay with the priming, given the fact that they're prepared to advance the



1 funds.

2  
3 And so on that basis, we submit that the approval of the amendment and the additional  
4 borrowing is in the best interests of Erikson and its stakeholders.

5  
6 Subject to any questions, Justice Burns, those are my submissions.

7  
8 THE COURT: Okay. No, I have no questions. Thank you.  
9 Okay. So who else wants to make representations with respect to this?

10  
11 MR. REID: I'm happy to go next, Justice, if you want to hear  
12 from the Regulator.

13  
14 THE COURT: Sure.

15  
16 **Submissions by Mr. Reid (Stay Extension and Interim Financing)**

17  
18 MR. REID: Okay. For the record, James Reid. I'm with the  
19 Miller Thomson firm and we are counsel to the British Columbia Energy Regulator. I am  
20 joined by Dorothy McDaid, who is from the Regulator's office. You will have seen,  
21 Justice, from our correspondence yesterday we are not opposing this application in its  
22 entirety, but given the status of the sales process, which I will explain, we do not support a  
23 stay extension into the new year, but are of the view that a shorter stay extension is  
24 appropriate until there's more clarity and certainty around the expressions of interest that  
25 have been submitted to date in the SISP. I understand that the shorter stay is also supported  
26 by other key stakeholders, including the Province of British Columbia, represented here  
27 today by Ms. Glen, as well as CNRL. And I understand that the Monitor does not take a  
28 position with respect to the length of the stay.

29  
30 I think it's important, Justice, to give you some background. I did provide you with some  
31 correspondence today. You may recall that this hearing was originally booked by our  
32 office last month and it was scheduled by the Regulator in consultation with Erikson for  
33 the Regulator to bring back its receivership application, which was filed in early October,  
34 in the event that the 30 day single-phase sales process that Erikson was running did not  
35 result in a successful binding bid.

36  
37 This morning, I sent you that transcript of the first hearing, which was on October 11th,  
38 before Justice Dunlop. As you will see from that transcript, starting at the bottom of page  
39 2, there was an agreement where the Regulator would adjourn its receivership application  
40 sine die in order to allow Erikson to run a 30 day single-phase sales process. You'll have  
41 seen from the materials filed by the applicant the next time that we were in court was

1 October 21st, where Erikson sought an extension of the stay period to the end of November  
2 and approval of a \$250,000 interim financing facility so that it could run the 30 -- 30 day  
3 single-phase sales process. That application and the representations that were made were  
4 consistent with what was agreed to by Erikson with the Regulator on October 11th, as was  
5 noted in the court record in that transcript that I just referenced.

6  
7 Justice, if I could take you to the second report of the Proposal Trustee, if you have a copy  
8 of that.

9  
10 THE COURT: Yeah. I'm pretty sure I do.

11  
12 MR. REID: Okay. Thank you. If you could turn to appendix  
13 A of that document. This -- this was the order pronounced October 21st by Justice  
14 Johnston, which approved the 30 day single-phase SISP, and that SISP, you have to turn a  
15 few pages. There's no page numbers on the order, but it is schedule A to that order. And  
16 apologies if this is tedious. I am going to take you to some provisions in the SISP, because  
17 I don't think that they were referenced very much in the materials for this application.

18  
19 THE COURT: Okay.

20  
21 MR. REID: So if you have the SISP, the first -- on page 1 of  
22 it, there's section 4, and this provides that solicitation of interest will be on an unpriced  
23 basis where no set asking price will be stipulated, but any such purchase shall, at a  
24 minimum, assume all regulatory obligations associated with the purchased property to the  
25 British Columbia Energy Regulator. Now, Justice, this is important, because if you look  
26 at the receivership materials, which I don't need you to do, but there is in the public record  
27 and before this Court more than \$12 million in outstanding regulatory orders currently  
28 associated with these properties.

29  
30 The next section of the SISP that I want to draw your attention to is on page 2, and that's  
31 section 7. And it provides that the offer, submission, and valuation stage of Erikson will  
32 be comprised of a single-phase offering process whereby qualified bidders, as defined  
33 below, will be entitled to submit formal binding offers to Erikson and the proposal trustee.  
34 So that sets out the terms that were agreed to and is consistent with what the Court ordered.

35  
36 And then section 9, this section is important, because it -- it's a longer section, but it  
37 references that in assessing bids, parties will need to take into account the bidder's ability  
38 to meet the BCR's -- ER's regulatory and eligibility requirements. Section 10, on that same  
39 page, provides the timeline for the SISP and notably that we would -- that we should at this  
40 time be seeking approval of a transaction and not a 60 day extension of the SISP, which  
41 effectively the proposed stay extension does.

1  
2 Now, Justice, if you could turn to page 4 of that SISP, and I'm going to start at the bottom,  
3 which is section 18. This section is important, because it sets out what the requirements  
4 for a bid to be a final bid is, and that -- and this final bid would need to have been submitted  
5 by November 15th at 12 PM.

6  
7 And some of these requirements include -- and I'll just summarize, I'm not going to read  
8 them out to you. I'll do my best to paraphrase, but in (b)(i), this section provides that any  
9 bid would need to set out details of any liabilities that would be assumed by the bidder. In  
10 (b)(3), it required that any bidder would submit some financial disclosure to allow the  
11 BCER to make a reasonable determination of a bidder's financial capabilities. (f) requires  
12 that any bid include a letter stating that the bid is a final bid and is irrevocable. (i), which  
13 is on page 6, requires evidence of a financing commitment and financial capabilities to  
14 meet regulatory obligations. (m) requires that the bidder make acknowledgements and  
15 representations that it's conducted its due diligence. (n), which is important, requires that  
16 a bidder has all required corporate approvals. And in (p), this provides that -- that they  
17 needed to include a schedule for closing the transaction on or before November 30th.

18  
19 Now, I know you've got confidential appendix A to the Proposal Trustee's report. I'm not  
20 going to say anything about that document, but as you are aware, Justice, the bids are  
21 expressions of interest and do not meet these requirements of a final bid.

22  
23 So then the last section, Justice, that I want to refer to in the sales process is paragraph 22,  
24 because I think this is really important. Section 22 says if Erikson, the BCER, and the  
25 Proposal Trustee are not satisfied with the number or terms of the qualified bids, Erikson  
26 and the Proposal Trustee in conjunction with the BCER may extend the bid deadline. Now,  
27 somehow it seems that this application is effectively changing what was a 30 day single-  
28 phase sales process, which was agreed to by the BCER, and it's essentially making this a  
29 90 day two-phase sales process without any consultation with the Regulator and in direct  
30 breach of the court-approved SISP.

31  
32 Now, Ms. -- Ms. K. Cameron referenced the test for this Court to approve a stay extension  
33 and she said that this Court needs to be satisfied that the extension does not materially  
34 prejudice any of Erikson's stakeholders. We are of the view that this factor, if the -- if the  
35 requested extension is granted, is not met for several reasons. First, we are of the view that  
36 it blatantly disregards the agreement with the Regulator that caused it to adjourn its  
37 receivership application without consultation and in breach of the SISP. Second, the stay  
38 extension not only triples the length of the SISP, but it also nearly quadruples the priority  
39 interim financing that is going to be needed and the corresponding charge which, of course,  
40 subordinates the other creditors, including the Regulator, not by 250,000, as was initially  
41 agreed to, but by close to a million dollars now.

1  
2 Third, as seen in the receivership materials, there is a much more certain purchaser of  
3 Erikson's properties, and this is Kingscrest (phonetic), who is -- has counsel here today, is  
4 represented by the McMillan firm, which will almost certainly walk away if there is not a  
5 transaction before the new year with it. And this is an important consideration for the  
6 Regulator, who needs to see significant advancement in the bids in the SISP in the next  
7 couple weeks and including some certain basic things, like proof of financing, board  
8 approvals, and financial wherewithal of the bidders.

9  
10 Now, luckily, Justice, I think that we have some time. It is still November and we've got  
11 another week of this month. And so we do think that there is a very reasonable solution  
12 and that if this Court orders a shorter stay -- and we're proposing December 10th, which is  
13 a nearly 5 week extension to the SISP and gives an additional 3 weeks from today, to see  
14 if any of these bids can develop. And if they can be sufficiently advanced, a stay extension  
15 into the new year I don't expect will be a problem, and notably I have court time booked  
16 December 9th. And parties can rely on the same materials that they've filed for this  
17 application, with maybe some short supplemental documents. Given the nearly \$750,000  
18 in costs that are projected between now and the proposed January 15th stay extension, we  
19 think that any supplemental materials that may be required if these -- if these bids advance  
20 would be an insignificant expense, and it might actually save money by forcing any serious  
21 bidders to sharpen their pencils and move them on quickly.

22  
23 I know Ms. K. Cameron referenced that -- that this would -- would make an arbitrary  
24 deadline, but I think actually what's being done by this application is making no bid  
25 deadline. We're just asking for a stay. There was a set bid deadline in the SISP, which  
26 this Court approved, and it seems to be unilaterally extended and made into a two-phase  
27 bid. Ms. K. Cameron also mentioned that this might chill negotiations with potential  
28 bidders, but we don't have any evidence of this. I think it could actually help negotiations,  
29 because these bidders knew there were clear deadlines to submit bids for no -- and that they  
30 were supposed to close the transaction by November 30th. That did not seem to chill the  
31 market.

32  
33 I did hear Ms. Cameron suggest that their application is without prejudice for us to bring  
34 the receivership application. I understand that that may be the case, but I don't -- I don't  
35 know if Ms. Cameron is saying that the Regulator is not subject to the stay of proceedings  
36 if -- if that is the case. That might be true. We might still be able to -- to bring the  
37 receivership application. But if the position is that actually, no, we would have to lift the  
38 stay, then certainly we are prejudiced by -- by the relief that is being sought.

39  
40 So in summary, Justice, we think that there is a very reasonable solution, and that is to  
41 grant a shorter stay of proceedings.

- 1  
2 THE COURT: Okay. What about the 950? If I were to do it --  
3  
4 MR. REID: The -- the interim financing?  
5  
6 THE COURT: -- until December 10th -- yeah.  
7  
8 MR. REID: I'll take a look at the cashflow, Justice, but I  
9 think that's appendix C.  
10  
11 MS. J. CAMERON: If -- if I might be of assistance to my friend and  
12 the Court, that is something that the Proposal Trustee contemplated in terms of how the  
13 Court might decide today. So I asked the Proposal Trustee to run the numbers if you were  
14 to grant the shorter stay extension and the required financing to December 10th would be  
15 4,000 and -- let's call it \$405,000.  
16  
17 MR. REID: So that's a \$450,000 difference from what's  
18 being sought. Is that right, Ms. Cameron?  
19  
20 MS. J. CAMERON: That's correct.  
21  
22 MR. REID: And I do -- I believe in my discussions with Ms.  
23 Glen, I believe the significant increase to the interim lender's charge and interim financing  
24 was a concern of -- of her office, as well. So maybe I would let her speak to that point.  
25  
26 **Submissions by Ms. Glen (Stay Extension and Interim Financing)**  
27  
28 MS. GLEN: Justice Burns, for the record, it's Andrea Glen,  
29 representing His Majesty the King in right of the Province of British Columbia. I can  
30 confirm what my friend, Mr. Reid, has suggested, which is that the Province is also  
31 concerned with the length of the extension being sought here and the amount of the interim  
32 financing and the charge associated with it. And we support the submissions of the BC  
33 Energy Regulator on the -- those two points.  
34  
35 THE COURT: All right. Thank you. Okay. Mr. Reid, I didn't  
36 mean to sort of sidetrack you there. Were you done?  
37  
38 MR. REID: I am done. Thank you, Justice.  
39  
40 THE COURT: Okay. All right.  
41

1 MR. REID: It was a little tedious, I appreciate.

2  
3 THE COURT: No, thank you. So do we have someone else who  
4 wants to comment? Ms. Paplawski, maybe?

5  
6 **Submissions by Ms. Paplawski (Stay Extension and Interim Financing)**

7  
8 MS. PAPLAWSKI: Yes, good morning, Justice. E. Paplawski, for  
9 the record, on behalf of Canadian Natural Resources Limited. Canadian Natural supports  
10 the Regulator. Canadian Natural appeared -- or we appeared at the last hearing before  
11 Justice Johnston. We opposed the entirety of the relief being sought at that time, in  
12 particular the continuation of the NOI proceedings. Canadian Natural has significant  
13 concerns about Erikson and its parent company, Third Eye Capital, remaining in the  
14 driver's seat. It wanted to see the receivership be granted at that time and an independent  
15 third party come in and control the process. Canadian Natural was unsuccessful in that  
16 application and the NOI proceedings continued, but we do appear today to support the  
17 Regulator in its request for the -- for the shorter stay extension and for the -- any reduced  
18 amount that may be needed in DIP financing.

19  
20 And I'd also just note Ms. Cameron stated in her submissions that Third Eye Capital, as  
21 the DIP lender, will be paid first from any proceeds realized from the sale and hence is  
22 positioned to suffer prejudice if the sale doesn't proceed, and that's not correct. The DIP  
23 charge that was granted by Justice Johnston was only granted with respect to the assets of  
24 Erikson that are not secured by the liens filed by Canadian Natural. So Canadian Natural  
25 filed a number of operator's liens prior to Third Eye Capital registering its general security  
26 interest, and so our position is Canadian Natural has first secured priority over those assets  
27 and over any proceeds that may be realized from those assets. Because of Canadian  
28 Natural's position, Erikson did not seek to prime those -- the DIP charge over those assets  
29 and so it's not -- Canadian Natural was not primed. So the proceeds that may be realized  
30 would first, our position, go to pay Canadian Natural and then the DIP lender, because the  
31 DIP charge doesn't -- doesn't prime Canadian Natural's liens expressly by court order.

32  
33 THE COURT: Okay. Anything else?

34  
35 MS. PAPLAWSKI: That's everything.

36  
37 THE COURT: All right. Anyone else have a position with  
38 respect to the extension or the lending charge?

39  
40 MS. J. CAMERON: Justice Burns --

41

**1 Submissions by Mr. Harnett (Stay Extension and Interim Financing)**

2  
3 MR. HARNETT: Yes, Justice Burns. Oh, pardon me. I'll be brief,  
4 Justice Burns. Patrick Harnett, counsel for Third Eye Capital Corporation, Erikson's  
5 secured creditor and interim lender in the proceedings. As Ms. K. Cameron mentioned in  
6 her submissions, we do support the extension of the stay to January. This support and the  
7 additional interim financing is a continuation of Third Eye's support of the NOI process  
8 and finding a bidder for these assets.

9  
10 I think importantly, Third Eye's funding has always been conditioned on a meaningful  
11 SISP that finds a meaningful offer, and we now have at least seeds of that that are worth  
12 exploring. Erikson now needs a safe space to develop those offers into something capable  
13 of closing and a reasonable stay extension into January lets them do that. I think coming  
14 back to court on 2 to 3 weeks notice is a distraction and an additional incremental expense  
15 that shortens the runway and impacts the utility of what this incremental financing is  
16 intending to do, because the BCER is privy to the SISP information in real time and KSV  
17 has been supervising day in and day out. So I don't think there's a jeopardy in terms of  
18 any developments that happen, and again, echoing that Third Eye's incremental financing  
19 is meant to support this process. If there isn't a reasonable prospect of closing a deal, there  
20 is no intention to continue funding a process that's doomed to fail, but we can't get there  
21 yet. We need to -- to let these offers germinate into something capable of closing and time  
22 is needed to do that. And we support the extension to January. We think that is the best  
23 use of -- of the incremental funding.

24  
25 And just -- my final point is it's news to me and perhaps not to others in the room that  
26 Kingscrest, which has been mentioned in further submissions by the -- the Regulator, has  
27 a deal that's not capable of closing if we don't get something done in the month of  
28 December. That is news and it is a bit surprising, because if there was genuine interest by  
29 Kingscrest, it could participate in the SISP, potentially put a stalking-horse bid, and have  
30 been a frontrunner in the process without the concerns that are being voiced today. So I  
31 think that's a secondary concern and I think the focus really should be on the birds in hand.

32  
33 THE COURT: Okay. Anyone else?

**34 Submissions by Ms. J. Cameron (Stay Extension and Interim Financing)**

35  
36  
37 MS. J. CAMERON: Justice Burns -- yes. Thank you, Justice Burns.  
38 It's Jessica Cameron for KSV, the Proposal Trustee. I do have a few comments to make  
39 for the Court.

40  
41 Reference has been made to the Proposal Trustee's second report, which was filed with

1 respect to this application, and in that report, the Proposal Trustee supported the company's  
2 stay extension request through to January. After filing and serving that report, we heard  
3 from my friend, Mr. Reid's client, the BCER, that they were concerned with the length of  
4 the stay extension sought by the company and were requesting this more limited stay into  
5 early December.

6  
7 The Proposal Trustee is supportive of a stay extension here and corresponding increase to  
8 the interim lender's charge to support the company over whatever that extended period of  
9 time is determined as appropriate by this Court. The basis for the support is set out in the  
10 second report, primarily at sections 3.2 and section 4. I don't need to take you there,  
11 Justice. That's just for your reference. The stay extension of whatever duration is  
12 necessary to allow the company to continue to advance the offers received in the court-  
13 approved SISP to becoming qualified bids. As was noted in the second report and by my  
14 friends in submissions today, unfortunately, none of the bids that have been received in the  
15 process to date constituted qualified bids within the defined terms of the SISP. This was  
16 largely due to their nonbinding nature and also the conditionality contained in some of the  
17 bids and the proposed timelines set out therein, I understand, and this has been raised as a  
18 concern by the BCER with respect to the company's stay extension into January.

19  
20 In terms of the conditionality of those bids, we are dealing with a company whose mineral  
21 leases have been cancelled, so I think it's fair to say that having those mineral leases  
22 reinstated as a condition to a bid would have been an expectation of the parties heading  
23 into this process. There are, however, some other challenging conditions with respect to  
24 certain regulatory approvals in one bid and potential board approvals, which the company  
25 is working with Sayer, its sales agent, to negotiate with the various bidders towards  
26 hopefully progressing one or more of the bids to becoming a qualified bid in order to effect  
27 a transaction in these proposal proceedings.

28  
29 As set out in the second cashflow forecast, in order to continue the SISP and these  
30 proceedings, Erikson requires further capital to do so, and they've negotiated the amended  
31 interim financing facility to increase the current lending from 250,000 to \$950,000. This  
32 increase is in line with the company's cashflow forecast, and I will actually take you there,  
33 Justice Burns. And that's appendix C to the second report.

34  
35 THE COURT: Yeah.

36  
37 MS. J. CAMERON: The difficulty with this file is that all of -- there  
38 are many difficulties with this file, but one of the difficulties is that Erikson's assets are  
39 shut-in, so there are no production receipts. There are no receipts being collected at all.  
40 And notwithstanding this, Erikson is required to maintain care and custody of its oil and  
41 gas assets, which includes ongoing wellsite monitoring. As such, it maintains a small



1 contingent of employees and contractors and incurs certain operational expenses in relation  
2 to maintaining the assets and the employees at a remote camp in northern British Columbia.  
3 There are also associated professional fees that are being incurred with the process.  
4

5 As I noted, if the company -- or, pardon me, if the Court is to grant the company's full  
6 extension request into January, the total interim financing facility need is \$950,000, which  
7 is an increase of 700,000. If, on the other hand, the Court grants the more limited stay  
8 extension sought by the BCER, Erikson will still require interim financing and they'll  
9 require a further \$405,000.  
10

11 As I noted at the outset, the Proposal Trustee is supportive of a stay extension and increased  
12 interim financing for that period. Since the filing, the actions taken by the company  
13 demonstrate to the Proposal Trustee that they have been acting in good faith and with due  
14 diligence, including with respect to advancing the SISP, engaging in discussions with  
15 bidders in that process, as well as engaging in discussions with the BC Ministry of Tenure  
16 and Stewardship Branch regarding the process for reinstatement of the Crown mineral  
17 leases. In the Proposal Trustee's view, a stay extension will enhance the likelihood that  
18 the company will be able to make a viable proposal to its creditors at some point in the  
19 future by enabling the company to continue the SISP. Lastly, the stay extension should not  
20 prejudice any creditors, as all post-filing obligations are projected to be paid by the  
21 company, subject, of course, to the approval of the increased interim financing.  
22

23 The question really turns on what's the appropriate length of time. Erikson submits that  
24 time is mid-January, the BCER maintains it should be December 10th, and the Proposal  
25 Trustee submits that one of these two extensions is needed. We're not taking a position on  
26 the length of that time. The Proposal Trustee does, however, note that a more abbreviated  
27 stay extension would result in increased costs, due -- to the estate, due to the professional  
28 fees that would be incurred in preparing supplemental materials with respect to a stay  
29 expiring in early December. On the other hand, the Proposal Trustee also appreciates the  
30 concerns of the BCER that the company continues to negotiate with bidders following the  
31 November 14th bid deadline and does not yet have a binding bid. Those discussions, as I  
32 noted, remain ongoing with bidders. I do also understand, and Mr. Reid has noted in his  
33 submissions, that there is court time booked for a potential receivership application on  
34 December 9th by the BCER if they are not satisfied with the progress being made in the  
35 sale process.  
36

37 With those concluding remarks on the stay extension and interim financing, those are all  
38 of my submissions on that issue. I do also have brief submissions on the sealing order  
39 that's been requested.  
40

41 THE COURT:

We'll go to that --

1  
2 MS. J. CAMERON: I --  
3  
4 THE COURT: -- in a minute.  
5  
6 MS. J. CAMERON: Absolutely.  
7  
8 THE COURT: We'll do that after. Can you just confirm, then,  
9 the 405, is that in addition to the 200, so it's up to 605, or is it 405 if we go to December  
10 10th?  
11  
12 MS. J. CAMERON: I'm just going to check. So that is what is  
13 required. So it will be in addition to the 250 already approved, unless my math is bad, and  
14 perhaps Mr. Basi can save me from myself if I've gotten that incorrect.  
15  
16 MR. HARNETT: That -- that comports with my -- my arithmetic,  
17 as well, from the interim lender's perspective.  
18  
19 THE COURT: So it'll be 655?  
20  
21 MS. J. CAMERON: Yes, that's right.  
22  
23 MR. REID: I'm looking at the -- I'm looking at the cashflow  
24 and I think -- is it 135 that's been advanced to date?  
25  
26 THE COURT: Yeah, I think that's part of it. Yeah.  
27  
28 MR. REID: 135 and then next week we see another hundred,  
29 approximately, and then another hundred. So we're at about, you know, 340, we'll call it.  
30 Then 50. So it's -- and then 152. When I -- when I look at those numbers, I don't think it  
31 gets to 650.  
32  
33 MR. HARNETT: My tally is 540,000, roughly, including the  
34 135,000 that was drawn in week 7 of the cashflow statement.  
35  
36 MR. REID: Sorry, what was that, Patrick? It's 550?  
37  
38 MR. HARNETT: So if it's -- it's 550 if we round it to something -  
39 - to the closest 50,000.  
40  
41 MS. J. CAMERON: That's right.

1  
2 MR. REID: Thank you.

3  
4 THE COURT: Okay. Anyone else have representations with  
5 respect to these two points? Okay.

6  
7 **Decision (Stay Extension and Interim Financing)**

8  
9 THE COURT: Well, this is obviously a very difficult decision  
10 to make. Obviously, I will grant an extension. The question is whether or not it will be to  
11 January 15th or December 10th. And while Ms. K. Cameron presented many persuasive  
12 arguments -- in particular, I have concerns with respect to the employees, who are in a very  
13 unsettling place. I also wonder about the negotiation process, but as Mr. Reid pointed out,  
14 it is speculation. It could go either way with respect to how this would be impacting  
15 negotiations.

16  
17 I am going to extend the stay only to December 10th. I find that it is true that the SISP was  
18 very quick, but that was exactly what was contemplated. And it should have also been  
19 contemplated that there might be some issues, and yet what was entered into and agreed to  
20 was that there would be a very short process. And as it is, December 10th is already, as  
21 Mr. Reid indicated, a further month to be able to explore whether some of these unqualified  
22 bidders actually can become qualified to a point that would satisfy the other creditors and  
23 the BCER that they will be fruitful. And while I appreciate that it does increase costs  
24 somewhat to come back, I also agree with Mr. Reid that much of the material that's already  
25 been submitted to the Court can be just identified for the next judge, who will then also  
26 then get supplemental affidavits with respect to what has happened between now and  
27 December 10th. So I don't think it necessarily has to be a terribly more expensive process.

28  
29 I'm going to also then order that the interim financing can be increased to the 550,000 that  
30 we just talked about. I just think that when I read the confidential report, I think that there  
31 needs to be some end to this. Either they're going to come forward and get something or  
32 else this has got to be addressed in a different way, as proposed by BCER and CNRL, both  
33 of whom are very impacted parties to this. So I think that checking in on December 10th,  
34 or December 9th, rather - it will be a receivership application or maybe there will be a  
35 further extension, if progress is being made - is the way to go to make sure that this process  
36 gets determined, because it seems that there's no good end to the end of this, but there  
37 needs to be an end that the parties are satisfied with.

38  
39 So that's what I'm ordering with respect to the extension. It will be to December 10th.  
40 And the interim financing will be increased to the 550.

41

1 So we have the confidential exhibits to deal with. Is there anything else before we deal  
2 with that? No? Okay. So let's deal with the confidential exhibits. I've read the  
3 applications. Are we dealing -- we have two of them or just one of them?  
4

5 **Submissions by Ms. J. Cameron (Sealing Order)**

6  
7 MS. J. CAMERON: I believe it should just be one --

8  
9 THE COURT: Yeah.

10  
11 MS. J. CAMERON: -- Justice Burns --

12  
13 THE COURT: Yeah.

14  
15 MS. J. CAMERON: -- and that is confidential appendix 1 --

16  
17 THE COURT: Yeah.

18  
19 MS. J. CAMERON: -- to the second report of the Proposal Trustee.  
20 And just to confirm for the court record, we did provide the requisite notice to media of  
21 our request for a restricted court access order on November 18th, and we've provided that  
22 evidence to the Court just this morning by way of an affidavit of service of my assistant,  
23 Kim Picard. And I apologize for the late delivery of that --  
24

25 THE COURT: Okay.

26  
27 MS. J. CAMERON: -- affidavit of service, Justice. We were trying to  
28 wait until the bitter end to confirm delivery of some additional couriered materials, with  
29 the Canada Post strike wreaking havoc on service of materials on parties not on the  
30 electronic service list. Parties on the electronic service list were, of course, served with the  
31 application for a sealing order on November 18th. And the materials were also posted to  
32 the Proposal Trustee's website.  
33

34 THE COURT: Okay.

35  
36 MS. J. CAMERON: In -- in terms of that information, it contains the  
37 bid summary prepared by Sayer, Erikson's list -- sales agent, with respect to the  
38 confidential bids that have been received in this process. We are seeking to seal this only  
39 until there is a transaction for substantially all of Erikson's property in this insolvency  
40 proceeding or another insolvency proceeding. I submit that by limiting the sealing order  
41 for a limited period of time, that that satisfies the *Sierra Club* test, as (INDISCERNIBLE)

1 by the Supreme Court in *Sherman Estate v. Donovan*, in that the sealing order sought is the  
2 least restrictive means to prevent the disclosure of the confidential and commercially  
3 sensitive information, which, if disseminated at this point in time, could have adverse  
4 implications on the ongoing sales process and any future sales process, and that the salutary  
5 effects of protecting the disclosure of this information outweigh the deleterious effects of  
6 restricting the accessibility in the court proceedings.  
7

8 There was a form of proposed sealing order attached to the Proposal Trustee's application  
9 as appendix B and I can advise that no changes were proposed to that form of order.  
10

11 THE COURT: Okay.

12  
13 MS. J. CAMERON: And with respect to that form of order, as I noted,  
14 the proposed sealing is only until the closing of a transaction for substantially all of  
15 Erikson's assets as a part of any type of insolvency proceeding, because we, of course,  
16 have this potential receivership application by the BCER that we are considering, as well,  
17 in our request, or until further order of the Court. The Proposal Trustee is permitted to  
18 share the confidential appendix with interested parties upon reasonable confidentiality  
19 terms. I can also advise the Court that this bid summary has already been provided to the  
20 BCER as part of its ongoing consultation in the SISP process.  
21

22 THE COURT: Okay. Can you tell me -- again, I'm just looking  
23 from the court record point of view. What happens if something miraculous happens and  
24 there is no transactions for all of the assets of Erikson? What if Erikson manages to  
25 straighten itself out and go straight forward? Then this will be forever sealed, and that's  
26 always a problem for me.  
27

28 MS. J. CAMERON: We could revise the order to address a proposal  
29 and so it would be until the earlier of a transaction for a sale of all -- substantially all the  
30 assets or a proposal.  
31

32 THE COURT: Yeah, or --

33  
34 MS. J. CAMERON: So that --

35  
36 THE COURT: Or the other thing I'm always --

37  
38 MS. J. CAMERON: It deals with that eventuality.

39  
40 THE COURT: Yeah. The other thing I'm always happy with is  
41 a date that happens to be a far-off date. If it has to be 2 years or something, something

1 that's reasonable, but that, you know, when the clerks are cleaning out files later, they can  
2 go, Oh, wait, this can be opened now, it's after 2 years. It's more a practical thing, because  
3 I don't want this --  
4

5 MS. J. CAMERON: M-hm.

6  
7 THE COURT: -- sitting on the file for 50 years with it still  
8 sealed.  
9

10 MS. J. CAMERON: Understood, My Lady. I would be open to  
11 putting a date in there. Two years seems reasonable to me. So it would be the earlier of -  
12 -  
13

14 THE COURT: Yeah.  
15

16 MS. J. CAMERON: -- the closing of a transaction, a proposal, or --  
17 although with a proposal, the issue is that then it's disclosed asset values. And so if it does  
18 continue, that could be an issue, as well. So perhaps it's the earlier of a transaction, which  
19 I think is what all parties are anticipating to occur here, or 2 years from today's date, subject  
20 to any concerns from counsel for Erikson or the BCER.  
21

22 **Decision (Sealing Order)**  
23

24 THE COURT: Anybody have concerns if we just put an outside  
25 timeline of 2 years? No one is jumping up and down, so why don't we just amend the  
26 order to include that so that just --  
27

28 MS. J. CAMERON: I will do so, and I'll send a copy to my friends  
29 and then to yourself, My Lady, for further review.  
30

31 THE COURT: Okay. And so with respect to my first order,  
32 then, Ms. K. Cameron, you are going to draft the revised order, correct?  
33

34 MS. K. CAMERON: Correct. And, Justice Burns, how would you like  
35 us to submit it to you?  
36

37 THE COURT: Well, Mr. Burrick (phonetic), the commercial  
38 coordinator, is always so helpful and I think he's okay with it, if you send it through him.  
39 That's the quickest way to get me to see it. So --  
40

41 MS. K. CAMERON: Perfect.

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THE COURT: -- that would work for me. Okay. Anything else arising?

MS. J. CAMERON: No, My Lady.

THE COURT: All right. I see no movement or suggestions. Thank you. Thank you all very much for this. Thank you, madam clerk.

THE COURT CLERK: Thank you, Justice.

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PROCEEDINGS ADJOURNED UNTIL DECEMBER 9, 2024

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1 **Certificate of Record**

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3 I, Harman Kaur, certify that this recording is a record made of evidence in the proceedings in  
4 the Court of King's Bench, held in courtroom 516, at Edmonton, Alberta, on the 21st day of  
5 November, 2024, and I, Harman Kaur, was the court official in charge of the sound-recording  
6 machine during the proceedings.

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1 **Certificate of Transcript**

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I, Victoria Winning, certify that

(a) I transcribed the record, which was recorded by a sound-recording machine, to the best of my skill and ability and the foregoing pages are a complete and accurate transcript of the contents of the record, and

(b) the Certificate of Record for these proceedings was included orally on the record and is transcribed in this transcript.

Pro-to-type Word Processing  
Order: TDS-1073120  
Dated: November 25, 2024

This is Exhibit "F" referred to in the Supplemental Affidavit of Michael Janzen affirmed before me at Victoria, BC this 3rd day of December, 2024



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A Notary Public in and for the Province of British Columbia

**Dorothy McDaid**  
Barrister and Solicitor  
BC Energy Regulator  
2950 Jutland Rd.  
Victoria, B.C. V8T 5K2

---

**From:** Darrell Peterson <darrellpeterson10@gmail.com>  
**Sent:** Thursday, July 25, 2024 9:39 AM  
**To:** McDaid, Dorothy  
**Cc:** Keely Cameron  
**Subject:** Re: Erikson National Energy - Introduction to Potential Purchaser [BJ-WSLegal.FID6337063]

Hi Dorothy - yes, I am counsel to Kingscrest. Any chance we could schedule for 90 minutes ?  
As well, there will be at least 3 or 4 other people joining the call (various experts).

Darrell Peterson  
M: 403-470-3316  
E: darrellpeterson10@gmail.com

Sent from my iPhone

On Jul 25, 2024, at 09:31, McDaid, Dorothy <Dorothy.McDaid@bc-er.ca> wrote:

Thanks, Keely. How long do you anticipate we need? We could accommodate a 9:30-10:30a.m. MDT meeting.

Darrell – nice to be introduced. I am assuming you are counsel for Kingscrest? Should we anticipate any other representatives of Kingscrest will attend?

Thanks,  
Dorothy

<image003.png>

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<image005.png>

**Dorothy McDaid**  
Senior Legal Counsel  
[Dorothy.McDaid@bc-er.ca](mailto:Dorothy.McDaid@bc-er.ca)

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M.

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**From:** Keely Cameron <CameronK@bennettjones.com>  
**Sent:** Wednesday, July 24, 2024 2:52 PM  
**To:** McDaid, Dorothy <Dorothy.McDaid@bc-er.ca>  
**Cc:** Darrell Peterson <darrellpeterson10@gmail.com>  
**Subject:** Erikson National Energy - Introduction to Potential Purchaser [BJ-WSLegal.FID6337063]

Dorothy,

By way of this email, I would like to introduce you to Darrell Peterson, who is assisting Kingscrest Energy, Inc. with respect to their purchase of Erikson National Energy. We would like to schedule a joint meeting with the BCER to discuss the potential transaction. Would you and your client be available for a meeting next Thursday?

**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 | F. 403 265 7219 | M. 403 921 7783

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---

A Notary Public in and for the Province of British Columbia

**Dorothy McDaid**  
Barrister and Solicitor  
BC Energy Regulator  
2950 Jutland Rd.  
Victoria, B.C. V8T 5K2

---

**From:** Gregory, Sara  
**Sent:** Wednesday, September 4, 2024 10:48 AM  
**To:** Robin Junger; darrellpeterson10@gmail.com  
**Subject:** RE: Requested draft text for letter submission

That is fine Robin.



---

**Sara Gregory** she/her  
Chief Legal Counsel, Governance & Regulatory Affairs  
[Sara.Gregory@bc-er.ca](mailto:Sara.Gregory@bc-er.ca)

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[BCER Web Site](#)

T. 250-419-4476  
F. 250-419-4403  
M. 778-679-3376

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**From:** Robin Junger <[Robin.Junger@mcmillan.ca](mailto:Robin.Junger@mcmillan.ca)>  
**Sent:** Wednesday, September 4, 2024 9:45 AM  
**To:** Gregory, Sara <[Sara.Gregory@bc-er.ca](mailto:Sara.Gregory@bc-er.ca)>; [darrellpeterson10@gmail.com](mailto:darrellpeterson10@gmail.com)  
**Subject:** Re: Requested draft text for letter submission

Hi Sara

Is it OK with you if we share a draft of this confidentially with Third Eye? We still having some internal discussions but expect sharing it is something our client may want to do in the next day or so, and so I thought I would ask you this quickly just to make sure there were no issues there. Please let us know.

If you are OK with that, we will let you know immediately when the document gets forwarded to Third Eye so you are up to speed in real time.

Regards,

Robin

---

**From:** Gregory, Sara <[Sara.Gregory@bc-er.ca](mailto:Sara.Gregory@bc-er.ca)>  
**Sent:** Tuesday, September 3, 2024 8:13:25 PM  
**To:** [darrellpeterson10@gmail.com](mailto:darrellpeterson10@gmail.com) <[darrellpeterson10@gmail.com](mailto:darrellpeterson10@gmail.com)>; Robin Junger <[Robin.Junger@mcmillan.ca](mailto:Robin.Junger@mcmillan.ca)>  
**Subject:** Requested draft text for letter submission

[EXTERNAL/EXTERNE]

Darrell / Robin,

You had requested that the BCER set out, in confidence, draft letter text / terms of support for a potential transaction involving Erikson. Please see attached to support further discussions. Thanks for your patience as we completed some steps internally to be able to provide this to you.

The text generally conforms to our what the BCER has been asked to provide in court proceedings on previous matters, but we understand it will likely require adjustment given the potential/proposed structure of the transaction between KC and Third Eye.

The attached a spreadsheet was provided to the KC team earlier today (Mike to Victor). In the spreadsheet, the wells, facilities, and pipes have been split into separate tabs based on whether they are in Keep (forming the basis for Schedule A) or associated with Residual Co (RC) (forming the basis for Schedule B), along with the following notes:

- The wells are as we had previously discussed and confirmed (247 in Keep).
- 16 of the facilities in Erikson keep are associated with RC well pads. 14 of these are well facilities and are not necessary for flowing gas if you won't have the well. 2 of these are either removed or weren't built. I suggest that these go to RC, which we can move if you confirm.
- As previously mentioned, 63 of the pipes are linked to RC wells. If you require these to flow or if it is easier to not have to deal with dead legs or disconnects, perhaps you want to keep them with Erikson. We can discuss if you want to move them to RC.
- There is a sheet added for the Frac Water Storage site. This has a separate permit, so it can be referenced in the Schedule and language to remain with RC.

As previously discussed, the draft text includes reference to payment of outstanding fees and levies associated with the assets in the "Keep" list, which we have calculated as follows:

	Erikson (current)	Keep	RC
Orphan levy	\$339,730.48	<b>\$214,196.54</b>	\$125,533.94
Pipeline levy	\$47,824.17	<b>\$36,201.69</b>	\$11,622.48
Production levy (April/May/June 2024) (MOF)	\$1,624.86 (plus any late penalty, expected to be very minor)	<b>\$1,624.86 (plus any late penalty, expected to be very minor)</b>	\$0

The BCER would not require this amount up front, and John communicated preference for a reasonable payment plan. For discussion, we will propose equal payments over a period of time (9-12 months) with the first payment covering, in part, the production levy + late penalty, with the amount of the late penalty being deducted from the final payment towards the remaining levy amounts.

There are a number of outstanding s.38 orders issued to Erikson relating to requirements for surveys and reports under section 41.1 of the Drilling and Production Regulation (methane emissions). These orders will require adjustments (to reflect Erikson and Residual Co. assets, and to adjust timelines) or in some cases where records are available may be wholly terminated by the BCER. These s.38 orders have not been previously discussed specifically, but we believe it can be addressed in a straightforward way.



Sara Gregory she/her  
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This is Exhibit "H" referred to in the Supplemental Affidavit of Michael Janzen affirmed before me at Victoria, BC this 3rd day of December, 2024



---

A Notary Public in and for the Province of British Columbia

**Dorothy McDaid**  
Barrister and Solicitor  
BC Energy Regulator  
2950 Jutland Rd.  
Victoria, B.C. V8T 5K2

# FASKEN

Fasken Martineau DuMoulin LLP  
Barristers and Solicitors  
Patent and Trade-mark Agents

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fasken.com

November 26, 2024  
File No.: 267908.00025/23362

**Jessica Cameron**  
Direct Line / Fax +1 403 261 9468  
jcameron@fasken.com

**Via Email ([darrell.peterson@mcmillan.ca](mailto:darrell.peterson@mcmillan.ca))**

**McMillan LLP**  
421 7<sup>th</sup> Avenue SW, Suite 1700  
TD Canada Trust Tower  
Calgary, AB T2P 4K9

**Attention: Darrell Peterson**

Dear Mr. Peterson:

**Re: In the Matter of Erikson National Energy Inc., Estate No. 25-3135903 – Ongoing Sale and Investment Solicitation Process**

We are counsel to KSV Restructuring Inc., in its capacity as the Proposal Trustee of Erikson National Energy Inc. (“**Erikson**” or the “**Company**”). We write with respect to the above noted matter and Erikson’s ongoing Court-approved sale and investment solicitation process (the “**SISP**”).

We understand that your office represents Kingscrest Energy Inc. and its affiliates (“**Kingscrest**”). It has been brought to our attention that, on or about November 14, 2024, being the bid deadline pursuant to the SISP, Kingscrest wrote directly to the British Columbia Energy Regulator (“**BCER**”), expressing a continued interest in acquiring certain assets of Erikson. In that correspondence Kingscrest advised the BCER that it would be willing to transact in a receivership initiated by the BCER respecting Erikson.

We can advise that following consultation with the Proposal Trustee and Sayer Energy Advisors (“**Sayer**”), the Company’s Sale Advisor pursuant to the SISP, **Erikson has decided to extend the Bid Deadline pursuant to the SISP to this coming Monday December 2, 2024 at noon MST** (the “**Extended Bid Deadline**”). We understand that this information may have already been conveyed by Sayer to your office.

While Kingscrest did not initially submit an offer in Erikson’s Court-approved SISP, we are writing to advise that should Kingscrest remain interested in acquiring certain of Erikson’s assets, the Proposal Trustee would be supportive of Kingscrest submitting a bid in accordance with the Extended Bid Deadline, and otherwise in accordance with the provisions of Erikson’s SISP, a copy of which is enclosed for ease of reference.



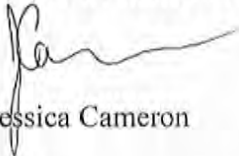
# FASKEN

To the extent Kingscrest has reservations about transacting with Erikson in its current proposal proceedings, we would appreciate hearing from you in order for the Proposal Trustee to understand any such concerns, and whether there are any steps that the Proposal Trustee, as an officer of the court, could take to alleviate them.

The Proposal Trustee is committed to assisting Erikson pursue its restructuring efforts in order to maximize value for all stakeholders in these proceedings. We look forward to hearing from you in regards to this matter and would be happy to arrange a call to discuss these matters further if it would be of assistance to Kingscrest.

Yours truly,

**FASKEN MARTINEAU DuMOULIN LLP**



Jessica Cameron

JC/kp

cc: *J. Reid (Miller Thomson LLP)*  
*G. Finlayson (Miller Thomson LLP)*

*A. Basi & J. Knight (KSV Advisory)*

*T. Pavic (Sayer Energy Advisors)*

*K. Cameron & L. Rollingson (Bennett Jones LLP)*



Reply to the Attention of: Darrell Peterson  
Direct Line: 403.231.8399  
Email Address: darrell.peterson@mcmillan.ca  
Our File No.: 309482  
Date: November 28, 2024

**VIA EMAIL**

*jcameron@fasken.com*

Fasken Martineau DuMoulin LLP  
350 7<sup>th</sup> Avenue SW  
Suite 3400  
Calgary, AB T2P 3N9

**Attention: Jessica Cameron**

Dear Ms. Cameron,

**Re: In the Matter of Erikson National Energy Inc., Estate No. 25-3135903 –  
Ongoing Sale and Investment Solicitation Process**

---

Reference is made to your email communication of Tuesday, November 26, 2024 addressed to James Reid of Miller Thomson LLP as counsel to the British Columbia Energy Regulator (the "**Email**"), and to your letter dated November 26, 2024 addressed to myself as counsel to Kingscrest Energy Inc. and its affiliates (the "**Letter**"). Capitalized terms used herein and not otherwise defined have the meanings ascribed thereto in the Email and the Letter.

In respect of the Email, please be advised that Kingscrest does not consent to Miller Thomson LLP sharing a copy of Kingscrest's correspondence with the BCER dated on or about November 14, 2024 (the "**Correspondence**") with the Proposal Trustee. The contents of the Correspondence are confidential to Kingscrest, and its expectation was and is that they be held in confidence by the BCER and its counsel.

In respect of the Letter, we can advise that Kingscrest does not have an interest in participating in the SISP. Kingscrest agrees with your proposition that it has many reservations in respect of transacting with Erikson in its current proposal proceedings, including:

**1. Lack of Independence**

- 1.1. Notwithstanding the appointment of a Proposal Trustee advised by independent counsel, decisions in respect of any offers and the terms and conditions thereof will be highly influenced by Third Eye Capital Corporation ("**TEC**") and its employees. Mark Horrox ("**Horrox**") is both a principal at TEC as well as the sole director and officer of Erikson. He is acting on behalf of the secured lender, the shareholders and the borrower in the proceedings. Patrick Harnett, while ostensibly representing TEC, takes direction from TEC's employees, including its principals. Kingscrest is concerned that this indicates a perceived lack of independence in the process.

- 1.2. At both the October 11, 2024 application to extend the Notice of Intention ("**NOI**") as well as the November 21, 2024 application to seek a further extension of the NOI, counsel to the Proposal Trustee argued strongly for the extensions in support of counsel to Erikson/TEC and directly against counsel to the BCER and Canadian Natural Resources Limited.

## **2. Incomplete and Misleading Information**

- 2.1. Both the original SISP materials for the current process and the initial Horrox affidavit filed in support of the extension of the NOI failed to mention that the underlying leases had been cancelled. Horrox did not provide that information to the Court until a subsequent affidavit was produced and presumably only then because that omission was brought to the Court's attention by counterparties. Kingscrest is concerned that materials related to the SISP may be incomplete and/or misleading.
- 2.2. In the materials provided by Sayer, there was reference to a pipeline that was owned 50% by Erikson, notwithstanding that Kingscrest had informed both Sayer and Erikson that its due diligence uncovered that Tidewater Midstream and Infrastructure Ltd. ("**Tidewater**") owned 100% of that pipeline. Kingscrest is concerned that materials related to the SISP may be incomplete and/or misleading.

## **3. General Reservations**

- 3.1. Kingscrest has become aware that TEC has breached its duty of confidentiality under a non-disclosure agreement executed with Kingscrest. Kingscrest is concerned that this has and may continue to negatively affect its business plans.
- 3.2. Kingscrest notes that financial commentators following TEC believe that TEC may put forward another of its portfolio companies as a bidder (see Schedule A attached hereto [Conifer Energy reference]). Kingscrest is concerned that this indicates a secondary strategy not reflected in the SISP or disclosed to the Court.
- 3.3. Notwithstanding that all relevant parties had agreed to a "short process" to November 31, 2024, Erikson and the Proposal Trustee have already sought to extend the sale process twice – the second time despite the fact that no Qualified Bids were received by the initial deadline under the SISP. Kingscrest is concerned that this indicates the potential for continued delays and expenses.

We trust the foregoing to be clear and self-explanatory, however, if you have any questions or require any additional information, please do not hesitate to contact me at your convenience.

Yours truly,



Darrell Peterson  
DP/ov

cc: *Kingscrest Energy Inc.*  
*James Reid and Gavin Finlayson, Miller Thomson LLP*  
*Andrew Basi and Jason Knight, KSV Advisory*  
*Tom Pavic, Sayer Energy Advisors*  
*Keely Cameron and Luc Rollingson, Bennett Jones LLP*

**Schedule "A"**

See attached

## PRIVATE DEBT FUNDS

## Third Eye Capital: cracks in the workout playbook

How TEC managed to lend money to a borrower that went into creditors' protection twice under its watch.

OPM    OCT 22, 2024    6 MIN READ

Third Eye Capital ("TEC") is still stuck in a slow-motion train wreck. In our [initial coverage](#) of the Ninepoint-TEC fund, we described TEC's workout playbook to handle failed borrowers as "kicking the can down the road." The recent developments surrounding TEC's 2017 financing of Ranch Energy, which then morphed into Erikson National Energy, provide evidence of how TEC's workout playbook can cost investors tens of millions of dollars.

In this case, TEC was empowered to throw good money after bad for 7 years. An initial loan of \$8.5 million grew to a \$50 million exposure, which TEC has recently [stated](#) hasn't generated any "return or recovery." In fact, TEC principal Mark Horrox testified in an affidavit that "*it became clear that Erikson would not be able to repay its indebtedness.*" He should know, since he's also the [sole director](#) of Erikson. So he's on both sides of the table, acting on behalf of both the borrower and the lenders.

If only TEC had assumed a loss in 2018, when Ranch initially filed for creditors' protection, investors would have saved what seems to be a loss of a multiple of the initial loan amount. But, inconveniently for TEC CEO Arif Bhalwani, it would have invalidated his [claim](#) of "*not suffering any realized loss on invested capital since inception.*"

Here's a play-by-play of how this went on - a case study of practices that can be used in what is sometimes called the "extend-and-pretend" game.



## **Background on Third Eye Capital, Ranch Energy and Erikson National Energy**

On July 10, 2017, TEC loaned C\$8.5 million to Ranch Energy Corporation. The loan proceeds were used to finance 100% of the acquisition of certain oil assets from Predator Oil and working capital requirements. On seven occasions, after the funds were disbursed, the loan documentation was amended in order for TEC to advance additional funds to Ranch<sup>1</sup>.

On June 19, 2018 - less than a year later after the original loan - Ranch Energy became insolvent and had an outstanding indebtedness of \$16.7 million to TEC, according to an affidavit sworn by TEC principal Mark Horrox.

By August 2018, the receiver had initiated steps towards a sale and investment solicitation process ("SISP") for the Ranch assets acquired from Predator Oil. TEC submitted a credit bid and was selected as the successful bidder of Ranch assets, after no other bids were considered "qualified bids" during the last phase of the SISP (i.e. no one else seemed to want the assets).

These Ranch assets were acquired by TEC's portfolio company Erikson National Energy (fka. Trinitae Energy Inc), mostly offsetting Ranch's indebtedness to TEC. Mark Horrox represented Erikson National in the acquisition. The Court approved the sale to Erikson in July 2019.

In October 2019, Erikson and TEC also entered into a \$200+ million financing with Pieridae Energy, which was fully repaid in the summer of 2024. The events presented below are independent of the Pieridae transaction.

### **Mark Horrox swears that Third Eye Capital poured tens of millions into Erikson "without return or recovery of its investment"**

After the transfer of assets from Ranch to Erikson, the initial lenders (i.e. funds managed by TEC) still had not recovered *in cash* the \$16.7 million owed by Ranch at the time of its insolvency because the sale transaction didn't generate cash for any of the parties— as mentioned, it was settled by offsetting debts.

From the closing of Erikson's acquisition of the Ranch assets to the end of 2021, TEC provided Erikson with "*\$20.8 Million in working capital loans ... in order to maintain operations which were*

otherwise cash flow negative," according to Mark Horrox, sole director of borrower Erikson and a principal of lender TEC.

Since January 2023, Erikson has been trying to find a buyer, according to Mark Horrox.

From the fourth quarter of 2022 to the fourth quarter of 2023, TEC further extended \$12.6 million to Erikson, according to Mark Horrox.

By this point, TEC's total exposure to Erikson, backed by the Ranch assets, was at least \$50 million.

<b>Cumulative exposure based on loans disbursed by TEC to entities owning the Ranch assets (in million C\$)</b>	
June 19, 2017 ( <u>initial loan</u> )	\$8.5 million
July 19, 2018 ( <u>balance</u> as of Ranch insolvency)	\$16.7 million
December 31, 2021 (adding funds provided by TEC per Horrox's <u>affidavit</u> )	\$37.5 million
December 31, 2023 (adding funds provided by TEC per Horrox's <u>affidavit</u> )	\$50.1 million

***"In the Summer 2023, it became clear that Erikson would not be able to repay its indebtedness to TEC and its secured lenders due to a protracted depression in the natural gas market"*** and other factors, according to Mark Horrox, sole director of borrower Erikson and a principal of lender TEC. [Emphasis added]

Overall, according to the affidavit sworn by Mark Horrox, ***"TEC and Erikson's senior lenders have not benefited from the assets of the Ranch Transaction; in fact, TEC (on behalf of Erikson's senior lenders) has invested millions into the assets of the Ranch Transaction without return or recovery of its investment"*** [Emphasis added]

In May 2024, "Erikson suspended its operations," according to the proposed trustee of Erikson's insolvency.

## Despite the grim outlook, Ninepoint thinks that ERIK is not impaired.

As of June 30, 2024 - a year after realizing "that Erikson would not be able to repay its indebtedness" - the loan to ERIK on Ninepoint-TEC Private Credit Fund II had a fair value of 100% of its par value (i.e. no impairments!), according to the fund's interim financial statements.

### Ninepoint-TEC Private Credit Fund II

#### Schedule of Investment Portfolio

<i>As at June 30, 2024 (unaudited)</i>		Maturity Date	Loan Stage/ Fair Value Level	Average Cost	Fair Value
	<b>PAR VALUE*</b>				
	<b>ASSET-BASED LOANS (100.83%)</b>				
	<b>SUSTAINABILITY (45.63%)</b>				
USD	90,170,214	Apr 1, 2025	1	123,935,312	123,494,166
	24,557,120	Sep 29, 2024	1	24,557,320	24,557,320
	60,970,128	On Demand	2	60,968,275	60,970,128
USD	247,574,813	On Demand	2	340,471,571	338,024,723
				549,932,478	547,716,317
	<b>ENERGY - INTEGRATED (31.78%)</b>				
	42,066,558	On Demand	1	42,066,558	42,066,558
	289,946,709	On Demand	1	289,946,709	289,946,709
	10,134,322	On Demand	1	10,134,322	10,134,322
	39,305,919	Dec 15, 2024	2	39,317,471	39,305,919
				387,465,060	381,453,508

As of the date of Ninepoint-TEC's valuation, Erikson had "recorded negative retained earnings of approximately \$38.75 million, representing significant and recurring losses," according to the proposal trustee of Erikson's insolvency. The company also had *negative gross margins* for the 9 months ended on June 30, 2024.

## Second insolvency of the Ranch Assets under Third Eye Capital's Watch

On October 1, 2024, Erikson filed for creditor protection on "an urgent basis as one of Erikson's creditors had sought to garnish Erikson's bank account, which put at risk its ability to pay its employees," according to Mark Horrox. Out of \$42.6 million of Erikson's listed liabilities, Third Eye Capital is owed \$31.6 million— this figure doesn't include any capital contributions made by TEC to its "portfolio company." The company's internal balance sheet also lists "approximately \$33.61 million in assets retirement obligations."

One of Erikson's joint venture partners is Canadian National Resources Ltd, which is opposing Erikson and TEC's motions in the insolvency proceeding. Canadian Natural Resources claims that Erikson diverted "\$174 million in interest and fees to TEC at a time when it was in breach of both regulatory obligations and its obligations to working interest partners like Canadian Natural." Also, Canadian Natural Resources says that Erikson's insolvency disclosures lack financial statements and the company "failed to provide any information about its finances, its liabilities

(other than that owing to TEC) or the value of its assets." In short, they say that TEC took a "nothing to see here" approach. Canadian Natural also highlighted the need for an "independent third-party to ensure fairness and transparency for all stakeholders" since TEC controls Erikson and there is no separation between lender and borrower.

Following TEC's workout playbook, the insolvent Erikson will try now to sell its assets. It expects to close the asset sale by November 30th, 2024. Since this will be the third time since 2018 that TEC will try to sell these assets, we suspect that the company will struggle to receive an offer that provides a purchase price sufficient to repay senior lenders in full. Perhaps Conifer Energy, another "portfolio company" of TEC, which acquired the assets of the O&G failed borrower, Accel Energy, might end up playing a role in Erikson's SISF.

It is important to note that Third Eye Capital's CEO, Arif N. Bhalwani, told The Globe and Mail a year ago that "*Part of our core expertise is in restructuring and business turnaround.*" Investors should ask what happened to Arif's expertise while turning around Ranch Energy. Canadian Natural Resources, for one, is not impressed and accused TEC of "gross negligence" in its filing.

Will Arif continue to claim that he has never realized a loss on investment capital since inception?

Sadly for TEC investors, in our opinion, material TEC borrowers have many similarities with the Ranch-Erikson transaction we just described. For example, Conifer Energy, which, as mentioned, acquired the assets of failed Accel Energy and USA Synthetic Fuels Corp. Another example is GoGel Holdings, which acquired the assets of failed Tangelo Games.

## Footnotes

1. Prior to this transaction, TEC had already provided financing to OpsMobile another entity associated with Ranch, but to keep things simple, we will just focus on the transaction with Ranch Energy.

# FASKEN

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November 29, 2024  
File No.: 267908.00025/23362

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**Attention: Darrell Peterson**

Dear Mr. Peterson:

**Re: In the Matter of Erikson National Energy Inc., Estate No. 25-3135903 – Ongoing Sale and Investment Solicitation Process**

We write in response to your letter of yesterday's date.

We can confirm that at the request of the BCER's counsel, we have deleted the Kingscrest November 14<sup>th</sup>, 2024 correspondence that they provided to us. Notwithstanding the foregoing, the Proposal Trustee notes its concerns with the fact that: i) an unsolicited offer was made directly to the BCER at a time when the Company is pursuing a Court-approved SISP, and ii) the parties are now attempting to shield the contents of such offer from the Proposal Trustee. The Proposal Trustee will likely be called upon to comment upon the reasonableness of any further stay extension in these proceedings, which will be premised in part upon continued pursuit of offers received in the SISP. Having an ability to compare such offers to Kingscrest's offer would be of assistance to the Proposal Trustee with respect to this task. We would therefore kindly ask you to reconsider Kingscrest's position on disclosing a copy of its offer made to the BCER to the Proposal Trustee.

Additionally, we take issue with the suggestion in your letter that the Proposal Trustee is not acting independently in these matters. The Proposal Trustee supported Erikson's requested stay extension on October 21<sup>st</sup>, in order to allow Erikson an opportunity to pursue its SISP. The BCER also supported a stay extension. Additionally, at Erikson's stay extension application on November 21<sup>st</sup>, after learning of the BCER's concerns with the length of the proposed stay extension, the Proposal Trustee in fact took no position on the length of the proposed stay. All parties, however, supported a continuation of the stay for a period of time to allow Erikson to pursue the bids it has received in the SISP.



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As for the other concerns expressed in your letter, the Proposal Trustee has a few clarifying remarks. First, we were advised by the Company's legal counsel on November 26, 2024, that Mark Horrox is no longer a principal with Third Eye Capital Corporation ("TEC"), nor is he a director of Erikson. Rather, effective as of November 25, 2024, the new sole director of Erikson is Peter Neelands. We understand that Mr. Neelands is a director of investments with TEC.

Second, the Proposal Trustee reported on the fact that Erikson's crown mineral leases were cancelled in its First Report dated October 18, 2024, and as you've noted, also addressed in a Supplemental Affidavit sworn by Mark Horrox dated October 18, 2024, on behalf of Erikson. All parties were made aware of the status of the mineral leases at the hearing on October 21<sup>st</sup>, 2024.

The Proposal Trustee is otherwise investigating the allegations that the SISP contains misleading information. We note however, that the SISP provides in part that:

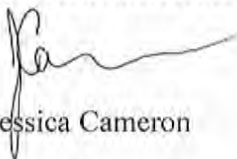
*...the Proposal Trustee and their respective advisors make no representation or warranty as to the accuracy or completeness of the information contained in the [Confidential Information Memorandum, the Data Room, or otherwise made available pursuant to the Erikson SISP...*

Third, and finally, the Proposal Trustee is unable to control the opinions of a financial reporter; however, it is not aware of any secondary strategy intended by the SISP. The purpose of the SISP in the Proposal Trustee's view is clear: to generate the highest and best bid for Erikson's business or assets. Additionally, Erikson and the Company have only extended the current SISP once, by extending the bid deadline to December 2, 2024, in order to pursue a value maximizing transaction in these proceedings.

We appreciate that your client likely remains unwilling to participate in Erikson's ongoing Court-approved SISP; however, the Proposal Trustee remains willing to engage in any dialogue your client wishes to have with it.

Yours truly,

**FASKEN MARTINEAU DuMOULIN LLP**



Jessica Cameron

JC/kp

cc: *J. Reid (Miller Thomson LLP)*  
*G. Finlayson (Miller Thomson LLP)*

*A. Basi & J. Knight (KSV Advisory)*

*T. Pavic (Sayer Energy Advisors)*

*K. Cameron & L. Rollingson (Bennett Jones LLP)*