

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, as amended)

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 the motion

Petitioners

and

ERNST & YOUNG INC.

Monitor

and

HER MAJESTY THE QUEEN IN RIGHT OF THE
PROVINCE OF NEW BRUNSWICK AS
REPRESENTED BY THE MINISTER OF THE
ENVIRONMENT.

Respondent on the motion

AFFIDAVIT OF JOHN STUBBERT

I, John Stubbert P. Eng, of Fredericton in County of York and Province of New Brunswick, Industrial Approvals Engineer of the Industrial Processes Section for the Impact Management Branch of the Department of the Environment for the Province of New Brunswick, HEREBY MAKE OATH AND SAY THAT:

1. I have personal knowledge of the facts and matters deposed to herein, except where stated otherwise and where so stated, I verily believe the same to be true.
2. I have reviewed the materials and information files held at the Department of Environment, Province of New Brunswick in relation to a former wood residues landfill site situated in the parish of Baker Brook, County of Madawaska, Province of New Brunswick (the Baker Brook property), as well as the approvals issued to Bowater Couturier Inc, one of the Petitioners listed in an *Amended Second Motion for the Issuance of Various Orders Authorizing the Sale of Non-Core Properties and for the Issuance of a Re-amended Receivership Order in Respect of 4513541 Canada Inc.*(herein referred to as the Petitioners).
3. I have supervisory conduct on behalf of the Department of Environment over a succession of approvals issued to the Petitioners and their predecessors, which are listed as follows: I-1027, I-2378, I-2818, I-4126, I-4438, I-5098, and the current approval I-7139, which are attached to this affidavit as Exhibits 1-7.
4. The Baker Brook Wood Waste Disposal Facility (the "facility") is a Class 1B Industrial facility currently approved for operation under I-7139, as provided in Exhibit 7 to this affidavit.

5. The current approval for the facility, I-7139, which was issued under the New Brunswick Regulation 82-126 of the **Clean Environment Act**, R.S.N.B. 1973, c. C-6, also known as the **Water Quality Regulation**, was issued for the period from July 1, 2010 to June 30, 2015.
6. Approval I-7139 establishes the basic terms and conditions the Petitioners are required to comply with to address potential environmental impacts associated with the current and future operations of the facility.
(see Exhibit 7)
7. The facility was originally constructed and approved to manage solid wastes from the Baker Brook Sawmill.
8. The facility was initially reviewed under Regulation 87-83 of the **Clean Environment Act**, also known as **Environmental Impact Assessment Regulation** ("EIA") in a project 4561-3-383) submitted by Raoul Couturier Lumber Inc. in 1995. The project was permitted to proceed. The Environmental Impact Assessment Determination for project #4561-3-383 is attached as Exhibit 8.
9. In 1997, Alliance Forest Products – Couturier Inc. submitted a project (#4561-3-604) under EIA for an expansion to the facility and the project was permitted to proceed. The Certificate of Determination for that project is, attached as Exhibit 9.
10. In 2003, the Petitioners submitted a project (#4561-3-971) under EIA for the construction of a wetland treatment system to treat leachate generated at the facility to the discharge standards of their approval and the project was permitted to proceed. The Certificate of Determination for that project is attached as Exhibit 10.
11. On or about January of 2008, I was advised by the Petitioners, whom I verily did believe, that the Baker Brook Sawmill was sold to J. D. Irving, Limited.

12. The facility was not included in that transaction and the facility was retained by the Petitioners.

13. In 2010, the Petitioners applied to the Department for a renewal of their approval to operate and, as the facility was no longer accepting solid wastes, the Department of Environment required the Petitioners under condition 20 of approval I-7139 to register a project under EIA to close the facility.

(see Exhibit 7)

14. The registration of the project under EIA would be expected to address operational issues including but not limited to the cover system, potential surface water intrusion, leachate generation, leachate treatment, leachate management, an assessment of current ground and surface water impacts, long term care and maintenance and potential visibility, site access and security issues.

15. Currently, the facility is not accepting new wastes and a cover system of unknown quality has been applied over the wastes.

16. In February of 2004, Robert Robichaud, an Inspector from Environment Canada, issued an Inspector's Direction under the federal Fisheries Act to the Petitioners to take measures to prevent the deposit of a "deleterious substance" in the waters of Baker Brook, attached as Exhibit 11.

17. Generally speaking, the determination of whether a discharge is considered to be a "deleterious substance" is made if a sample of the discharge fails a fish toxicity test (the then current version of Reference Method for Determining Acute Lethality of Effluents to Rainbow Trout, Report EPS 1/RM/13, Second Edition, Environment Canada), attached as Exhibit 12.

18. The previously mentioned fish toxicity (bioassay) test, as referenced in paragraph 17 of this affidavit, is also included in I-7139 as one of the discharge limits outlined in Condition 18. (See Exhibit 7)

19. I am advised by representatives from Environment Canada whom I verily do believe, that the inspector's direction at Exhibit 11 is not currently considered by Environment Canada as being active but would be used as part of the Facility's compliance history if future issues were to occur.

20. The Petitioners began collecting and transporting leachate off-site to comply with the direction in Exhibit 11 and has continued the transport operation.

21. I am advised by the Petitioners' report, attached as Exhibit 13, which I verily believe, that a significant quantity of leachate, approximately 15,000 m³ per year is still being generated.

22. I am also further advised by the Petitioners' report, attached as Exhibit 13 which I verily do believe, that the treatment system that was constructed in 2004 has not proven to be adequate to treat the leachate to the approved discharge standards and leachate is being collected in the leachate collection system, pumped to a holding tank where it is in turn pumped to a tanker truck for transport to Edmundston for disposal in the municipal sewage treatment system.

23. The Petitioners indicate in their court submission that the current cost associated with the collection, the transportation and the treatment of the leachate is estimated to be \$280,000 per year. I have no knowledge whether the cost estimated by the Petitioners includes long term inspection, maintenance, electricity and monitoring for the facility which are costs typically associated with site oversight during the post closure period of a disposal facility.

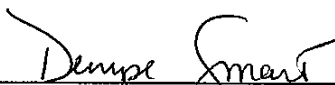
24. Based on my review of the information and materials available to me at the Department of Environment in relation to the Baker Brook property, the current cover system at the facility may require upgrades to address infiltration of precipitation into the landfill and the resultant leachate that would be generated.

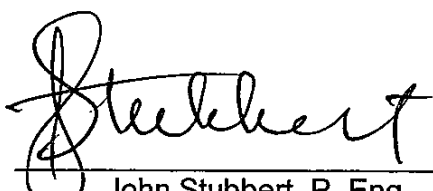
25. Based on my review of the materials available to me at the Department of the Environment for the Province of New Brunswick and also as admitted in the Petitioner's Motion for Vesting Orders at page 9, groundwater and/or surface water is likely entering the landfill at the Baker Brook Property along the eastern side of the landfill and in particular in the north east corner of the facility, which would also add to the quantity of leachate generated.

26. Compliance with the **Clean Environment Act**, specifically the **Environmental Impact Assessment Regulation**, will require that both the quality of the existing cover system and the water intrusion into the landfill be addressed in the EIA review as the leachate quantity and quality has very significant long term environmental and financial implications on the site closure.

27. I make this Affidavit for no ill will and in good faith.

SWORN TO)
at the City of Fredericton, County)
of York and Province of)
New Brunswick this 27th day)
of August 2010 BEFORE ME:)


A Commissioner of Oaths
Being a Solicitor)


John Stubbert, P. Eng.

