

CANADA

**PROVINCE OF QUEBEC
DISTRICT OF MONTREAL**

No. : 500-11-036133-094

SUPERIOR COURT

Commercial Division
(Sitting as a court designated pursuant to the
Companies' Creditors Arrangement Act,
R.S.C., c. C-36)

**IN THE MATTER OF THE PLAN OF
COMPROMISE OR ARRANGEMENT OF:**

ABITIBIBOWATER INC.

and

ABITIBI-CONSOLIDATED INC.

and

**BOWATER CANADIAN HOLDINGS INC.
and the other Petitioners listed on
Schedules A, B and C**

Debtors

and

ERNST & YOUNG INC.

Monitor

and

**HER MAJESTY THE QUEEN IN RIGHT OF
THE PROVINCE OF NEWFOUNDLAND AND
LABRADOR**

Petitioner

**CONTESTATION OF THE PETITIONER TO THE DEBTORS' *MOTION FOR THE
ISSUANCE OF AN ORDER AUTHORIZING THE SALE OF NON-CORE
PROPERTIES***

IN CONTESTATION TO THE DEBTORS' MOTION FOR THE ISSUANCE OF AN ORDER AUTHORIZING THE SALE OF NON-CORE PROPERTIES, THE PETITIONER RESPECTFULLY SUBMITS THE FOLLOWING:

1. This is a Motion by the Debtors (collectively hereinafter referred to as "**Abitibi**") for the approval of the sale of, or more likely, the eventual abandonment of, the Non-Core Properties (as defined in Abitibi's Motion), which are situate in the Province of Newfoundland and Labrador (the "**Province**").
2. The Minister of the Environment for the Province has issued orders pursuant to section 99 of the *Environmental Protection Act*, S.N.L. 2002, chap. E-14.2 (respectively, the "**EPA Orders**" and the "**EPA**") with respect to the Non-Core Properties. Abitibi has failed to comply with the EPA Orders.
3. At its core, Abitibi's Motion raises the same issues as the Province's *Amended Motion for a Declaration Regarding Orders Issued Pursuant to the Environmental Protection Act*, S.N.L. 2002, chap. E-14.2 (the "**EPA Motion**"), on which this Court rendered judgment on 31 March 2010, and from which leave to appeal is being sought by the Province.
4. Accordingly, Abitibi's Motion should not be heard until a decision has been rendered with respect to the Province's *Motion for Leave to Appeal* and, if applicable, the appeal on the merits. The Province's Motion for Leave to Appeal is scheduled to be heard on 12 May 2010.
5. In the alternative, and at the very least, any Order granted by this Court should:
 - (a) provide that nothing in the Order makes inapplicable: (i) any obligation under any enactment of the Province that the Vendors or the Purchaser or any other person, other than a trustee appointed pursuant to the *Bankruptcy and Insolvency Act*, may have by virtue of having been or becoming the owner or operator of the Non-Core Properties or any of them; or (ii) any consent by, approval of, notice to or other similar requirement involving the provincial government or a regional or municipal government under any enactment of the Province relating to the transfer of the Non-Core Properties or any of them; and
 - (b) reflect the fact that the Order may have to be amended so as to be consistent with any decision rendered by the Court of Appeal.
6. The language set out in paragraph 5(a) above is parallel to the language contained in the Vesting Order made by this Court on 23 March 2010 with respect to the sale of the Mackenzie Assets in British Columbia, to which Abitibi consented.

7. This Contestation is well founded in fact and in law.

WHEREFORE MAY THIS COURT:

- [1] **GRANT** this Contestation.
- [2] **STAY** the Debtors' *Motion for the Issuance of an Order Authorizing the Sale of Non-Core Properties*.
- [3] **IN THE ALTERNATIVE**, include the following language in the Order sought by the Debtors:
 - (a) Nothing in the Order makes inapplicable: (i) any obligation under any enactment of the Province that the Vendors or the Purchaser or any other person, other than a trustee appointed pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, may have by virtue of having been or becoming the owner or operator of the Non-Core Properties or any of them; or (ii) any consent by, approval of, notice to or other similar requirement involving the provincial government or a regional or municipal government under any enactment of the Province relating to the transfer of the Non-Core Properties or any of them; and
 - (b) This Order shall be amended, if necessary, so as to be consistent with any decision rendered by the Court of Appeal in respect to the appeal by Her Majesty the Queen in Right of Newfoundland and Labrador (the "**Province**") of the Judgment rendered by the Superior Court of Justice on 31 March 2010 regarding the Province's *Amended Motion for a Declaration Regarding Orders Issued Pursuant to the Environmental Protection Act*, S.N.L. 2002, chap. E-14.2.
- [4] **EXEMPT**, if applicable, the Petitioner from having to serve this Contestation and from any notice or delay of presentation.
- [5] **GRANT** such further and other relief as this Court deems just and proper.
- [6] **GRANT** the provisional execution of this Order notwithstanding any appeal and without the necessity of furnishing any security.

THE WHOLE WITH COSTS.

Toronto, 22 April 2010

WeirFoulds LLP

WEIRFOULDS LLP

Attorneys for Her Majesty the Queen
in Right of the Province of
Newfoundland and Labrador

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CONTESTATION OF THE PETITIONER TO THE DEBTORS' MOTION FOR THE ISSUANCE OF AN ORDER AUTHORIZING THE SALE OF NON-CORE PROPERTIES ORIGINAL	WEIRFOULDS LLP Barristers & Solicitors P.O. Box 480, Suite 1600, The Exchange Tower 130 King Street West, Toronto, ON M5X 1J5 Tel: 416-365-1110 Fax: 416-365-1876 <i>Attorneys for Her Majesty the Queen in Right of the Province of Newfoundland and Labrador</i>