VOLUME 1

Clerk's stamp:

CLERK OF THE COURT
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CALGARY, ALBERTA

COURT FILE NUMBER	
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
APPLICANT	NATIONAL BANK OF CANADA, IN ITS CAPACITY AS ADMINISTRATIVE AGENT UNDER THAT CERTAIN AMENDED AND RESTATED CREDIT AGREEMENT DATED JUNE 30, 2015, AS AMENDED
RESPONDENTS	SPYGLASS RESOURCES CORP., 1196823 ALBERTA LTD., 1288916 ALBERTA LTD., 1398850 ALBERTA LTD., 15836621 ALBERTA LTD., 1636527 ALBERTA LTD., AVENEX ENERGY PARTNERSHIP, AVENEX REAL ESTATE ACQUISITION CORP., WESTBROOK MARKETING LIMITED PARTNERSHIP (formerly ELBOW RIVER MARKETING LIMITED PARTNERSHIP) 1159002 ALBERTA LTD. (formerly ELBOW RIVER MARKETING CORP.), MEOTA 2000 PARTNERSHIP, PACE OIL & GAS PARTNERSHIP, PACE OIL RESOURCES LTD. AND SEAVIEW ENERGY PARTNERSHIP
DOCUMENT	**AFFIDAVIT (Appointment of Receiver)**
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	BLAKE, CASSELS & GRAYDON LLP 3500, 855 – 2nd Street S.W. Calgary, AB T2P 4J8 Attention: Kelly Bourassa / Ryan Zahara Tel: 403-260-9697/9628 Fax: 403-260-9700 Email: kelly.bourassa@blakes.com / ryan.zahara@blakes.com File Ref: 65306/37

AFFIDAVIT OF WILLIAM KENNEDY

Sworn on November 26, 2015

I, WILLIAM KENNEDY, of the City of Toronto, in the Province of Ontario, SWEAR AND SAY THAT:

1. I am a Vice President, Special Loans with the National Bank of Canada ("**National Bank**"). I have been directly involved with the Spyglass Resources Corp. ("**Spyglass**" or the "**Borrower**") account since approximately May of 2015 and have also had the opportunity to review the business records of National Bank relevant to the Spyglass account. I have personal knowledge of the matters deposed to in this Affidavit, except where stated to be based upon information, in which case I believe the same to be true.

2. I am authorized to make this Affidavit on behalf of National Bank as the administrative agent (the "**Agent**") on behalf of a syndicate of financial institutions, including National Bank, Canadian Imperial Bank of Commerce, The Toronto-Dominion Bank, The Bank of Nova Scotia, HSBC Bank Canada, Wells Fargo Bank, N.A., Canadian Branch, Alberta Treasury Branches and Canadian Western Bank (collectively, the "**Lenders**") pursuant to an amended and restated credit agreement made effective as of June 30, 2015 among the Borrower, the Agent and the Lenders, a consent and amending agreement dated as of August 11, 2015 (the "**August Amending Agreement**"), a first amending agreement made effective as of September 3, 2015 (the "**First Amending Agreement**") and a second amending agreement made effective as of October 30, 2015 (the "**Second Amending Agreement**") (collectively, the "**Credit Agreement**"). Attached hereto and marked collectively as Exhibit "**A**" are copies of the August Amending Agreement, the First Amending Agreement and the Second Amending Agreement.

3. Capitalized terms used herein but not otherwise defined shall have the meaning ascribed to them in the Credit Agreement.

Overview

4. As explained further below, Spyglass has been experiencing financial difficulties for the past 8 months as a result of the extended depressed market prices for oil and gas and its inability to close certain asset sales. The financial difficulties have been compounded by the Lenders redetermination of the Borrower's borrowing base in accordance with the Credit Agreement on October 30, 2015 that capped the amounts available to Spyglass under the Credit Facilities.

5. Spyglass currently has no availability under the Credit Facilities and the Lenders are not prepared to consent to extend any further credit to it under the Credit Facilities or otherwise. On November 30, 2015 there will be an Event of Default under the terms of the Credit Agreement and Spyglass will no longer have any access to the Credit Facilities including to any access to funds thereunder. As a result, Spyglass is not able to meet its obligations generally as they become due and will no longer be able to make payments to its creditors as of December 1, 2015.

6. Spyglass has commenced a broad disposition process for core and non-core assets but no longer has the ability, due to insufficient liquidity, to continue this disposition process, to close a transaction or to obtain additional proceeds to reduce its obligations under the Credit Facilities.

7. The Agent has demanded repayment of the entire amount of the Credit Facilities and Spyglass is unable to repay the Lenders in full. The Lenders believe that the appointment of a receiver will be the most effective and efficient way to continue the asset disposition process commenced by Spyglass, realize on the value of the assets and minimize the costs associated with this process and I have been advised by my counsel that Howard Gorman, legal counsel for Spyglass has advised that Spyglass ~~consents~~ is not opposed to to the appointment of a receiver.

8. I believe it is appropriate in all of the circumstances that a receiver ("**Receiver**") pursuant to section 243 of the *Bankruptcy and Insolvency Act*, RSC 1985 c B-3 (the "**BIA**") and section 13(2) of the *Judicature Act* RSA 2000, c J-2 be appointed over the assets, undertakings and properties of Spyglass.

9. Spyglass is a company incorporated pursuant to the laws of the Province of Alberta with its registered office in Calgary, Alberta and is engaged in the acquisition, enhancement and exploration of conventional oil and gas projects. Attached hereto and marked as Exhibit "**B**" is a copy of the Alberta corporate search report for Spyglass.

10. Spyglass has a number of subsidiaries including, 1196823 Alberta Ltd., 1288916 Alberta Ltd., 1398850 Alberta Ltd., 1583662 Alberta Ltd., 1636527 Alberta Ltd., AvenEx Energy Partnership, AvenEx Real Estate Acquisition Corp., Westbrook Marketing Limited Partnership (formerly Elbow River Marketing Limited Partnership), 1159002 Alberta Ltd. (formerly Elbow

River Marketing Corp.), Meota 2000 Partnership, Pace Oil & Gas Partnership, Pace Oil Resources Ltd. and Seaview Energy Partnership (collectively, the "**Subsidiaries**'). Attached hereto and collectively marked as Exhibit "**C**" are copies of the corporate search reports for the Subsidiaries.

The Loan

11. In accordance with the Credit Agreement, the Lenders have currently extended credit under the following facilities to Spyglass:

(a) Term Facility – a non-revolving reducing term credit facility in the amount of $91,700,000;

(b) Production Facility – an extendable revolving credit facility with a limit up to $72,900,000; and

(c) Operation Facility – an extendable revolving credit facility with a limit up to $7,461,500.

12. In September of 2015, the Borrower and the Agent entered into the First Amending Agreement which provided, among other things, that:

(a) on November 30, 2015, the Term Facility would reduce to $62,100,000 and any Aggregate Principal Amounts outstanding thereon would have to be repaid on that day;

(b) on January 31, 2016, the Term Facility would reduce to $25,000,000 and any Aggregate Principal Amounts outstanding thereon in excess must be repaid on that day;

(c) the Lenders were entitled to appoint a financial advisor to conduct a review including visitation, examination and inspection of any property of the Borrower as well as to review the Borrower's sales process and debt reduction initiatives and any other items requested by the Lenders, including the entering into, execution and delivery by the Borrower of such indemnity and fee agreements as reasonably requested by such financial advisor to the satisfaction of the Lenders acting reasonably; and

(d) on or before October 15, 2015, the Borrower was to provide to the Lenders and the financial advisor a restructuring plan in form and content satisfactory to the Lenders.

13. The Agent appointed Ernst & Young Inc. as the financial advisor (the "**Financial Advisor**") on or about September 2, 2015 in order to provide advice to the Lenders in respect of the Borrower's current financial position and future business prospects as contemplated by the First Amending Agreement.

14. On October 30, 2015, the Borrower and the Lenders entered into the Second Amending Agreement which provided that the Term Facility repayment milestones set forth above would remain unchanged and, among other things, the following:

(a) the availability of credit under the Production Facility was reduced to $72,900,000;

(b) the availability of credit under the Operating Facility was reduced to $7,461,500;

(c) the Permitted Disposition Limit was reduced to $3,000,000; and

(d) the Borrowing Base Credit Facilities were converted to Revolving Credit Facilities.

15. As of November 24, 2015, the total indebtedness of the Borrower to the Lenders pursuant to the Credit Agreement is $171,877,149.11 (the "**Outstanding Indebtedness**") with interest accruing thereafter at a rate of $11,883.70 for the Production Facility, $23,741.51 for the Term Facility and $789.76 for the Operating Facility each per diem plus all legal and other costs and expenses (including costs and expenses of the Financial Advisor) incurred by the Agent in respect of the Credit Agreement.

The Security

16. As security for all amounts owing from the Borrower to the Lenders, the Borrower entered into a demand debenture (the "**Demand Debenture**") dated March 28, 2013 granting the Agent, as a representative of the Lenders, security over all of the Borrower's present and after-acquired property, assets and undertaking, including without limitation all present and after-acquired personal property, tangible and intangible, in each case, of every nature and kind wherever situation and all proceeds thereof and mortgaged and charged in favour of the Agent present and after-acquired real property (the "**Security**"). Attached hereto and marked as Exhibit "**D**" is a copy of the Demand Debenture.

17. The Agent has registered the Security against Spyglass at the Alberta Personal Property Registry (the "**PPR**"). Attached hereto and marked as Exhibit "**E**" is a copy of a PPR search report in respect of the Borrower dated November 24, 2015.

18. The Subsidiaries guaranteed the Borrower's obligations under the Credit Agreement and the Agent obtained guarantees and security in the form of demand debentures from the Subsidiaries, as follows:

(a) a guarantee made as of March 28, 2013 granted by 1196823 Alberta Ltd. in favour of the Agent;

(b) a guarantee made as of March 28, 2013 granted by 1288916 Alberta Ltd. in favour of the Agent;

(c) a guarantee made as of March 28, 2013 granted by 1398850 Alberta Ltd. in favour of the Agent;

(d) a guarantee made as of March 28, 2013 granted by 1583662 Alberta Ltd. in favour of the Agent;

(e) a guarantee made as of March 28, 2013 granted by 1636527 Alberta Ltd. in favour of the Agent;

(f) a guarantee made as of March 28, 2013 granted by AvenEx Energy Partnership, by its managing partner, the Borrower, in favour of the Agent;

(g) a guarantee made as of March 28, 2013 granted by AvenEx Real Estate Acquisition Corp. in favour of the Agent;

(h) a guarantee made as of March 28, 2013 granted by 1159002 Alberta Ltd. (formerly Elbow River Marketing Corp.) in favour of the Agent;

(i) a guarantee made as of March 28, 2013 granted by Westbrook Marketing Limited Partnership (formerly Elbow River Marketing Limited Partnership) by its general partner, 1159002 Alberta Ltd., in favour of the Agent;

(j) a guarantee made as of March 28, 2013 granted by Meota 2000 Partnership, by its managing partner, the Borrower, in favour of the Agent;

(k) a guarantee made as of March 28, 2013 granted by Pace Oil & Gas Partnership, by its managing partner, the Borrower, in favour of the Agent;

(l) a guarantee made as of March 28, 2013 granted by Pace Oil Resources Ltd. in favour of the Agent;

(m) a guarantee made as of March 28, 2013 granted by Seaview Energy Partnership, by its managing partner, the Borrower, in favour of the Agent;

(collectively, the guarantees referred to in (a) to (m) above are hereinafter referred to as the "**Subsidiary Guarantees**")

(n) a demand debenture made as of March 28, 2013 granted by 1196823 Alberta Ltd. in favour of the Agent;

(o) a demand debenture made as of March 28, 2013 granted by 1288916 Alberta Ltd. in favour of the Agent;

(p) a demand debenture made as of March 28, 2013 granted by 1398850 Alberta Ltd. in favour of the Agent;

(q) a demand debenture made as of March 28, 2013 granted by 1583662 Alberta Ltd. in favour of the Agent;

(r) a demand debenture made as of March 28, 2013 granted by 1636527 Alberta Ltd. in favour of the Agent;

(s) a demand debenture made as of March 28, 2013 granted by AvenEx Energy Partnership, by its managing partner, the Borrower, in favour of the Agent;

(t) a demand debenture made as of March 28, 2013 granted by AvenEx Real Estate Acquisition Corp. in favour of the Agent;

(u) a demand debenture made as of March 28, 2013 granted by 1159002 Alberta Ltd. (formerly Elbow River Marketing Corp.) in favour of the Agent;

(v) a demand debenture made as of March 28, 2013 granted by Westbrook Marketing Limited Partnership (formerly Elbow River Marketing Limited Partnership) by its general partner, 1159002 Alberta Ltd., in favour of the Agent;

(w) a demand debenture made as of March 28, 2013 granted by Meota 2000 Partnership, by its managing partner, the Borrower, in favour of the Agent;

(x) a demand debenture made as of March 28, 2013 granted by Pace Oil & Gas Partnership, by its managing partner, the Borrower, in favour of the Agent;

(y) a demand debenture made as of March 28, 2013 granted by Pace Oil Resources Ltd. in favour of the Agent;

(z) a demand debenture made as of March 28, 2013 granted by Seaview Energy Partnership, by its managing partner, the Borrower, in favour of the Agent; and

(collectively, the demand debentures referred to in (n) to (z) are hereinafter referred to as the "**Subsidiary Demand Debentures**"),

(aa) an acknowledgement and confirmation of guarantee given by the Subsidiaries to the Agent dated June 30, 2015 (the "**Acknowledgement**").

Attached hereto and collectively marked as Exhibit "**F**", "**G**" and "**H**" are copies of the Subsidiary Guarantees, Subsidiary Demand Debentures and the Acknowledgement referenced in subparagraphs (a) – (aa) above.

17. The Agent has registered its security against the Subsidiaries at the PPR. Attached hereto and marked as Exhibit "**I**" are copies of the PPR search reports in respect of the Subsidiaries, each dated November 24, 2015 or November 25, 2015.

Current Financial Circumstances

19. Spyglass has been experiencing financial difficulties as a result of the depressed market prices for oil and gas that have persisted since the fall of 2014. The Lenders worked with the Borrower on several amendments to the Credit Agreement in order to try and address the cash flow issues and the borrowing base shortfalls under the terms of the Credit Agreement.

20. Spyglass in its November 10, 2015 press release (the "**Press Release**") regarding its third quarter results indicates that it experienced a net loss for the third quarter in the amount of $38,800,000 which related primarily to impairments of the assets in the South Oil (as defined in the Press Release) and Dixonville areas as a result of continued declines in the forecasted crude oil and natural gas commodity prices. Attached hereto and marked as Exhibit "**J**" is a copy of the Press Release.

21. The Lenders have attempted to work with the Borrower to implement a restructuring plan that included a sale of assets in an orderly and efficient process in order to maximize the value of the assets of Spyglass. Unfortunately, Spyglass was unable to complete such restructuring plan due to the failure of at least one proposed sales transaction and lack of liquidity resulting from the redetermination of its borrowing base in accordance with the Credit Agreement.

<u>The Failed Sales Transaction</u>

22. Eagle Energy Canada Inc. ("**Eagle**") is a 50% owner of the petroleum and natural gas rights located at the Dixonville property which is approximately 50 kilometres northwest of Peace River (the "**Dixonville Assets**"). Spyglass owns the remaining 50% interest in the

Dixonville Assets and is the operator pursuant to a joint operating agreement which is governed by the 2007 CAPL Operating Procedure.

23. In August of 2015, Eagle made an unsolicited offer to purchase the Borrower's 50% share of the Dixonville Assets. Spyglass and Eagle entered into negotiations for the sale of the 50% interest of Spyglass in the Dixonville Assets. The Lenders were supportive of the Borrower completing the proposed transaction with Eagle.

24. As part of the proposed sale of the Dixonville Assets, the Borrower required that the Lenders make available additional amounts from the proceeds of any sale, notwithstanding that the terms of the Credit Agreement did not require the Lenders to allow Spyglass access to any proceeds of sale. Spyglass was seeking to retain amounts from the proceeds of the proposed sale (contrary to the terms of the Credit Agreement, which would see all proceeds used in permanent reduction of the Credit Facilities) in order to implement a key employee retention plan as well as to maintain its licensee liability rating with Alberta Energy Regulator between 1.25 and 1.30.

25. The negotiations with Eagle were ultimately terminated in October of 2015 and the transaction was not completed such that no sales proceeds were available to reduce the Credit Facilities or provide any short-term liquidity to the Borrower.

26. Subsequent to the failure of the transaction involving the Dixonville Assets, on November 12, 2015, Eagle sent a letter (the "**Eagle Letter**") to Spyglass requesting that, due to its financial circumstances and certain defaults in its duties and obligations as operator, Spyglass resign its operatorship of the Dixonville Assets pursuant to clause 2.04 of the 2007 CAPL Operating Procedure. Attached hereto and marked as Exhibit "**K**" is a copy of the Eagle Letter.

<u>The Restructuring Plan</u>

27. In accordance with the First Amending Agreement, the Borrower provided an integrated restructuring plan on October 22, 2015 and an updated integrated restructuring plan on October 27, 2015 (collectively, the "**Restructuring Plan**"). The Restructuring Plan provided for, among other things, the continued engagement of National Bank Financial ("**NBF**") as financial advisor to implement a staged sale of the various assets of the Borrower. Now shown to me and

collectively marked as Exhibit "**L**" but not attached hereto due to the confidential and commercially sensitive nature of the information contained therein is a copy of the Restructuring Plan.

28. Under the terms of the Restructuring Plan, the staged sale of the various assets of the Borrower would begin in November 2015 and would be completed by the end of March 2016. The Restructuring Plan required additional funds to be advanced by the Lenders in excess of the amounts available under the Credit Facilities in order to allow the Borrower to fund an orderly wind-down of its operations through to March of 2016.

29. In the Restructuring Plan, the Borrower outlined several likely outcomes of completing the staged sales process and included the Borrower's estimates indicating that only in the most favourable circumstances would the Lenders be repaid in full. In the opinion of the Financial Advisor the Borrower's calculations were very optimistic. The Financial Advisor has reviewed the Restructuring Plan and indicated in a report (the "**Financial Advisor Report**") to the Lenders dated November 9, 2015 (and updated on November 13, 2015) that the Lenders are unlikely to be repaid in full in any disposition scenario. Now shown to me and collectively marked as Exhibit "**M**" but not attached hereto due to the confidential and commercially sensitive information contained therein are copies of the Financial Advisor Report.

30. The Lenders understand that on or about November 1, 2015 Spyglass implemented the first phase of the Restructuring Plan for a sale of certain of its asset, including, the Southern Alberta Assets (as defined in the Restructuring Plan). The Borrower received 11 non-binding letters of intent (the "**Southern AB LOIs**") for the Southern Alberta Assets between November 10-12, 2015.

31. Spyglass began negotiating a transaction with at least one of the interested parties who submitted a Southern AB LOI for the entire package of assets offered for sale with a view to closing a transaction with this party by no later than December 23, 2015.

32. On November 23, 2015, the Financial Advisor was provided an update from NBF indicating that those negotiations with an interested party had been terminated and one of the

proposals made for the purchase of the Southern Alberta Assets had been withdrawn. Now shown to me and marked as Exhibit "**N**" but not attached hereto due to the confidential and commercially sensitive information contained therein is a copy of the update provided by NBF to the Financial Advisor.

33. Due to withdrawal of that proposal for the Southern Alberta Assets, it is highly unlikely that Spyglass would receive any sales proceeds prior to December 31, 2015 in order to relieve its liquidity problems. Further, there remains significant closing risk with other interested parties and in particular that any closing would not be completed in sufficient time to provide additional liquidity to the Borrower or repay the amounts outstanding to the Lenders.

34. As of November 26, 2015, the Agent understands that the Borrower only has limited liquidity to continue its operations until December 1, 2015, to complete the Restructuring Plan or close any of the transactions contemplated under the Southern AB LOIs received through the first stage of the Restructuring Plan.

35. The Agent understands that as a result of the Borrower's delay in making such payments certain creditors began taking steps against the Borrower including filing liens and demanding that Spyglass pay COD for goods and services it receives. Attached hereto and marked as Exhibit "**O**" is a copy of the email dated November 19, 2015 from Spyglass to the Financial Advisor.

36. The Lenders negotiated with the Borrower regarding providing additional liquidity under the terms of a further amendment to the Credit Agreement but the Lenders and the Borrower could not agree on acceptable terms in order to allow additional funds to be advanced by the Lenders.

37. The Agent advised the Borrower on November 26, 2015 that the Lenders were not prepared to extend any further amounts under the Credit Facilities to the Borrower in accordance with the terms of the Credit Agreement or enter into any further amendments to the Credit Agreement to provide for additional funds to the Borrower.

Demand and Default

38. In accordance with the Credit Agreement, the Credit Facilities are payable in full upon the occurrence of an Event of Default by the Borrower.

39. On November 26, 2015, Spyglass advised the Agent that it would not be able to make the payment contemplated on November 30, 2015 and that an Event of Default under the Credit Agreement would occur on that date.

40. On November 26, 2015, the Agent sent a letter and a notice of intention to enforce its security in accordance with section 244 of the BIA (the "**Demand**") to Howard Gorman at Norton Rose Fulbright Canada LLP, legal counsel to the Borrower, demanding full payment of the Outstanding Indebtedness. Attached hereto and marked as Exhibit "**P**" is a copy of the Demand.

41. On November 26, 2015, the Agent also sent letters and notices of intention to enforce security (the "**Subsidiary Demands**") to Howard Gorman at Norton Rose Fulbright Canada LLP, legal counsel to the Subsidiaries, under the terms of the Subsidiary Guarantees and Subsidiary Demand Debentures, demanding full payment of the Outstanding Indebtedness. Attached hereto and collectively marked as Exhibit "**Q**" are copies of the Subsidiary Demands.

42. Despite the Demand and the Subsidiary Demands, the Borrower and the Subsidiaries are unable to pay the Outstanding Indebtedness which is due and owing to the Lenders.

43. The failure of the Borrower and Subsidiaries to pay amounts owed to the Lenders when due and owing is a further Event of Default under the terms of the Demand Debenture, the Subsidiary Demands and the Credit Agreement.

44. The Demand Debenture and Subsidiary Demand Debentures provides that upon an Event of Default by the Borrower, the Agent is entitled to, among other things, apply for the appointment of a receiver.

45. Notwithstanding that the 10 day notice period under the Demand and Subsidiary Demands has not yet expired, it is imperative that a receiver be appointed prior to such expiry

because the Borrower has insufficient funds to protect or preserve the assets after December 1, 2015.

46. I have been advised by our counsel, that Howard Gorman at Norton Rose Fulbright Canada LLP, legal counsel to the Borrower and the Subsidiaries, has advised that the Borrower and Subsidiaries will waive the 10 day notice period provided under section 243 of the BIA by executing the waiver attached to the Demand and the Subsidiary Demands.

Necessity of the Appointment of a Receiver

47. As a result of the foregoing, I believe that the appointment of a Receiver pursuant to section 243 of the BIA over the assets, undertakings and properties of Spyglass is just and convenient, and necessary to protect the interests of the Lenders and to preserve and realize on the Security in an orderly fashion.

48. The Borrower no longer has any credit available under the Credit Facilities and does not have any funds available to it after December 1, 2015 necessary to continue its operations or pay its debts generally as they become due.

49. I believe that Ernst & Young Inc. is a licensed trustee in bankruptcy and has consented to being appointed receiver of Spyglass and the Subsidiaries. Attached hereto and marked as Exhibit "**R**" is a copy of the consent of Ernst & Young Inc. to act as receiver of Spyglass and the Subsidiaries.

50. I swear this Affidavit in support of the Agent's Application for the appointment of Ernst & Young Inc. as receiver with respect to Spyglass and the Subsidiaries.

SWORN BEFORE ME at the City of Calgary, in the Province of Alberta, this 26th day of November, 2015.	))))))	
A Commissioner of Oaths in and for Alberta RYAN ZAHARA Barrister & Solicitor		**WILLIAM KENNEDY**