

COURT FILE NUMBER **2201-01086**

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE Calgary

PLAINTIFF **CANADIAN WESTERN BANK**

DEFENDANTS **BIG BEAR ENERGY RENTALS LTD.,
1509571 ALBERTA LTD., 5556300
MANITOBA LTD., BARRICADE
ENVIRONMENTAL LTD., DIRECT
ENVIRONMENTAL TECHNOLOGIES
INC., JASON ROBERT LLOYD, KENNETH
JOHN GEROGE CARSTAIRS, ROBERT
CHRISTOPHER LLOYD and DANIEL
ROBERTS**

DOCUMENT **APPLICATION BY RECEIVER
(Commercial List)**

Clerk's Stamp

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

Robyn Gurofsky
Borden Ladner Gervais LLP
1900, 520 3rd Ave. S.W.
Calgary, AB T2P 0R3
Telephone: (403) 232-9774
Facsimile: (403) 266-1395
Email: RGurofsky@blg.com
File No. 022910-000008

NOTICE TO SERVICE LIST ATTACHED AS SCHEDULE "A" HERETO:

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the judge.

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

Date: May 4, 2022
Time: 10:00 a.m.
Where: Via Webex (link to be provided)

Before Whom: The Honourable Madam K.M. Horner

Go to the end of this document to see what else you can do and when you must do it.

Remedy claimed or sought:

1. An Order substantially in the form attached in Schedule “B”:
 - (a) Approving the proposed Sales Process appended to the First Report of the Receiver (the “**First Report**”), including the Teaser Letter contemplated in the Sales Process and attached as Appendix “J” to the First Report and authorizing the Receiver to take all such steps as are necessary to complete same;
 - (b) Approving the proposed Asset Purchase and Settlement Agreements with each of Blu-Water LP and Dakow Ventures Ltd.;
 - (c) Discharging the garage keeper’s lien filed by Leading Edge Mechanical Ltd. (“**Leading Edge**”);
 - (d) Approving the Receiver’s actions, activities and conduct as outlined in the First Report;
 - (e) Approving the professional fees incurred by the Receiver and its legal counsel to date, as more particularly outlined in the First Report;
 - (f) Sealing confidential appendices 1 through 7 referenced in the First Report; and
2. Such further remedies or relief as the Receiver may request and this Honourable Court permit.

Grounds for making this application:

3. On January 21, 2022, Alvarez & Marsal Canada Inc. was appointed interim receiver of each of Big Bear Energy Rentals Ltd., 5556300 Manitoba Ltd., Barricade Environmental Ltd., Direct Environmental Technologies Inc. and 1509571 Alberta Ltd. (collectively, the “**Debtors**”), primarily for the purposes of conducting an investigation into certain accounting practices of the Debtors.
4. On February 4, 2022, the Court granted an Enhanced Interim Receivership and Receivership order (the “**Enhanced Powers Order**”), building on the powers contained in original interim receivership order and, effective February 9, 2022, converting the interim receivership appointment to a receivership appointment pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, 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 65(7) of the *Personal Property Security Act*, RSA 2000 c P-7.

5. Pursuant to the Enhanced Powers Order, the Receiver is now permitted to market and sell, convey, transfer, lease and assign the Property, or any part or parts thereof out of the ordinary course of business, subject to Court approval as necessary.
6. The Receiver has conducted considerable work to locate, inventory and secure the Property of the Debtors, which is now located primarily in the Sylvan Lake, Alberta yard (with the exception of certain equipment that remains in use on job sites) and in yards located in North Dakota and Wyoming.
7. The Receiver has prepared a sales process, taking into account the various mechanisms which interested parties may use to acquire the assets, including by way of outright purchase or through an equipment auction. Given the complexity of the proceedings and in order to provide transparency into the proposed process, the Receiver is seeking approval for the Sales Process, attached as Appendix "I" to the First Report.
8. Leading Edge has asserted a Garage Keeper's Lien in the amount of \$107,582.20. The Receiver understands that the lien relates to repairs and maintenance conducted on one vehicle (in the amount of \$9,512.60) and that the remaining charges purport to relate to storage fees and charges related to other vehicles. The Receiver has requested that Leading Edge provide supporting documentation for the portion of the claim outside of the \$9,512.60 acknowledged by the Receiver, however, the Receiver has received no response to its request. The Receiver is ready, willing and able to pay the \$9,512.90 and asks that the Court discharge the lien for the remaining portion, given Leading Edge has failed to demonstrate why it is entitled to the excess amount, or provide any response to the Receiver regarding same.
9. There remain significant amounts owing by Dakow and Blu-Water to the Debtors in respect of work they conducted both before and after the receivership (through the Receiver). Dakow and Blu-Water have raised issues with respect to the payment of certain of these amounts and at the same time, have made unsolicited offers to the Receiver to purchase certain equipment in use at the sites at which Blu-Water and Dakow operate. The Receiver has entered into extensive negotiations with these entities and has analyzed the offers based on the appraisals obtained with respect to the equipment as well as the cost that would have to be incurred to demobilize the equipment from site and the risk associated with litigation of the accounts receivable. The Receiver is now satisfied, based on the current proposed asset purchase and settlement agreements appended to the First

Report that the offers and settlement are in the best interests of the estate and should be approved by the Court.

10. The Confidential Appendices contain confidential information that, if disclosed publicly in advance of the proposed sales process, could have a negative impact on the outcome of that process. Therefore, there are serious commercial interests to protect, taking into account the public policy goal of maximizing value for the benefit of stakeholders in the receivership, and the sealing order proposed represents the least restrictive way to protect those interests and public policy goals.
11. Such further and other grounds as outlined in the First Report.

Material or evidence to be relied on:

12. First Report of the Receiver dated April 25, 2022;
13. First Report of the Interim Receiver dated February 1, 2022; and
14. Such further material or evidence as counsel may advise and this Honourable Court permit.

Applicable rules:

15. *Alberta Rules of Court*, Alta Reg 124/2010, including Rules 1.3, 6.3, 11.27 and Part 6, Division 4;
16. And such further rules as counsel may advise and this Honourable Court permit.

Applicable Acts and regulations:

17. *Bankruptcy and Insolvency Act*, RSC 1985, c B-3;
18. *Judicature Act*, RSA 2000, c J-2;
19. *Garage Keepers' Lien Act*, RSA 2000, c G-2;
20. And such further acts and regulations and counsel may advise and this Honourable Court permit.

How the application is proposed to be heard or considered:

21. Before Justice K.M. Horner on the Commercial List, via Webex.

WARNING

If you do not come to Court either in person on the webex or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.

SCHEDULE "A"

SERVICE LIST

COURT FILE NUMBER	2201-01086
COURT	COURT OF QUEEN’S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFF	CANADIAN WESTERN BANK
DEFENDANTS	BIG BEAR ENERGY RENTALS LTD., 1509571 ALBERTA LTD., 5556300 MANITOBA LTD., BARRICADE ENVIRONMENTAL LTD., DIRECT ENVIRONMENTAL TECHNOLOGIES INC. (the “ Debtors ”), JASON ROBERT LLOYD, KENNETH JOHN GEORGE CARSTAIRS, ROBERT CHRISTOPHER LLOYD, and DANIEL ROBERTS

SERVICE LIST	
Miller Thomson LLP 10155 - 102 Street, Suite 2700 Edmonton, AB T5J 4G8 Rick Reeson, Q.C. – rreeson@millerthomson.com Spencer Norris – snorris@millerthomson.com	Counsel to Plaintiff - Canadian Western Bank
Alvarez & Marsal Canada ULC Suite 1110, 250 - 6 Avenue SW Calgary, AB T2P 3H7 Orest Konowalchuk – okonowalchuk@alvarezandmarsal.com Dave Williams - david.williams@alvarezandmarsal.com	Receiver
Borden Ladner Gervais LLP Suite 1900, Centennial Place, East Tower 520 - 3 Avenue SW Calgary, AB T2P 0R3 Robyn Gurofsky – RGurofsky@blg.com Anthony Mersich – amersich@blg.com	Counsel to Receiver

SERVICE LIST	
McLennan Ross LLP 600 McLennan Ross Building 12220 Stony Plain Road Edmonton, AB T5N 3Y4 Chuck Russell, Q.C. – chuck.russell@mross.com	Conflict Counsel to the Receiver
Cassels Brock & Blackwell LLP Suite 3810, Bankers Hall West 888 - 3 Street SW Calgary, AB T2P 5C5 Jeffrey Oliver – joliver@cassels.com	Counsel to Business Development Bank of Canada (Secured Creditor)
DLA Piper (Canada) LLP 1000, 250 - 2 Street SW Calgary, AB T2P 0C1 Brian Davison – carole.hunter@dlapiper.com Carole Hunter – brian.davison@dlapiper.com	Counsel to Corporate Defendants
Stikeman Elliott LLP 4300 Bankers Hall West 888 - 3 Street SW Calgary, AB T2P 5C5 Geoff Holub – GHolub@stikeman.com	Counsel to Spartan Delta Corp.
JSS Barristers 800, 304 - 8 Avenue SW Calgary, AB T2P 1C2 Christa Nicholson – nicholsonc@jssbarristers.ca	Counsel to Defendants – Jason Lloyd & Robert Lloyd
Government of Canada Dept. of Justice Canada 510, 606 – 4 Street SW Calgary, AB T2P 1T1 Jill Medhurst-Tivadar – jill.medhurst-tivadar@justice.gc.ca	Counsel to Canada Revenue Agency

SERVICE LIST	
Blu-Water LP Ltd. 9947 – 110 Avenue Fort St. John, BC V1J 1Y4 office@blu-water.ca	
Dakow Ventures Ltd. 9947 – 110 Avenue Fort St. John, BC V1J 1Y4 Matt Dohm – matt@dakow.ca	
Petrospec Engineering Inc. 7123 – 56 Avenue NW Edmonton, AB T6B 3L2 Scott Penny – scott.penny@petrospec.com	
Leading Edge Mechanical Ltd. 34 Industrial Drive Sylvan Lake, AB T4S 1P4 leadingedge@telus.net	
Canadian Natural Resources Limited Suite 2100, Bankers Hall East 855 - 2 Street SW Calgary, AB T2P 4J8 Jenny Trieu-Ly – Jenny.Trieu-Ly@cnrl.com	
Pine Cliff Energy Ltd. 1015 – 4 Street SW Calgary, AB T2R 1J4 Terry McNeill, Chief Operating Officer – TMcNeill@pinecliffenergy.com	
Tip Fleet Services Canada Ltd. 1880 Britannia Road East Mississauga, ON L4W 1J3 absecparties@ayssystems.ca	

EMAIL LIST ONLY

Trent.Erickson@cwbank.com; Dean.Chan@cwbank.com; rreeson@millerthomson.com; snorris@millerthomson.com; okonowalchuk@alvarezandmarsal.com; david.williams@alvarezandmarsal.com; RGurofsky@blg.com; amersich@blg.com; joliver@cassels.com; carole.hunter@dlapiper.com; brian.davison@dlapiper.com; Jenny.Trieu-Ly@cnrl.com; hardeep.singh@bdc.ca; GHolub@stikeman.com; nicholsonc@jssbarristers.ca; jill.medhurst-tivadar@justice.gc.ca; office@blu-water.ca; matt@dakow.ca; scott.penny@petrospec.com; leadingedge@telus.net; TMcNeill@pinecliffenergy.com; absecparties@ayssystems.ca; chuck.russell@mross.com

SCHEDULE “B”

FORM OF ORDER

COURT FILE NUMBER **2201-01086**

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE Calgary

APPLICANTS **CANADIAN WESTERN BANK**

RESPONDENTS **BIG BEAR ENERGY RENTALS LTD., 1509571
ALBERTA LTD., 5556300 MANITOBA LTD.,
BARRICADE ENVIRONMENTAL LTD., DIRECT
ENVIRONMENTAL TECHNOLOGIES INC.,
JASON ROBERT LLOYD, KENNETH JOHN
GEORGE CARSTAIRS, ROBERT
CHRISTOPHER LLOYD and DANIEL ROBERTS**

DOCUMENT **ORDER Re: Various Relief**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS
DOCUMENT Robyn Gurofsky / Anthony Mersich
Borden Ladner Gervais LLP
1900, 520 3rd Ave. S.W.
Calgary, AB T2P 0R3
Telephone: (403) 232-9774 / (403) 232-9154
Facsimile: (403) 266-1395
Email: RGurofsky@blg.com / amersich@blg.com
File No. 436743.24

DATE ON WHICH ORDER WAS PRONOUNCED: May 4, 2022

NAME OF JUSTICE WHO MADE THE ORDER: The Honourable Justice K.M. Horner

LOCATION OF HEARING: Calgary, Alberta

UPON the application of Alvarez & Marsal Canada Inc. ("**A&M**") in its capacity as the court-appointed receiver (the "**Receiver**") of Big Bear Energy Rentals Ltd., 1509571 Alberta Ltd., 5556300 Manitoba Ltd., Barricade Environmental Ltd., and Direct Environmental Technologies Inc. (collectively, the "**Debtors**"), and not in its personal or corporate capacity; **AND UPON** having read the First Report of the Interim Receiver dated February 1, 2022 (the "**Interim Receiver's Report**"), the First Report of the Receiver dated April 25, 2022 (the "**First Report**"), the interim receivership order granted on January 21, 2022 (the "**Interim Receivership Order**"), the enhanced interim receivership and receivership order granted on February 4, 2024 and the Affidavit of Service of _____ dated April **XX**, 2022; **AND UPON**

hearing from counsel for the Receiver and counsel for any other interested parties appearing at the hearing of this application:

IT IS HEREBY ORDERED AND DECLARED THAT:

Approval of Sale and Investment Solicitation Process

1. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the sales process attached hereto as Appendix “A” (“SP”).
2. The Teaser Letter attached as Appendix “J” to the First Report is hereby approved and the Receiver is authorized to distribute the Teaser Letter in accordance with the terms of the SP.
3. The SP is hereby approved, and the Receiver is hereby authorized and directed to implement the SP and do all things as are reasonably necessary to conduct and give full effect to the SP and carry out its obligations thereunder, including seeking approval of this Court as soon as reasonably practicable following the selection of a Successful Bidder or Successful Bidders under the SP.
4. The Receiver shall not have any liability whatsoever to any person or party for any act or omission related to the SP, except to the extent such act or omission is the result of gross negligence or wilful misconduct of the Receiver.

Discharge of Garage Keeper’s Lien

5. The Garage Keeper’s Lien claimed by Leading Edge Mechanical Ltd. shall be released and discharged upon payment by the Receiver to Leading Edge of the sum of **\$9,512.60**, as related to the repair and maintenance conducted on a 2006 Peterbilt Truck (VIN: 1XPFD00X36N662841).

Dakow and Blu-Water Asset Purchase and Settlement Agreement

6. The asset purchase and settlement agreements entered into by the Receiver with each of Blu-Water LP and Dakow Ventures Ltd. dated April 22, 2022 and appended to the First Report in redacted form as Appendices “G” and “H”, respectively (or in unredacted form as Confidential Appendices “6” and “7”, respectively), are hereby approved and the Receiver is authorized to take whatever steps are necessary to effect the transactions contemplated therein, including conveying the purchased assets to the purchaser.

Approval of Activities and Fees

7. The actions, conduct and activities of A&M in its capacity as interim receiver of the Debtors (the “**Interim Receiver**”) as described in the Interim Receiver’s Report, and the actions, conduct and activities of the Receiver as described in the First Report, are hereby confirmed and approved.
8. All of the professional fees and disbursements (including GST) of the Interim Receiver, the Receiver and its legal counsel, Borden Ladner Gervais LLP, for the period ending on March 31, 2022, as more particularly described in the First Report, are hereby confirmed and approved without the necessity of a formal passing of accounts.

Sealing Order

9. Confidential Appendices 1 through 7 to the First Report shall be sealed on the Court file, kept confidential and shall not be available for public inspection until 30 days after the Receiver has filed a certificate confirming it has been discharge as Receiver of the Debtors, unless and until an application is made to modify or vary this Order.
10. The Clerk of the Court shall file the Confidential Appendices 1 through 7 in a sealed envelope attached to a notice that sets out the style of cause of these proceedings and states that:

THIS ENVELOPE CONTAINS CONFIDENTIAL MATERIALS, BEING THE CONFIDENTIAL APPENDICES 1 THROUGH 7 TO THE FIRST REPORT OF THE RECEIVER DATED APRIL 22, 2022 (THE “**CONFIDENTIAL APPENDICES**”) PURSUANT TO THE SEALING ORDER ISSUED BY JUSTICE K.M. HORNER ON MAY 4, 2022. THE CLERK OF THE COURT SHALL NOT RELEASE THE CONFIDENTIAL APPENDICES TO THE PUBLIC UNTIL AFTER THE FILING OF THE RECEIVER’S DISCHARGE CERTIFICATE CONFIRMING THE RECEIVER HAS BEEN DISCHARGED.

11. A sticker containing the language set out in paragraph 20 above shall be affixed to the Confidential Appendices that are placed in the envelope delivered to the Clerk of the Court in accordance with this Sealing Order.

Miscellaneous

12. The time for service of this Application together with all supporting materials is hereby declared to be good and sufficient and no other person is required to have been served with such documents, and this hearing is properly returnable before this Honourable Court today and further service thereof is hereby dispensed with.
13. Service of this Order shall be deemed good and sufficient by serving the same on:
 - a) the persons listed on the service list (attached as **Schedule “A”** to the Application); and
 - b) by posting a copy of this Order on the Receiver’s website at:
<https://www.alvarezandmarsal.com/bigbear>.
14. No other persons are entitled to be served with a copy of this Order.

Justice of the Court of Queen’s Bench of Alberta

**APPENDIX “A” TO
ORDER DATED MAY 4, 2022**

SALES PROCESS