

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK
IN BANKRUPTCY AND INSOLVENCY
JUDICIAL DISTRICT OF FREDERICTON

IN THE MATTER OF THE RECEIVERSHIP OF:

Gray's Aqua Management Ltd., Gray Aqua Farms Ltd., Gray Aqua Group Ltd., Butter Cove Aqua Farms Ltd., Goblin Bay Aqua Farms Ltd., Jervis Island Aqua Farms Ltd., Pass-My-Can Aqua Farms Ltd., Gray Aqua Processing Ltd., M. Gray Holdings Ltd., 608672 N.B. Ltd., 608690 N.B. Ltd., 608691 N.B. Ltd., 608715 NB Limited and 608716 NB Limited

- and -

PURSUANT TO Section 33 of The *Judicature Act*, R.S.N.B. 1973, Ch. J-2, Rule 41, Rules of Court, New Brunswick and Section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3

BETWEEN:

CALLIDUS CAPITAL CORPORATION,

APPLICANT

- and -

GRAY'S AQUA MANAGEMENT LTD., GRAY AQUA FARMS LTD., GRAY AQUA GROUP LTD., BUTTER COVE AQUA FARMS LTD., GOBLIN BAY AQUA FARMS LTD., JERVIS ISLAND AQUA FARMS LTD., PASS-MY-CAN AQUA FARMS LTD., GRAY AQUA PROCESSING LTD., M. GRAY HOLDINGS LTD., 608672 N.B. LTD., 608690 N.B. LTD., 608691 N.B. LTD., 608715 NB LIMITED and 608716 NB LIMITED,

RESPONDENTS.

Record on Motion

(for the hearing scheduled for September 1, 2016 at 10:30 a.m.)

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Court File No. FM-22-16

IN THE COURT OF QUEEN'S BENCH OF
NEW BRUNSWICK

COUR DU BANC DE LA REINE DU
NOUVEAU-BRUNSWICK

TRIAL DIVISION

DIVISION DE PREMIERE
INSTANCE

JUDICIAL DISTRICT OF FREDERICTON

CIRCONSCRIPTION JUDICIAIRE
DE

IN THE MATTER OF THE RECEIVERSHIP OF:

Gray's Aqua Management Ltd., Gray Aqua Farms Ltd., Gray Aqua Group Ltd.,
Butter Cove Aqua Farms Ltd., Goblin Bay Aqua Farms Ltd., Jervis Island Aqua
Farms Ltd., Pass-My-Can Aqua Farms Ltd., Gray Aqua Processing Ltd., M. Gray
Holdings Ltd., 608672 N.B. Ltd., 608690 N.B. Ltd., 608691 N.B. Ltd.,
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BETWEEN:

ENTRE:

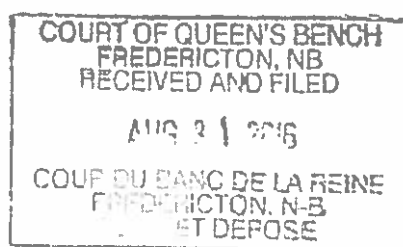
CALLIDUS CAPITAL CORPORATION

APPLICANT

- and -

GRAY'S AQUA MANAGEMENT LTD., GRAY AQUA FARMS LTD., GRAY AQUA
GROUP LTD., BUTTER COVE AQUA FARMS LTD., GOBLIN BAY AQUA FARMS
LTD., JERVIS ISLAND AQUA FARMS LTD., PASS-MY-CAN AQUA FARMS LTD.,
GRAY AQUA PROCESSING LTD., M. GRAY HOLDINGS LTD., 608672 N.B. LTD.,
608690 N.B. LTD., 608691 N.B. LTD., 608715 NB LIMITED and 608716 NB
LIMITED,

RESPONDENTS



NOTICE OF MOTION
(Form 37A)

AVIS DE MOTION
(Formule 37A)

To: 628228 N.B. Incorporated
3801 Route 105
Northampton NB E7N 1C7

DESTINAIRE:

047759 N.B. Ltd.
c/o Robert Creamer
Lawson Creamer
801-133 Prince William Street
Saint John, NB E2L 2B5

Callidus Capital Corporation
c/o Phil Taylor
Bay Wellington Tower Brookfield
Place
181 Bay Street Suite 4620
Toronto ON M5J 2T3

Ernst & Young Inc., as the Court appointed receiver and receiver-manager (the "Receiver") of the property, assets and undertaking (the "Property") of the Respondents, will apply to the Court of Queen's Bench, at 472 Queen Street, Fredericton, New Brunswick, on the 1st day of September, 2016, at 10:30 a.m./p.m. for the following relief:

1. An order abridging and validating the timing and method of service of the Notice of Motion and the Record on Motion so that this Motion is properly returnable and further service is dispensed with;
2. An order declaring that:
 - a. the Receiver is authorized and directed to depopulate the the fish inventory (the "Fish Inventory") located at Marine Aquaculture Site MF - 0044 (the "Site") either through the sale, destruction or other transfer of the Fish Inventory on such terms as the Receiver deems appropriate given the condition of the Fish Inventory and risk of environmental contamination if the Fish Inventory is not dealt with in a timely manner;
 - b. if the Receiver determines it can complete a sale of the Fish Inventory in order to depopulate the Site (the "Fish Inventory Depopulation Sale"),

the Receiver is authorized and directed to:

- i. complete negotiations and discussions with such parties as considered necessary by the Receiver, if any, to complete a Fish Inventory Depopulation Sale;
 - ii. enter into such agreements on such terms and conditions as the Receiver deems appropriate to complete a Fish Inventory Depopulation Sale;
 - iii. take such steps and execute such additional documents as may be necessary or desirable for the completion of the transactions required to complete a Fish Inventory Depopulation Sale;
- c. the Receiver, on being satisfied with the terms of any proposed Fish Inventory Depopulation Sale, is authorized and directed to complete such transaction and issue a Receiver's certificate in the form attached hereto as Schedule "A" (the "Receiver's Certificate") and to execute and deliver such other documents or take such additional actions as may be necessary or desirable to convey the estate's interest in the Fish Inventory;
- d. upon the delivery of a Receiver's Certificate, all right, title and interest in and to the Fish Inventory of the estate of the Respondents shall vest absolutely in the purchaser free and clear of and from any and all other interests, claims or encumbrances of any nature or kind;
- e. to the extent necessary, declaring that for the purposes of determining the nature and priority of claims, the net proceeds from the Fish Inventory Depopulation Sale (the "Proceeds") shall stand in the place and stead of the Fish Inventory sold, and that from and after the delivery of the Receiver's Certificate all claims and encumbrances shall attach to the Proceeds with the same priority as they had with respect to such Fish Inventory immediately prior to the sale;
- f. the Receiver may determine in its absolute discretion whether a Fish Inventory Depopulation Sale is possible or not and is under no obligation to pursue or complete such a sale;
- g. should the Receiver determine that a Fish Inventory Depopulation Sale

is not possible, the Receiver is hereby authorized and directed to take all such action as the Receiver deems appropriate to cause the Fish Inventory to be removed from the Site;

- h. the Receiver may terminate its occupation of the Site once it has completed the depopulation of the Fish Inventory or a Fish Inventory Depopulation Sale and shall have no liability in relation to the Site to any party whatsoever;
 - i. the Receiver may remove all personal property from the Site save and except the aquaculture cages, nets and floating house. The Receiver may remove the personal property immediately or at such time as the Receiver determines is appropriate up to and including one month after the date the Fish Inventory is removed from the Site;
 - j. the Receiver shall have no liability of any kind to any person whatsoever in connection with or arising from it taking any action in accordance with this Order in relation to the Fish Inventory;
 - k. the claim of 047759 NB Ltd. ("047759") in and to the Fish Inventory or any Proceeds thereof is extinguished save an except in so much as same is addressed in an agreement it has with the Receiver dated as of August 31, 2016; and
3. such further and other relief as may be just.

The grounds upon which the Applicant relies are as follows:

- 4. the relief sought by the Receiver is appropriate in the circumstances and is in accordance with the previous orders of the Court;
- 5. the Receiver inherited responsibility for the Fish Inventory on its appointment without knowledge of the condition or quantity of the Fish Inventory or to the competing security interest claim by 047759 in the Fish Inventory;
- 6. since its appointment the Receiver assessed, reviewed and generally carried out those activities set out in the Initial Order and those required by the *Rules of Court*, the *Bankruptcy and Insolvency Act* ("BIA") and other applicable legislation in its attempt to obtain the best possible result for the Respondent's estate and its stakeholders;

7. as part of the Receiver's management of the estate of the Respondents the Receiver has determined:
 - a. the Fish Inventory is subject to a sea lice infestation which has the potential to cause an environmental catastrophe; and
 - b. it is not economically viable to grow out the Fish Inventory.
8. the Receiver considers it to be in the best interests of the estate of the Respondents for the Receiver to complete a depopulation of the Fish Inventory as soon as possible in order to reduce the costs of the Receivership and manage the environmental risks related to the Fish Inventory;
9. the Receiver considers the relief being requested to be commercially reasonable;
10. the Receiver is requesting approval of it completing a depopulation of the Fish Inventory in advance as it will be operating under tight timelines given the daily expenses being incurred on an uneconomic operation and the potential for an environmental catastrophe;
11. the Receiver requires the relief requested herein to cease incurring costs which will not be recoverable and to manage the possibility of contamination from the sea lice;
12. no party has indicated it wishes to or will take over responsibility for the Fish Inventory;
13. 047759 claims a security interest in the assets of 628228 N.B. Incorporated ("628228") but has no interest in the assets of Gray Aqua;
14. 628228 has confirmed that any interest that it may have had in the Fish Inventory was disposed of and subordinated to Gray Aqua's interest in the Fish Inventory;
15. 047759 has consented to the relief being requested herein;
16. Such further and other grounds as Counsel may advise and this Honourable Court may permit.

The moving party will rely on:

- a. the *Rules of Court*, including Rules 1.03, 2.01, 2.02, 3.02, 37, 39 and 41 of the Rules of Court;
- b. the BIA, including sections 14.06, 247 and 249; and
- c. section 33 of the *Judicature Act*.

UPON the hearing of the motion the following affidavit or other documentary evidence will be presented:

- 1) Affidavit of Tim Gray, sworn to on the 30th day of August, 2016;
- 2) the first report of the Receiver executed on the 31st day of August 2016;
- 3) such further and other material as Counsel for the Respondent may advise and this Honourable Court may permit.

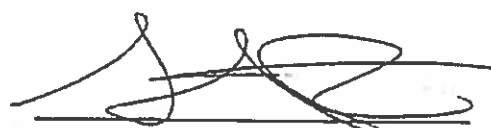
You are advised that:

- (a) you are entitled to issue documents and present evidence at the hearing in English or French or both;
- (b) the Respondent intends to proceed in the English language; and
- (c) if you intend to proceed in the other official language, an interpreter may be required and you must so advise the Clerk at least 7 days before the hearing.

Sachez que:

- (a) vous avez le droit d'émettre des documents et de présenter votre preuve à l'audience en français, en anglais ou dans les deux langues;
- (b) le à l'intention d'utiliser la langue anglais; et
- (c) si vous avez l'intention d'utiliser l'autre langue officielle, les services d'un interprète pourront être requis et vous devrez un aviser le greffier au moins 5 jours avant l'audience.

DATED at Fredericton, New Brunswick, this 31st day of August, 2016.



 Josh McElman
Cox & Palmer, solicitors to the Receiver

COX & PALMER
Brunswick Square
1 Germain Street, Suite 1500
P.O. Box 1324
Saint John, NB E2L 4H8

Telephone: (506) 632-8900
Facsimile: (506) 632-8809
Email: jmcelman@coxandpalmer.com

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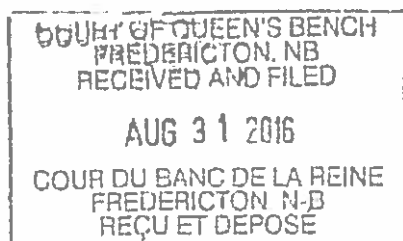
PURSUANT TO Section 33 of The *Judicature Act*, R.S.N.B. 1973, Ch. J-2, Rule 41, Rules of Court, New Brunswick and Section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3

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RESPONDENTS

FIRST REPORT OF THE RECEIVER – 31 August 2016 (the "First Report")

INTRODUCTION

1. Callidus Capital Corporation ("Callidus") brought a motion before the Court of Queen's Bench of New Brunswick (the "Court") on 25 April 2016 for the appointment of Ernst & Young Inc. ("EY" or the "Receiver") as receiver and receiver-manager, without security,

of all of the assets, undertakings and properties of Gray's Aqua Management Ltd., Gray Aqua Farms Ltd., Gray Aqua Group Ltd., Butter Cove Aqua Farms Ltd., Goblin Bay Aqua Farms Ltd., Jervis Island Aqua Farms Ltd., Pass-My-Can Aqua Farms Ltd., Gray Aqua Processing Ltd., m. Gray Holdings Ltd., 608672 N.B. Ltd., 608690 N.B. Ltd., 608691 N.B. Ltd., 608715 NB limited and 608716 NB Limited (collectively, the "Companies" and each a "Company") acquired for, or used in relation to a business carried on by the Companies, including all proceeds thereof (collectively, the "Property").

2. The Court granted Callidus' request and EY was appointed as Receiver of the Companies by order (the "Appointment Order") of the Court dated 25 April 2016 (the "Receivership Date"). A copy of the Appointment Order is attached hereto as Appendix "A".
3. The Appointment Order, among other things, authorized and empowered the Receiver to:
 - a. take possession and control of the Property;
 - b. receive, preserve and protect the Property, or any parts thereof;
 - c. manage, operate, and carry on the business of the Companies;
 - d. engage consultants, appraisers, agents, experts 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 the Appointment Order;
 - e. make payment of any and all costs, expenses and other amounts that the Receiver determines, in its sole discretion, are necessary and advisable to preserve, protect or maintain the Property;
 - f. market any or all of 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;
 - g. settle, extend or compromise any indebtedness owing to the Companies;
 - h. initiate, prosecute, continue, settle or compromise any and all proceedings pending or instituted after the Appointment Order;
 - i. 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 in which the purchase price exceeds \$100,000 or the aggregate purchase price of such transactions exceeds \$1,000,000;
- j. apply for any vesting order or other 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;
- k. make an assignment in bankruptcy in relation to the Companies;
- l. take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations; and
- m. apply to the Court for advice and directions in the discharge of its powers and duties under the Appointment Order.

PURPOSE OF REPORT

4. This First Report of the Receiver (the "First Report") is filed in connection with the Receiver's motion seeking the advice and direction of the Court in relation to the Receiver's discharge of its duties with respect to certain fish inventory (the "Fish Inventory") located at Marine Aquaculture Site MF – 0044 (the "Site") and matters related thereto as addressed in this First Report.
5. The First Report does not address all matters related to the receivership proceedings since the Receivership Date but focuses on the immediate issues related to the Site and the Fish Inventory. As set out in further detail below, the Receiver has reached an agreement with 047759 NB Ltd. ("047759") which filed a notice of application that is scheduled to be heard on 15 September 2016 at 9:30 am (the ("047759 Application") against Gray Aqua Group Ltd. ("Gray Aqua") et. al. claiming, among other things, relief related to the Fish Inventory. As part of this agreement, 047759 has consented to the relief being requested in the accompanying notice of motion; which relief will allow the Receiver to manage the depopulation of the Fish Inventory in a commercially reasonable manner.
6. The Receiver's notice of motion provides for a possible sale of the Fish Inventory as part of a depopulation strategy but such a sale does remain speculative and remote. Notwithstanding the remoteness of this alternative, the ability to complete a depopulation in this manner would provide some benefit to the estate of the

Respondents. Callidus is the only secured creditor of the Respondents with an economic interest in the Fish Inventory and it has consented to the Receiver proceeding in the manner set out in this First Report.

TERMS OF REFERENCE AND DISCLAIMER

7. In preparing the First Report, the Receiver has relied upon unaudited financial information, company records, company-prepared financial information and projections, discussions with management and employees of the Companies and information from various other sources.
8. While the Receiver reviewed various documents and believes that the information therein related to the Companies provides a fair summary of the transactions as presented to it or as reflected in such documents, such work does not constitute an audit or verification of such information for accuracy, completeness, or compliance with generally accepted accounting principles. Accordingly, the Receiver expresses no opinion or other form of assurance in respect of such information.
9. Some of the information used in preparing the First Report consists of financial projections. These projections are based upon assumptions about future events and conditions that are not ascertainable and the actual results may vary from the projections, even if the assumptions materialize, and the variations could be significant.
10. In the course of its mandate, the Receiver has assumed the integrity and truthfulness of the information and explanations presented to it within the context in which it was presented. To date, nothing has come to the Receiver's attention that would cause it to question the reasonableness of this assumption.
11. The Receiver has requested that management of the Companies bring to its attention any significant matters that were not addressed in the course of specific inquiries. Accordingly, the First Report is based solely on the information (financial or otherwise) made available to it.
12. The First Report has been prepared for the use of this Court and the Companies' stakeholders as general information relating to the Companies and its operations.

Accordingly, the First Report may not be appropriate for any other purpose. EY or the Receiver will not and does not assume responsibility or liability for losses incurred by the reader of this First Report as a result of the circulation, publication, reproduction or use of this First Report contrary to the provisions of this paragraph.

13. Unless otherwise referenced herein, all currency references are to Canadian dollars.
14. Capitalized terms not defined in the First Report are as defined in the Receivership Order.
15. Copies of Court materials in these proceedings may be obtained from the Receiver's website established in connection with the receivership administration (www.ey.com/ca/gravaqua).

BACKGROUND OF THE COMPANIES AND RECEIVERSHIP

16. The Companies and their predecessors were in business for over 30 years, originally as operators of a salmon smolt hatchery facility in Northampton, New Brunswick. The Companies are controlled and operated by three brothers, Timothy, Jeffrey and Robert Gray.
17. Within the past ten (10) years, the Companies expanded their business such that they ran a vertically integrated aquaculture operation. A summary of their operations, and the Companies that carried out each step of the operations, is set out below:
 - a. Gray Aqua Management Limited, a company incorporated under the laws of the Province of New Brunswick, managed the head office facilities for the Companies located in Northampton, New Brunswick.
 - b. Gray Aqua Farms Ltd. ("Gray Farms") a company incorporated under the laws of the Province of New Brunswick, operated a hatchery facility located in Northampton, New Brunswick, where salmon eggs were grown to smolt (young salmon).
 - c. Gray Aqua, a company incorporated under the laws of the Province of Newfoundland and Labrador, historically operated salmon farming operations at

various aquaculture sites located off the South Coast of Newfoundland and Labrador. In 2015 GAG expanded its operations to include salmon farming operations at three (3) marine sites off the coast of New Brunswick including the Site. A copy of Gray Aqua's approval to operate for the Site is attached hereto as Appendix "B".

- d. Gray Aqua Processing Ltd, a company incorporated under the laws of the Province of Newfoundland and Labrador, owns the salmon processing operation located in Hermitage, Newfoundland and Labrador. The Companies do not own processing facilities in New Brunswick nor do they have an established agreement with a 3rd Party to process market salmon in the Province of New Brunswick.
 - e. The remaining Companies, collectively controlled seventeen (17) site interests and four (licenses) for production of farmed salmon off the South Coast of Newfoundland and Labrador and/or were holding corporations.
18. Gray Farms grew salmon eggs to smolt in the hatchery facility in Northampton, New Brunswick. The hatchery smolt were then sold to third-party buyers and/or transferred to the Gray Aqua marine grow-out operations located off the South Coast of Newfoundland and Labrador or located off the coast of New Brunswick, where the product was grown to market size.
 19. The Companies operations were materially affected in the spring of 2013 through the discovery of the Infectious Salmon Anemia ("ISA") virus at certain aquaculture sites. As a result of the discovery, the Canadian Food Inspection Agency ("CFIA") issued depopulation (with compensation) orders against Gray Aqua with respect to all inventory maintained at those sites.
 20. These difficulties, among other things, resulted in the Companies' operating lender demanding payment and the operating Companies filing a notice of intention to make a
 21. proposal under the *Bankruptcy and Insolvency Act* (the "BIA"). EY was appointed as proposal trustee.

22. In November 2013, Callidus entered into negotiations with the Companies and their operating lender to acquire its outstanding indebtedness and security and to provide working capital facilities to the Companies once they exited from the BIA proposal proceedings.
23. The Companies filed a consolidated proposal which was approved by their creditors and Callidus has remained as the Companies' operating lender.
24. In August 2015, Callidus was informed by the Companies that they had discovered elevated levels of sea lice in or around the first week of July 2015 at its Newfoundland and Labrador marine sites including its site at Indian Tea Point. As a result of the sea lice infestation, Gray Aqua experienced materially elevated mortality rates and the infestation affected biomass growth rates within the inventory.
25. Following the crop failure at Indian Tea Point, Callidus retained EY in October 2015 to conduct a review of the business operations and financial position of the Companies. The Companies consented to the engagement and worked co-operatively with EY during the course of their review. The financial implications associated with the crop failures were significant and long lasting.
26. Additionally, in March 2016, Callidus was informed by the Companies that approximately 380,000 smolt in the hatchery facility had to be destroyed due to an outbreak of bacterial kidney disease.
27. By letter from Chaitons LLP, lawyers for Callidus, dated 4 April 2016, Callidus demanded repayment of the loans in full, which then totaled \$54,987,322.59. Callidus then sought the appointment of the Receiver.

THE FISH INVENTORY, THE SITE AND 047759

28. In May 2016 the Receiver became aware of the claims of 047759 in and to the Fish Inventory as well as the share held by Gray Aqua in 628228 NB Incorporated ("628228"). There was various correspondence between the parties at this time related to 047759's claims.

29. The Receiver proceeded to investigate 047759's claims while continuing to care for the Fish Inventory. The Receiver understood and continues to understand that Gray Aqua had invested significant resources in the rearing of the Fish Inventory. The Fish Inventory originated from the Gray Farms hatchery (salmon fry were grown to smolt size) which were subsequently transferred in 2015 to the Site to be grown to market size.
30. Due to the involvement of McInnes Cooper in the transactions which gave rise to 047759's claims, the Receiver retained Cox & Palmer on 11 July 2016 to address 047759's claims. Since that time, the Receiver continued on its investigation of 047759's claims either directly or through legal counsel.
31. Sea lice infestations are prevalent within the waters surrounding New Brunswick and Newfoundland and Labrador. The Receiver, working with Gray Aqua management, the Companies veterinarian and other aquaculture consultants have invested considerable time and financial resources attempting to control sea lice levels post the Receivers appointment.
32. Environmental conditions at the Gray Aqua New Brunswick marine sites post May 2016 have resulted in elevated sea lice levels which negatively affect the inventories. The Companies continuously monitor sea lice counts and have taken active measures to mitigate and control sea lice levels at the Companies marine sites using both infeed medication and external product applications. In July 2016 the Receiver was advised by Gray Aqua management that despite its best efforts, sea lice counts were reaching critical levels at all three New Brunswick sites. The Receiver had various discussions with the Department of Aquaculture and Fisheries ("DAFF"), veterinarians advising the Receiver and other advisors related to the sea lice issues. In a letter dated 31 July 2016, the Chief Veterinarian for DAFF set out its conclusion that the Site and other sites should be depopulated to avoid a catastrophic event. A copy of this letter is attached hereto as Appendix "C".
33. The Receiver began depopulation efforts at certain sites but not at the Site as water temperatures and sea lice counts at the Site were not as severe compared to the Companies other New Brunswick marine locations at that time. However, the Receiver has been advised by management officials, its aquaculture advisors and by DAFF

representatives that sea lice challenges at the Site will continue to escalate. In order to avoid environmental issues that may arise at the Site given the escalating sea lice counts and limited Gray Aqua resources to address same, the Receiver has concluded that a depopulation of the Site should occur and advised both Callidus and 047759 of same on a confidential basis. Callidus supports the depopulation decision.

34. The Receiver arranged a call with 047759 and its counsel to discuss the issues related to the Site and the Fish Inventory and provided the parties with the following:
 - a. A report on the quantity of sea lice and the condition of the Fish Inventory was prepared based on a special inspection of the Fish Inventory that occurred on Monday 15 August 2016 (the "Fish Inventory Condition Report");
 - b. A financial model setting out the projected costs, fees and expenses that would be incurred to rear the Fish Inventory to a point where they could be harvested as well as the likely profitability, or lack thereof, of such effort (the "Financial Projection"); and
 - c. A summary of the costs, fees and expenses invested to date in the Fish Inventory which are currently estimated to be approximately \$2.5 Million Dollars (the "Input Costs").
35. Following this call, the Receiver directed its counsel to issue a letter setting out various options available to the parties in order to address the environmental and other issues related to the Fish Inventory. A copy of this letter has not been enclosed due to the commercially sensitive nature of some of the information (the "August 19 Letter").
36. In the August 19 Letter, the Receiver's conclusions were summarized for 047759 as follows:

...

Conclusion

The Receiver has concluded based upon all of the information available to it including sourcing opinions and information from Gray Aqua's management, consultants to the Receiver and the Provincial Veterinarian, combined with the financial analysis as noted within the Financial Projection and the advice

provided on the Assessment Call, continuing to rear the Fish Inventory is not economically viable or prudent. While there is always potential for revenue above what is set out in the Financial Projection arising from possible fluctuations in market price or out of the ordinary growth of the Fish Inventory, these possibilities are remote and it is not probable that the Fish Inventory will realize an amount that would recover the future costs required to rear the Fish Inventory let alone address the Input Costs or the financial claims of 047759.

In addition to the financial issues, the position of the Chief Veterinarian for the Province of New Brunswick and the opinion of the Receiver's consultants is that the Fish Inventory will not survive through December 2016 in consideration of existing sea lice, environmental factors and current fish health conditions.

If your client was not claiming an interest in the Fish Inventory, the Receiver would be in the process of depopulating the Site. The Receiver has concluded that it must proceed to depopulate the Site or allow another party willing to assume the risk to take over operation of the Site. These alternatives are addressed below.

...

37. The August 19 Letter also set out the Receiver's assessment of the various options available to the parties and sought 047759's input on same. The Receiver continued to look at various alternatives and carry on discussions with 047759 up until the issuance of this First Report. During this time, the Receiver has continued to fund the care and maintenance costs associated with the Fish Inventory. Efforts to coordinate a commercially reasonable resolution in relation to the Site and the Fish Inventory with 047759 resulted in an agreement being reached on 31 August 2016 (the "047759 Agreement").
38. The 047759 Agreement is not set out herein due to some of the terms which are commercially sensitive but in summary the agreement provides:
 - a. for a resolution of issues between 047759 and the estate with respect to all issues set out in the 047759 Application that had the potential of affecting these proceedings;
 - b. provides for 047759's agreement to the relief being requested by the Receiver in the accompanying motion thus eliminating the need for contentious and costly

court proceedings;

- c. provides for 047759 to get a portion of the net sale proceeds from a sale of the Fish Inventory in order to depopulate the Site if one is possible (which sale remains speculative and remote); and
- d. provides a mechanism whereby the issues related to the Fish Inventory can be addressed in a timely and commercially reasonable fashion.

SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

39. The Receiver has concluded that it is not prudent or commercially reasonable to bear the cost associated with the Fish Inventory or the Site for the issues addressed above which in summary are:

- a. there is no viable alternative that demonstrates with reasonable certainty that the Receiver continuing to grow out the Fish Inventory will result in the return of any economic benefit to the Companies' estates or any other party;
- b. the Financial Projection was reviewed by the Companies' management who have agreed with the Receiver's advisors that the Receiver continuing to grow out the Fish Inventory will not be profitable;
- c. the Fish Inventory is not in good condition and there are significant sea lice issues as set out in the Fish Inventory Condition Report and the correspondence of the Chief Veterinarian for DAAF;
- d. It would be unreasonable to request that the stakeholders of the Companies continue to fund the costs necessary to rear the Fish Inventory with no economic benefit and have the Estate continue to bear the significant environmental risk.

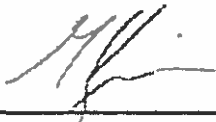
40. The Receiver recommends that the relief set out in the accompanying notice of motion be granted as it will allow for the management of the various time sensitive issues in the most cost effective and organized manner.

REQUESTED RELIEF

41. The Receiver requests that an order be issued on the terms set out in the Notice of Motion related to this Report.

All of which is respectfully submitted this 31st day of August 2016.

**ERNST & YOUNG INC. acting solely in its capacity
as the Court Appointed Receiver and Receiver-Manager
of the Companies and not in its personal capacity**

Per:  _____

George C. Kinsman, CA, CPA, CIRP, LIT
Senior Vice President

Appendix A

Court File No. FM-22-16

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK

IN BANKRUPTCY AND INSOLVENCY

JUDICIAL DISTRICT OF FREDERICTON

I certify that this document, each page of which
has been initialed by me, is a true copy
of the original on file in the office of the Court for
the Judicial District of Fredericton, issued under
the Seal of the Court

this 25 day of

April

2016

Ben. Sectt

Under written authorization of the Registrar
dated this 1st day of November, 1995

IN THE MATTER OF THE RECEIVERSHIP OF:

Gray's Aqua Management Ltd., Gray Aqua Farms Ltd., Gray Aqua Group Ltd.,
Butter Cove Aqua Farms Ltd., Goblin Bay Aqua Farms Ltd., Jervis Island Aqua
Farms Ltd., Pass-My-Can Aqua Farms Ltd., Gray Aqua Processing Ltd., M. Gray
Holdings Ltd., 608672 N.B. Ltd., 608690 N.B. Ltd., 608691 N.B. Ltd., 608715 NB
Limited and 608716 NB Limited

- and -

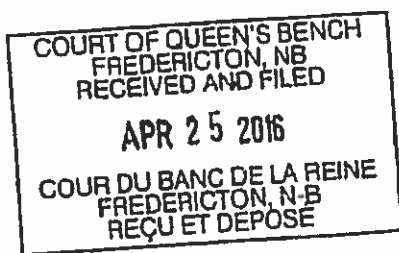
PURSUANT TO Section 33 of The *Judicature Act*, R.S.N.B. 1973, Ch. J-2, Rule 41,
Rules of Court, New Brunswick and Section 243 of the *Bankruptcy and Insolvency Act*,
R.S.C. 1985, c. B-3

BETWEEN:

CALLIDUS CAPITAL CORPORATION

APPLICANT

- and -



GRAY'S AQUA MANAGEMENT LTD., GRAY
AQUA FARMS LTD., GRAY AQUA GROUP
LTD., BUTTER COVE AQUA FARMS LTD.,
GOBLIN BAY AQUA FARMS LTD., JERVIS
ISLAND AQUA FARMS LTD., PASS-MY-CAN
AQUA FARMS LTD., GRAY AQUA
PROCESSING LTD., M. GRAY HOLDINGS
LTD., 608672 N.B. LTD., 608690 N.B. LTD.,
608691 N.B. LTD., 608715 NB LIMITED and
608716 NB LIMITED,

RESPONDENTS

RECEIVERSHIP ORDER

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THIS APPLICATION, made by the Applicant for an Order pursuant to Section 33 of the *Judicature Act*, R.S. N.B. 1973, Ch. J-2, (the "*Judicature Act*"), Rule 41 of the Rules of Court of New Brunswick (the "*Rules*") and Section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "*BIA*") appointing Ernst & Young Inc. as receiver (in such capacities, the "Receiver") without security, of all of the assets, undertakings and properties of the Respondents acquired for, or used in relation to a business carried on by the Respondents, was heard this day at the Justice Building, 427 Queen Street, Fredericton, New Brunswick.

ON READING the affidavit of James W. Hall sworn April 15, 2016 (the "**Hall Affidavit**") and the exhibits thereto and on hearing the submissions of counsel for the Applicant, Business Development Bank of Canada ("**BDC**"), and Ernst & Young Inc. as proposed Receiver, no one appearing for the other parties identified in the affidavits of service of Antoinette DePinto sworn April 18, 2016 and Lynn Lee sworn April 21, 2016 although duly served, and on reading the consent of Ernst & Young Inc. to act as the Receiver.

IT IS ORDERED THAT:

SERVICE

1. The time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT

2. Pursuant to section 33 of the *Judicature Act*, Rule 41 of the *Rules* and section 243(1) of the *BIA*, the Receiver is hereby appointed receiver, without security, of all of the assets, undertakings and properties of the Respondents acquired for, or used in relation to the businesses carried on by the Respondents, including all proceeds thereof (the "**Property**").

Handwritten signature/initials

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 empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:
- (a) to take possession and control of the Property and any proceeds or receipts arising from the Property but, while the Receiver is in possession of any of the Property, the Receiver must preserve and protect it;
 - (b) to change locks and security codes, relocate all or some of the Property to safeguard it, engage independent security personnel, take physical inventories and place insurance coverage;
 - (c) to manage, operate, and carry on the businesses of the Respondents, including the powers to enter into any agreements, incur and pay 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 Respondents;
 - (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 such machinery, equipment, inventories, supplies, premises or other assets to continue the businesses of the Respondents, or any part or parts thereof;
 - (f) to receive and collect all monies and accounts now owed or hereafter owing to the Respondents and to exercise all remedies of the Respondents in



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collecting such monies, including, without limitation, to enforce any security held by the Respondents;

- (g) to settle, extend or compromise any indebtedness owing to the Respondents;
- (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 Respondents, for any purpose pursuant to this Order;
- (i) to undertake environmental or workers' health and safety assessments of the Property and operations of the Respondents;
- (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 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;
- (k) to make payment of any and all costs, expenses and other amounts that the Receiver determines, in its sole discretion, are necessary or advisable to preserve, protect or maintain the Property, including, without limitation taxes, municipal taxes, insurance premiums, repair and maintenance costs, costs or charges related to security, management fees, and any costs and disbursements incurred by any manager appointed by the Receiver;
- (l) to market any or all of 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;

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- (m) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
 - (i) without the approval of this Court in respect of any transaction not exceeding \$100,000, provided that the aggregate consideration for all such transactions does not exceed \$1,000,000; and
 - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under section 59 of the *Personal Property Security Act* (New Brunswick) shall not be required.

- (n) to apply for any vesting order or other 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;
- (o) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on 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;
- (p) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (q) 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 Respondents;
- (r) to enter into agreements with any trustee in bankruptcy appointed in respect of the Respondents including, without limiting the generality of the



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foregoing, the ability to enter into occupation agreements for any property owned or leased by the Respondents;

- (s) to exercise any shareholder, partnership, joint venture or other rights which the Respondents may have; and
- (t) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations;

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 (as defined below), including the Respondents, and without interference from any other Person.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. The Respondents, all of their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on their instructions or behalf, and 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 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 Respondents, 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, subject to their right to seek a variation of this order, provide to the Receiver or permit the



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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 5 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 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, subject to their right to seek a variation of this Order, 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. *re
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NO PROCEEDINGS AGAINST THE RESPONDENTS OR THE PROPERTY

8. No Proceeding against or in respect of the Respondents 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 Respondents or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

9. All rights and remedies of any individual, firm, corporation, governmental body or agency or any other entity against the Respondents, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave 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 paragraph shall (i) empower the Receiver or the Respondents to carry on any business which the Respondents are not lawfully entitled to carry on, (ii) exempt the Receiver or the Respondents from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien and the related filing of an action to preserve the right of a lien holder provided that the Applicant shall not be required to file a defence to same as the further prosecution of any such claim is stayed except with the written consent of the Receiver, or leave of this Court.

PERSONAL PROPERTY LESSORS

10. All rights and remedies of any Person pursuant to any arrangement or agreement to which any of the Respondents is a party for the lease or other rental of personal property of any nature or kind are hereby restrained except with consent of the Receiver in writing or leave of this Court. The Receiver is authorized to return any Property which is subject to a lease from a third party to such Person on such terms



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and conditions as the Receiver, acting reasonably, considers appropriate and upon the Receiver being satisfied as to the interest of such Person in the applicable Property. The return of any item by the Receiver to a Person is without prejudice to the rights or claims of any other Person to the property returned or to an interest therein.

NO INTERFERENCE WITH THE RECEIVER

11. Subject to Section 16 of this Order related to the Respondents' employees, no Person shall 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 any of the Respondents, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

12. All Persons having oral or written agreements with any of the Respondents or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to any of the Respondents, 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 Receiver, and the Receiver shall be entitled to the continued use of the Respondents' current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Respondents or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.



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13. The Receiver, in its sole discretion, may (but shall not be obligated to) establish accounts or payment on delivery arrangements with suppliers in its name on behalf of any of the Respondents for the supply of goods and/or services, 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 Respondents, or any of them, if the Receiver determines that the opening of such accounts is appropriate.
14. No creditor of the Respondents shall be under any obligation as a result this Order to advance or re-advance any monies or otherwise extend any credit to the Respondents.

RECEIVER TO HOLD FUNDS

15. All funds, monies, cheques, instruments, and other forms of payment received or collected by the Receiver from and after the making of this Order from any source whatsoever, subject to Section 30 of this Order, 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

16. All employees of the Respondents shall remain the employees of the Respondents until such time as the Receiver, on the Respondents' behalf, may terminate the employment of such employees or they resign in accordance with their employment contracts. The Receiver shall not be liable as a result of this Order for any employee-related liabilities, including any successor employer liabilities as



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provided for in section 14.06(1.2) of the *BIA*, wages, severance pay, termination pay, vacation pay, and pension or benefit amounts, 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), 81.6(3) of the *BIA* or under the *Wage Earner Protection Program Act*, such amounts as may be determined in a Proceeding before a court or tribunal of competent jurisdiction.

17. Pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver may 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") as permitted at law. 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. A prospective purchaser or bidder requesting the disclosure of personal information shall execute such documents to confirm the agreement of such Person to maintain the confidentiality of such information on terms acceptable to the Receiver. The purchaser of any Property shall be entitled to continue to use the personal information provided to it related to the Property purchased in a manner which is in all material respects identical to the permitted prior use of such information by the Respondents, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

18. Nothing herein contained shall require or obligate the Receiver to occupy or to take control, care, charge, occupation, possession or management (separately and/or collectively, "Possession") of any of the Property or any part thereof, that may be environmentally contaminated, might be a pollutant or a contaminant, or might

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cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other legislation, statute, regulation or rule of law or equity respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, *Canadian Environmental Protection Act, 1999* (Canada), the *Clean Water Act* (New Brunswick), the *Clean Environment Act* (New Brunswick), the *Clean Air Act* (New Brunswick), and *Unsanitary Premises Act* (New Brunswick) (collectively, the "Environmental Legislation"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation.

LIMITATION ON LIABILITY

19. Ernst & Young Inc. including, without limitation, any director, officer or employee of the Receiver, shall incur no liability or obligation as a result of its appointment as the Receiver or the carrying out the provisions of this Order, or in the case of any party acting as a director, officer or employee of the Receiver so long as acting in such capacity, save and except for any gross negligence, breach of contract or actionable misconduct on the part of such party, or in respect of the Receiver's obligations under sections 81.4(5) and 81.6(3) of the *BIA* or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the *BIA* or by any other applicable legislation.

RECEIVER'S ACCOUNTS

20. The Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, and, subject to Section 30 of this Order, the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge to a maximum of \$500,000 (the "Administrative Charge") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and the
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Administrative Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the *BLA* and subject to Section 30 of this Order.

21. The Receiver and its legal counsel shall pass their respective accounts from time to time and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a Judge of the Court of Queen's Bench in New Brunswick in accordance with the *Rules*.
22. 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, expenses and disbursements, including legal fees and disbursements, incurred at the normal rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved in accordance with the the preceding paragraph hereof.

RECEIVER'S INDEMNITY CHARGE

23. Subject to Section 30 of this Order, the Receiver shall be entitled to and is hereby granted a charge (the "Receiver's Indemnity Charge") upon all of the Property as security for all of the obligations incurred by the Receiver including obligations arising from or incident to the performance of its duties and functions under this Order including the management, operation and carrying on of all or part of the business of any of the Respondents, the *BLA* or otherwise, saving only liability arising from negligence or actionable misconduct of the Receiver.
24. The Receiver's Indemnity Charge shall form a second charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the *BLA* and subordinate in priority to the Administrative Charge and subject to Section 30 of this Order.



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ALLOCATION OF COSTS

25. The Receiver shall file with the Court for its approval a report setting out the costs, fees, expenses and liability of the Receiver giving rise to the Administrative Charge, the Receiver's Indemnity Charge and the Receiver's Borrowings Charge (as defined below) and, unless the Court orders otherwise, all such costs, fees, expenses and liability shall be paid, subject to Section 30 of this Order, in the following manner:
- (a) Firstly, applying the costs incurred in the receivership proceedings specifically attributable to an individual asset or group of assets against the realizations from such asset or group of assets;
 - (b) Secondly, applying the costs *pro rata* against all of the assets based on the net realization from such asset or group of assets; and
 - (c) Thirdly, applying non-specific costs incurred in the receivership proceedings *pro rata* against all of the assets based on the net realization from each asset or group of assets.

FUNDING OF THE RECEIVERSHIP

26. 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 \$15,000,000 (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 making payments (including interim payments) required or permitted to be made by this Order (including, without limitation, payments of amounts secured by the Administrative Charge and the Receiver's Indemnity Charge). Subject to Section 30 of this Order, 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

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of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Indemnity Charge, the Administrative Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the *BIA* and subject to Section 30 of this Order.

27. 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 on seven days notice to the Receiver and the Applicant.
28. The Receiver is 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.
29. 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.

OVERRIDING PROVISIONS RELATED TO CERTAIN PROPERTY

30. Notwithstanding anything else contained in this Order, this Section shall govern the Administrative Charge, the Receiver's Indemnity Charge and the Receiver's Borrowings Charge or any other charge, claim or indemnity in favour of the Receiver howsoever arising (collectively, the "Charges") in relation to the Property defined as "BDC Priority Collateral" in an intercreditor agreement dated as of March 2, 2015 between BDC, the Applicant and the Respondents and attached as Exhibit "W" to the Hall Affidavit (the "Intercreditor Agreement"):
- (a) The Administrative Charge shall not charge, attach or be allocated to the BDC Priority Collateral other than for costs, fees and expenses of the Receiver that were incurred:

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- (i) in relation to the Receiver's maintenance and management of the real or personal property of the Respondents used as part of its processing facility in Hermitage Newfoundland and Labrador (the "Processing Facility"); and
 - (ii) in relation to a sale of the BDC Priority Collateral or part thereof provided any such sale and the manner of the allocation of any such costs, fees and expenses of the Receiver associated with such a sale or the proceeds thereof was consented to in advance by BDC in writing.
- (b) The Receiver's Borrowings Charge shall not charge or attach to the BDC Priority Collateral except to the extent funds under such Charge are borrowed by the Receiver to pay its costs, fees and expenses giving rise to the Administrative Charge set out in this Section 30. The BDC Priority Collateral shall be unaffected by and not subject to the Charges other than as specifically set out in this Section 30 including, without limiting the generality of the foregoing, the Receiver's Indemnity Charge which shall not charge or attach to the BDC Priority Collateral.
- (c) BDC shall be paid all amounts due under the Intercreditor Agreement as provided therein in relation to the use of the BDC Priority Collateral by the Receiver and in no case shall such amounts be added to any Charge as against the BDC Priority Collateral.
- (d) The foregoing provisions shall apply to the extent of BDC's interest in the BDC Priority Collateral and the Charges shall otherwise attach to the BDC Priority Collateral subsequent to the interest of BDC but in advance and in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person who has an interest subsequent to the interest of BDC, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the *BLA*.



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GENERAL

31. The Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
32. Nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of any of the Respondents.
33. The aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States is hereby requested 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.
34. The Receiver is hereby authorized and empowered to apply to any court, tribunal, or 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 in a representative capacity in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.
35. The Applicant shall have its costs of this Application, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Respondents' estate with such priority and at such time as this Court may determine.

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36. Any interested party may apply to this Court to vary or amend this Order upon such notice required under the *Rules*, if any, or on such notice as this Court may order.
37. Any Person affected by this Order which did not receive notice in advance of the hearing of the initial application may apply to this Court to vary or amend this Order within five (5) days of such Person being served with a copy of this Order.
38. In addition to the reports to be filed by the Receiver under the *BLA* or *New Brunswick Business Corporations Act*, on the application to the Court of any secured creditor, the Receiver shall file a report of its activities with the Court.
39. The Receiver shall not be discharged without notice to such secured creditors and other parties as the Court directs.

Dated at Fredericton, New Brunswick, this 25th day of April, 2016.



Judy L. Clendening
Justice of the Court of Queen's Bench
of New Brunswick

SCHEDULE "A"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that Ernst & Young Inc., the receiver (the "Receiver") of the assets, undertakings and properties of Gray's Aqua Management Ltd., Gray Aqua Farms Ltd., Gray Aqua Group Ltd., Butter Cove Aqua Farms Ltd., Goblin Bay Aqua Farms Ltd., Jervis Island Aqua Farms Ltd., Pass-My-Can Aqua Farms Ltd., Gray Aqua Processing Ltd., M. Gray Holdings Ltd., 608672 N.B. Ltd., 608690 N.B. Ltd., 608691 N.B. Ltd., 608715 NB Limited and 608716 NB Limited acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "Property") appointed by Order of the Court of Queen's Bench of New Brunswick (the "Court") dated the 25th day of April, 2016 (the "Order") made in an action having Court file number FM-22-16, 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 \$ _____ which 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 [daily][monthly not in advance on the _____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of 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

BS

- 2 -

Order and in 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 Toronto, Ontario.
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 defined in the Order) 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 _____, 20__.

ERNST & YOUNG INC., solely in its capacity
as Receiver of the Property, and not in its
personal capacity

Per: _____

Name:

Title:

Appendix B



APPROVAL TO OPERATE

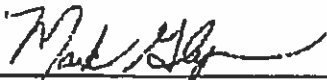
I-9079

Pursuant to paragraph 8(1) of the *Water Quality Regulation - Clean Environment Act*, this Approval to Operate is hereby issued to:

Gray Aqua Group Ltd.
for the operation of the
Simpson Island Aquaculture Site (MF-0044)

Description of Source:	A marine finfish aquaculture facility using a net pen culture system for rearing Atlantic salmon to market size.	
Source Classification:	Fees for Industrial Approvals Regulation - Clean Water Act	Class 8
Parcel Identifier:	15084320	
Mailing Address:	3801 rte 105 Northampton, NB E7N 1L7	
Conditions of Approval:	See attached Schedule (s) "A", "B" and "C" of this Approval	
Supersedes Approval:	New	
Valid From:	June 04, 2015	
Valid To:	February 15, 2018	

Recommended by: 
Environment Division

Issued by:  June 4, 2015
for the Minister of Environment and Local Government Date

SCHEDULE "A"

A. DESCRIPTION AND LOCATION OF SOURCE

Gray Aqua Group Ltd. operates a marine finfish aquaculture Facility for the purpose of culturing Atlantic salmon. The Facility consists of netted fish-rearing pens and associated mooring and infrastructure. The operation of the Simpson Island Aquaculture Site (MF-0044) located near Simpsons Island, Charlotte County and referenced by parcel identifier 15084320 is hereby approved subject to the following:

B. DEFINITIONS

1. "after hours" means the hours when the Department's offices are closed. These include statutory holidays, weekends, and the hours before 8:15 a.m. and after 4:30 p.m. from Monday to Friday.
2. "Approval Holder" means the person or persons to whom the Certificate of Approval has been issued and includes all persons responsible for the operation of the source.
3. "Chemical" means antibacterial and antibiotic agents, therapeutants, pesticides, herbicides, anaesthetics, feed additives, hormones, veterinary biologics, biotechnology products, disinfectants, water treatment agents, fertilizers, paint products, organic solvents, anti-foulant products, petroleum products, liquid and gaseous fuels, sealants, lubricants, flocculants, and any other hazardous, toxic, or potentially harmful substance.
4. "Department" means the New Brunswick Department of Environment.
5. "Director" means the Director of the Stewardship Branch of the Department and includes any person designated to act on the Director's behalf.
6. "Facility" means all property, real or personal, utilized in the operation or maintenance of the source.
7. "Inspector" means an Inspector designated under the *Clean Air Act*, the *Clean Environment Act*, or the *Clean Water Act*.
8. "Minister" means the Minister of Environment and Local Government and includes any person designated to act on the Minister's behalf.
9. "Source" means "source of contaminant" as defined in the Act.

GRAY AQUA GROUP LTD.

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Page 2 of 8

C. EMERGENCY REPORTING

10. The Approval Holder, operator or any person in charge of the Facility shall immediately report to the New Brunswick Department of the Environment where:
- a) there has been, or is likely to be, an unauthorized release of solid, liquid or gaseous material including wastewater, petroleum or hazardous materials, to the environment;
 - b) there has been a violation of the *Air Quality Regulation*, the *Water Quality Regulation* or any Approval issued thereunder; or
 - c) a release of a contaminant or contaminants is of such magnitude or period that there is concern for the health or safety of the general public, or there could be significant harm to the environment.

During normal business hours, contact the:

Saint John Regional Office
(506) 658-2558

After hours, or in the event the Regional Office cannot be reached contact the:

Canadian Coast Guard
1-800-565-1633

All reports shall include:

- a) a description of the source, including the name of the owner or operator;
- b) the nature, extent, duration and environmental impact of the release;
- c) the cause or suspected cause of the release; and
- d) any remedial action taken or to be taken to prevent a recurrence of the release.

An Inspector will be contacted to return the call and provide direction, where required.

D. GENERAL INFORMATION

- 11. The Approval Holder shall operate the facility in compliance with the *Water Quality Regulation-Clean Environment Act*.
- 12. This Certificate of Approval does not relieve the Approval Holder from complying with municipal bylaws, other provincial acts and regulations, or any federal acts and regulations.

13. The Minister may revoke this Approval pursuant to Paragraph 3(9) of the *Water Quality Regulation - Clean Environment Act*.
14. An Inspector, at any reasonable time, has the authority to inspect the Facility and carry out such duties as defined in the *Clean Air Act*, the *Clean Environment Act* or the *Clean Water Act*.
15. The terms and conditions of this Approval are severable. If any term or condition of this Approval is held invalid, is revoked or is modified, the remainder of the Approval shall not be affected.

E. TERMS AND CONDITIONS

GENERAL CONDITIONS

16. The Approval Holder shall submit a Production Plan to the Director for Approval, a minimum of two months prior to the stocking of each production cycle which shall include the following:
 - a) Species and strain
 - b) Stock source
 - c) Number of cages, type, and size (m)
 - d) Depth (m) of rearing and predator nets
 - e) Total number of fish introduced and average weight (g)
 - f) Length of grow-out period (months)
 - g) Maximum stocking density (kg/m^3)
 - h) Maximum biomass (kg)
 - i) Total amount of feed (kg)
 - j) Average harvest weight (kg)
 - k) Harvest Plan details
17. The Approval Holder shall apply in writing to the Director and receive approval for an amendment of this Approval before making any changes to the currently approved Facility that would result in changes to the quality and/or quantity of the effluent(s) discharged. Such changes would include, but are not limited to, the following:
 - a) Production Plan amendments (i.e. production increases, change of species reared, etc.);
 - b) site boundary alterations; and
 - c) site configuration changes.
18. The Approval Holder shall ensure that a copy of the Approval, including all attached schedules is maintained onsite at all times. A copy of the Approval must also be posted in a prominent location in the office or working area of this facility when such an area exists.

GRAY AQUA GROUP LTD.

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Page 4 of 8

19. The Approval Holder shall ensure that fish rearing cages and/or associated mooring and infrastructure are maintained so as to ensure that they, either in whole or in part, do not break free of the lease site. In circumstances where rearing cages and/or associated infrastructure is determined by an inspector to be at risk of breaking free from the lease site, the approval holder will make repairs as directed by the Minister.
20. At least 90 days prior to expiration, the Approval Holder shall submit to the Director, a written application for renewal of this Approval.
21. In the event of Facility closure, the Approval Holder shall notify the Minister in writing at least six (6) months prior to the anticipated closure date.
22. The Approval Holder shall *immediately* notify the Minister in writing of any change in its name or address.

WASTE MANAGEMENT PLAN

23. The Approval Holder shall ensure that all wastes generated throughout the operation and maintenance of the facility are managed and disposed of in accordance with the procedures and practices detailed in the Waste Management Plan in the attached SCHEDULE "C", or in a manner deemed acceptable by an Inspector, or as otherwise directed by the Department.

CHEMICAL STORAGE AND HANDLING

24. The Approval Holder shall ensure that all Chemicals are stored in a manner such that any spill is contained and not released to the environment.

NOISE CONTROL

25. The Approval Holder shall operate the facility so as to minimize noise emission impacts to off-site receptors in accordance with the most recent version of the *Environmental Management Program for the Marine Finfish Cage Aquaculture Industry in New Brunswick*.

ENVIRONMENTAL QUALITY LIMITS

26. The Approval Holder shall operate the facility so as to minimize impacts to the benthic environment below the fish rearing structures in accordance with the most recent version of the *Environmental Management Program for the Marine Finfish Cage Aquaculture Industry in New Brunswick*.

27. Should the mean sediment sulfide concentration of samples collected beneath fish rearing structures during the testing and monitoring outlined in SCHEDULE "B" be equal to or greater than 4500 μM , then the Approval Holder must prepare and submit to the Director a Remediation Plan developed in accordance with the procedures set out in the most recent version of the document titled *Environmental Management Program for the Marine Finfish Cage Aquaculture Industry in New Brunswick*, issued by the Department.

TESTING AND MONITORING

28. The Approval Holder shall establish a sediment monitoring program as outlined in SCHEDULE "B".

RECORD KEEPING

29. The Approval Holder shall maintain records of Facility operations, which shall include:
- a) total number, average size (g), and distribution of fish at initial stocking;
 - b) total biomass (kg) of fish at the site for each one-month period;
 - c) amount (kg), type, pellet size, proximate feed composition and delivery method of feed for each one-month period;
 - d) total number of fish mortalities, culls, or escapes for each one-month period;
 - e) total number and average size (kg) of fish harvested for each one-month period;
 - f) frequency of mortality dives;
 - g) equipment cleaning and net changing activities;
 - h) dates of the beginning and end of fallow periods;
 - i) names and estimated quantities of all Chemicals administered to the fish or released to the rearing waters;
 - j) results of the testing and monitoring outlined in SCHEDULE "B", which shall include:
 - i) all sediment sulfide concentrations and oxidation-reduction potentials;
 - ii) completed Tables 1-8;
 - iii) date and time of the most recent accuracy check of the redox electrode;
 - iv) date, time, and temperature at which the sulfide electrode was most recently calibrated;
 - v) video recording; and
 - vi) site plan and number of fish onsite at time of monitoring.

These records shall be submitted immediately upon request from an Inspector. The Approval Holder shall maintain these records for a period of 5 years.

GRAY AQUA GROUP LTD.

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Page 6 of 8

REPORTING

30. The Approval Holder shall submit to the Director:

- a) all sediment sulfide concentrations and oxidation-reduction potentials and any or all completed Tables 1-8 showing deviations, and the associated site plan within 10 calendar days of the testing and monitoring outlined in SCHEDULE "B"; and
- b) completed Tables 5 and 6 and site plan within 10 calendar days of Tier 2 of the testing and monitoring outlined in SCHEDULE "B".

Prepared by:


Troy Lyons, M.Sc.
Aquaculture Approvals Officer, Industrial Processes

SCHEDULE "B"

MONITORING AND SAMPLING PLAN

1. ENVIRONMENTAL MONITORING PROGRAM

Sea-floor sediment conditions below the site must be monitored in accordance with the most recent version of the New Brunswick Department of Environment's *Environmental Management Program for the Marine Finfish Cage Aquaculture Industry in New Brunswick*.

Where applicable, the monitoring is to be carried out as detailed in the most recent version of the New Brunswick Department of the Environment's *Standard Operating Practices for the Environmental Monitoring of the Marine Finfish Cage Aquaculture Industry in New Brunswick* (SOP). If for any reason the SOP does not provide adequate direction for carrying out the assessment, the Approval Holder must submit to the Director a site-specific plan for assessing the sediment conditions.

GRAY AQUA GROUP LTD.

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Page 8 of 8

SCHEDULE "C"

WASTE MANAGEMENT PLAN

1. The following Waste Management Plan was developed through consultation between the Department and the Approval Holder. This plan must be updated, and Approved whenever operational practices require substantive and routine deviation from the procedures outlined herein.

Appendix C



July 31, 2016

George C Kinsman
Ernst and Young Inc.
RBC Waterside Center
1871 Hollis St.,
Halifax, NS

Re: Depopulation of Marine Sites in SWNB

George,

As per our conversation Friday, July 29th 2016, regarding the fish health status at 3 marine sites in SW New Brunswick (Hospital Isl, Hog Isl and Simpson Isl), the following should be noted;

- With great certainty, as the Chief Veterinarian Prov. of NB, I can attest that all of the fish at the three indicated sites will expire within the next 30-60 days.
- This geographical area is experiencing the highest water temperatures ever recorded since 1989 (per DFO sampling stations).
- The life cycle of the ectoparasite sea lice is directly related to water temperatures. Thus at present water temperatures the full life cycle is approximately 14 days. Regarding the present trend line for water temperatures within this region, this cycle will further reduced to 10 days within the next week.
- The average lice counts being reported for these sites range from 65-135 per fish. These counts will increase exponentially over the next 4 weeks, as every gravid female will produce a minimum of 100 viable offspring. Auto-reinfection will also be enhanced by fish demonstrating effects of extreme stress.

It is the position of the Dept. of Agriculture, Aquaculture and Fisheries that these populations of fish should be depopulated immediately.....prior to creating a catastrophic event.

Sincerely,

Michael J Beattie DVM, MSc., MRCVS
Chief Veterinarian
Dept. of Agriculture, Aquaculture and Fisheries
Prov of New Brunswick



Court File No. FM-22-16

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK

IN BANKRUPTCY AND INSOLVENCY

JUDICIAL DISTRICT OF FREDERICTON

IN THE MATTER OF THE RECEIVERSHIP OF:

Gray's Aqua Management Ltd., Gray Aqua Farms Ltd., Gray Aqua Group Ltd., Butter Cove Aqua Farms Ltd., Goblin Bay Aqua Farms Ltd., Jervis Island Aqua Farms Ltd., Pass-My-Can Aqua Farms Ltd., Gray Aqua Processing Ltd., M. Gray Holdings Ltd., 608672 N.B. Ltd., 608690 N.B. Ltd., 608691 N.B. Ltd., 608715 NB Limited and 608716 NB Limited

- and -

PURSUANT TO Section 33 of The *Judicature Act*, R.S.N.B. 1973, Ch. J-2, Rule 41, Rules of Court, New Brunswick and Section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3

BETWEEN:

CALLIDUS CAPITAL CORPORATION

APPLICANT

- and -

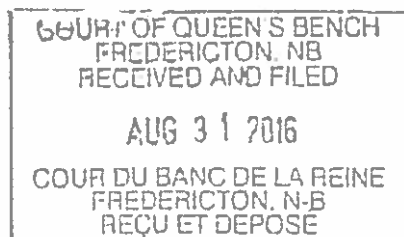
GRAY'S AQUA MANAGEMENT LTD., GRAY AQUA FARMS LTD., GRAY AQUA GROUP LTD., BUTTER COVE AQUA FARMS LTD., GOBLIN BAY AQUA FARMS LTD., JERVIS ISLAND AQUA FARMS LTD., PASS-MY-CAN AQUA FARMS LTD., GRAY AQUA PROCESSING LTD., M. GRAY HOLDINGS LTD., 608672 N.B. LTD., 608690 N.B. LTD., 608691 N.B. LTD., 608715 NB LIMITED and 608716 NB LIMITED,

RESPONDENTS

AFFIDAVIT OF TIMOTHY R. GRAY

I, Timothy R. Gray, of Northampton, New Brunswick, MAKE OATH AND SAY AS FOLLOWS:

1. I, along with my brothers Robert and Jeffrey, are the principals of Gray's Aqua Management Ltd., Gray Aqua Farms Ltd., Gray Aqua Group Ltd., Butter Cove Aqua Farms



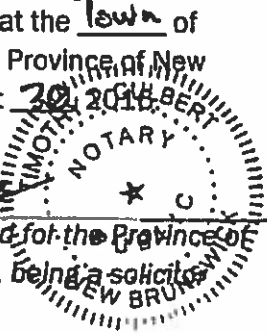
Ltd., Goblin Bay Aqua Farms Ltd., Jervis Island Aqua Farms Ltd., Pass-My-Can Aqua Farms Ltd., Gray Aqua Processing Ltd., m. Gray Holdings Ltd., 608672 N.B. Ltd., 608690 N.B. Ltd., 608691 N.B. Ltd., 608715 NB limited and 608716 NB Limited (collectively, the "Companies" and each a "Company"). As well, I along with my brothers are the sole directors of 628228 N.B. Incorporated ("628228"). As such, I have personal knowledge of the matters herein deposed to.

2. I have read the notice of application of 047759 N.B. Ltd. (the "047759 Application") filed against Gray Aqua Group Ltd. ("Gray Aqua") et. al. in relation to certain fish inventory (the "Fish Inventory") located at Marine Aquaculture Site MF - 0044 (the "Site") and matters related to the Site.
3. Gray Aqua, a company incorporated under the laws of the Province of Newfoundland and Labrador, ran salmon farming operations at various aquaculture sites located off the South Coast of Newfoundland and Labrador and off the coast of New Brunswick including the Site.
4. The Fish Inventory was grown until they were smolt by Gray Aqua Farms Ltd. ("Gray Farms") at its hatchery facility in Northampton, New Brunswick prior to be placed on the Site. Gray Farms was never paid for the smolt placed on the Site.
5. The 047759 Application does not set out all of the material facts. In particular, the Fish Inventory was at all times the property of Gray Aqua and any interest of 628228 was to be paid for use of the site by Gray Aqua. As well, and provided the sale of the Fish Inventory resulted in a profit, 628228 may have been paid some further amount after payment of the costs of Gray Aqua to rear and sell the Fish Inventory.
6. 628228 did not record the Fish Inventory on its books and records and never claimed any ownership interest therein. Gray aqua did record the Fish Inventory on its books and records. To the extent 628228 may have had some form of interest in the Fish Inventory because it was located on the Site, that interest was disposed of and subordinated to Gray Aqua's interest in the Fish Inventory for the costs to grow same and the resulting profit.

7. I, along with my brothers, have continued to work with Ernest & Young since its appointment as Receiver of the Companies. The Receiver's assessment of the Fish Inventory, the cost to grow out the Fish Inventory and the likelihood that growing the Fish Inventory will result in a loss is reasonable.

SWORN BEFORE ME at the Town of
Woodstock in the Province of New
Brunswick, on August 20, 2014.

[Signature]
Notary Public in and for the Province of
New Brunswick, being a solicitor



[Signature]
TIMOTHY GRAY

Court File No. FM-22-16

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK
IN BANKRUPTCY AND INSOLVENCY
JUDICIAL DISTRICT OF FREDERICTON

IN THE MATTER OF THE RECEIVERSHIP OF:

Gray's Aqua Management Ltd., Gray Aqua Farms Ltd., Gray Aqua Group Ltd., Butter Cove Aqua Farms Ltd., Goblin Bay Aqua Farms Ltd., Jervis Island Aqua Farms Ltd., Pass-My-Can Aqua Farms Ltd., Gray Aqua Processing Ltd., M. Gray Holdings Ltd., 608672 N.B. Ltd., 608690 N.B. Ltd., 608691 N.B. Ltd., 608715 NB Limited and 608716 NB Limited

- and -

PURSUANT TO Section 33 of The *Judicature Act*, R.S.N.B. 1973, Ch. J-2, Rule 41, Rules of Court, New Brunswick and Section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3

BETWEEN:

CALLIDUS CAPITAL CORPORATION

APPLICANT

- and -

GRAY'S AQUA MANAGEMENT LTD., GRAY AQUA FARMS LTD., GRAY AQUA GROUP LTD., BUTTER COVE AQUA FARMS LTD., GOBLIN BAY AQUA FARMS LTD., JERVIS ISLAND AQUA FARMS LTD., PASS-MY-CAN AQUA FARMS LTD., GRAY AQUA PROCESSING LTD., M. GRAY HOLDINGS LTD., 608672 N.B. LTD., 608690 N.B. LTD., 608691 N.B. LTD., 608715 NB LIMITED and 608716 NB LIMITED,

RESPONDENTS

CONSENT

628228 N.B. Incorporated hereby consents to the Receiver's request for the relief set out in Schedule "A" hereto. Executed this 31st day of August, 2016.

628228 N.B. Incorporated



Per: Tim Gray, Director

SCHEDULE "A"

- a. the Receiver is authorized and directed to depopulate the the fish inventory (the "Fish Inventory") located at Marine Aquaculture Site MF - 0044 (the "Site") either through the sale, destruction or other transfer of the Fish Inventory on such terms as the Receiver deems appropriate given the condition of the Fish Inventory and risk of environmental contamination if the Fish Inventory is not dealt with in a timely manner;
- b. if the Receiver determines it can complete a sale of the Fish Inventory in order to depopulate the Site (the "Fish Inventory Depopulation Sale"), the Receiver is authorized and directed to:
 - i. complete negotiations and discussions with such parties as considered necessary by the Receiver, if any, to complete a Fish Inventory Depopulation Sale;
 - ii. enter into such agreements on such terms and conditions as the Receiver deems appropriate to complete a Fish Inventory Depopulation Sale;
 - iii. take such steps and execute such additional documents as may be necessary or desirable for the completion of the transactions required to complete a Fish Inventory Depopulation Sale;
- c. the Receiver, on being satisfied with the terms of any proposed Fish Inventory Depopulation Sale, is authorized and directed to complete such transaction and issue a Receiver's certificate in the form attached hereto as Schedule "A" (the "Receiver's Certificate") and to execute and deliver such other documents or take such additional actions as may be necessary or desirable to convey the estate's interest in the Fish Inventory;
- d. upon the delivery of a Receiver's Certificate, all right, title and interest in and to the Fish Inventory of the estate of the Respondents shall vest absolutely in the purchaser free and clear of and from any and all other interests, claims or encumbrances of any nature or kind;
- e. to the extent necessary, declaring that for the purposes of determining the nature and priority of claims, the net proceeds from the Fish Inventory Depopulation Sale (the "Proceeds") shall stand in the place and stead of the Fish Inventory sold, and that from and after the delivery of the Receiver's Certificate all claims and encumbrances shall attach to the Proceeds with the same priority as they had with respect to such Fish Inventory immediately prior to the sale; and
- f. the Receiver may determine in its absolute discretion whether a Fish Inventory Depopulation Sale is possible or not and is under no obligation to pursue or complete such a sale;
- g. should the Receiver determine that a Fish Inventory Depopulation Sale is not possible, the Receiver is hereby authorized and directed to take all such action as the Receiver deems appropriate to cause the Fish Inventory to be removed from the Site;

- h. the Receiver may terminate its occupation of the Site once it has completed the depopulation of the Fish Inventory or a Fish Inventory Depopulation Sale and shall have no liability in relation to the Site to any party whatsoever;
- i. the Receiver may remove all personal property from the Site save and except the aquaculture cages, nets, moorings and floating house. The Receiver may remove the personal property immediately or at such time as the Receiver determines is appropriate up to and including one month after the date the Fish Inventory is removed from the Site;
- j. the Receiver shall have no liability of any kind to any person whatsoever in connection with or arising from it taking any action in accordance with this Order in relation to the Fish Inventory; and
- k. the claim of 047759 NB Ltd. ("047759") in and to the Fish Inventory or any Proceeds thereof is extinguished save and except in so much as same is addressed in an agreement it has with the Receiver dated as of August 31st, 2016.

Court File No. FM-22-16

IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK
IN BANKRUPTCY AND INSOLVENCY
JUDICIAL DISTRICT OF FREDERICTON

IN THE MATTER OF THE RECEIVERSHIP OF:

Gray's Aqua Management Ltd., Gray Aqua Farms Ltd., Gray Aqua Group Ltd., Butter Cove Aqua Farms Ltd., Goblin Bay Aqua Farms Ltd., Jervis Island Aqua Farms Ltd., Pass-My-Can Aqua Farms Ltd., Gray Aqua Processing Ltd., M. Gray Holdings Ltd., 608672 N.B. Ltd., 608690 N.B. Ltd., 608691 N.B. Ltd., 608715 NB Limited and 608716 NB Limited

- and -

PURSUANT TO Section 33 of The *Judicature Act*, R.S.N.B. 1973, Ch. J-2, Rule 41, Rules of Court, New Brunswick and Section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3

BETWEEN:

CALLIDUS CAPITAL CORPORATION

APPLICANT

- and -

GRAY'S AQUA MANAGEMENT LTD., GRAY AQUA FARMS LTD., GRAY AQUA GROUP LTD., BUTTER COVE AQUA FARMS LTD., GOBLIN BAY AQUA FARMS LTD., JERVIS ISLAND AQUA FARMS LTD., PASS-MY-CAN AQUA FARMS LTD., GRAY AQUA PROCESSING LTD., M. GRAY HOLDINGS LTD., 608672 N.B. LTD., 608690 N.B. LTD., 608691 N.B. LTD., 608715 NB LIMITED and 608716 NB LIMITED,

RESPONDENTS

CONSENT

047759 NB Ltd. hereby consents to the Receiver's request for the relief set out in Schedule "A" hereto. Executed this 31 day of August, 2016.

047759 NB LTD.



Per: Robert M. Creamer
Solicitor for 047759 NB Ltd.

SCHEDULE "A"

- a. the Receiver is authorized and directed to depopulate the the fish inventory (the "Fish Inventory") located at Marine Aquaculture Site MF – 0044 (the "Site") either through the sale, destruction or other transfer of the Fish Inventory on such terms as the Receiver deems appropriate given the condition of the Fish Inventory and risk of environmental contamination if the Fish Inventory is not dealt with in a timely manner;
- b. if the Receiver determines it can complete a sale of the Fish Inventory in order to depopulate the Site (the "Fish Inventory Depopulation Sale"), the Receiver is authorized and directed to:
 - i. complete negotiations and discussions with such parties as considered necessary by the Receiver, if any, to complete a Fish Inventory Depopulation Sale;
 - ii. enter into such agreements on such terms and conditions as the Receiver deems appropriate to complete a Fish Inventory Depopulation Sale;
 - iii. take such steps and execute such additional documents as may be necessary or desirable for the completion of the transactions required to complete a Fish Inventory Depopulation Sale;
- c. the Receiver, on being satisfied with the terms of any proposed Fish Inventory Depopulation Sale, is authorized and directed to complete such transaction and issue a Receiver's certificate in the form attached hereto as Schedule "A" (the "Receiver's Certificate") and to execute and deliver such other documents or take such additional actions as may be necessary or desirable to convey the estate's interest in the Fish Inventory;
- d. upon the delivery of a Receiver's Certificate, all right, title and interest in and to the Fish Inventory of the estate of the Respondents shall vest absolutely in the purchaser free and clear of and from any and all other interests, claims or encumbrances of any nature or kind;
- e. to the extent necessary, declaring that for the purposes of determining the nature and priority of claims, the net proceeds from the Fish Inventory Depopulation Sale (the "Proceeds") shall stand in the place and stead of the Fish Inventory sold, and that from and after the delivery of the Receiver's Certificate all claims and encumbrances shall attach to the Proceeds with the same priority as they had with respect to such Fish Inventory immediately prior to the sale; and
- f. the Receiver may determine in its absolute discretion whether a Fish Inventory Depopulation Sale is possible or not and is under no obligation to pursue or complete such a sale;
- g. should the Receiver determine that a Fish Inventory Depopulation Sale is not possible, the Receiver is hereby authorized and directed to take all such action as the Receiver deems appropriate to cause the Fish Inventory to be removed from the Site;

- h. the Receiver may terminate its occupation of the Site once it has completed the depopulation of the Fish Inventory or a Fish Inventory Depopulation Sale and shall have no liability in relation to the Site to any party whatsoever;
- i. the Receiver may remove all personal property from the Site save and except the aquaculture cages, nets, moorings and floating house. The Receiver may remove the personal property immediately or at such time as the Receiver determines is appropriate up to and including one month after the date the Fish Inventory is removed from the Site;
- j. the Receiver shall have no liability of any kind to any person whatsoever in connection with or arising from it taking any action in accordance with this Order in relation to the Fish Inventory; and
- k. the claim of 047759 NB Ltd. ("047759") in and to the Fish Inventory or any Proceeds thereof is extinguished save and except in so much as same is addressed in an agreement it has with the Receiver dated as of August 31st, 2016.