



COURT FILE NUMBER 1601-05495
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
PLAINTIFF NATIONAL BANK OF CANADA
DEFENDANT MOSAIC ENERGY LTD.

IN THE MATTER OF THE RECEIVERSHIP OF
MOSAIC ENERGY LTD.

DOCUMENT APPLICATION (ADVICE AND DIRECTIONS)

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
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File No.: 01128610-0068

NOTICE TO RESPONDENTS

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

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

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

Date: November 17, 2017
Time: 10:30 AM
Where: Calgary Courts Center
Before Whom: The Honourable Mr. Justice C.M. Jones

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

Remedy claimed or sought:

1. Ernst & Young Inc. (**EY** or the **Receiver**), court-appointed receiver of the assets, property and undertakings of Mosaic Energy, Inc. (**Mosaic**), applies for an order which among other things:

- (a) abridges service of the within application to the time given in all cases and deems service good and sufficient on all parties entitled to service thereof;
- (b) authorizes and directs the Receiver to make a distribution to Pembina Pipeline Services LP (**Pembina**) in the amount of \$263,101, reflecting the amount of the Operating Adjustment as the same is described in the Ninth Report of the Receiver, filed (the **9th Report**); and
- (c) provides such further and other relief as counsel may advise and this Honourable Court may permit.

2. In addition, the Receiver requests this Court's advice and direction with respect to Pembina's claim for \$1,029,137, reflecting the amount of the Maintenance Capital Cost Allocation as the same is described in the **9th Report**.

Grounds for making this application:

3. Capitalized terms not defined herein have the meaning given to such terms in the **9th Report**.

4. Mosaic was a party to a Gas Handling Agreement with Pembina dated November 1, 2014 (the **GHA**). Pursuant to the sale of Mosaic's Kakwa properties to Strath, Mosaic's interest in the GHA was assigned to Strath effective January 1, 2017 (the **Effective Date**).

5. The Receiver operated Mosaic's oil and gas wells during the Receivership period up to the closing of the Strath Transaction, including transportation and processing of production with Pembina pursuant to the GHA. The Receiver has settled all claims with Pembina that were due as of the **Effective Date**.

6. However, the Receiver understands that pursuant to the CO&O Agreement (which has not been disclosed to the Receiver, and to which Mosaic is not a party) amounts charged under the GHA reflect estimated amounts for operating charges and maintenance capital, to be trued-up to actual numbers through a year-end adjustment (the **13th-Month Adjustment**). Now, Pembina claims a **13th-Month Adjustment** for 2016 of approximately \$1.29 million, reflecting the Operating Adjustment and the Maintenance Capital Cost Allocation, as the same are described in the **9th Report**.

7. The Receiver believes that the Operating Adjustment is correctly calculated by Pembina and is due and payable to Pembina under the **13th-Month Adjustment**.

8. The Receiver has provided the 13th Month Adjustment Claim and supporting materials to Mosaic's majority shareholders, NGP IX Holdings I, S.A.R.L. and NGP Quatro S.A.R.L. (collectively, **NGP**), Mosaic Co-Investors S.A.R.L. and Sabertooth Resources S.A.R.L., (jointly referred to as the **Majority Shareholders**).

9. The Receiver understands that NGP takes issue with the amounts claimed by Pembina under the Maintenance Capital Cost Allocation. In particular, the Receiver understands that NGP does not agree that the costs claimed by Pembina in the Maintenance Capital Allocation amount to Maintenance Capital Costs within the meaning of the GHA.

10. The Receiver's recommendation is that the Operating Charge Adjustment be approved and that the Receiver be authorized and directed to distribute that amount to Pembina in the manner described in the 9th Report.

11. The Receiver seeks this Honourable Court's advice and direction with respect to Pembina's claim of \$1,029,137.82, representing the Maintenance Capital Adjustment.

Material or evidence to be relied on:

12. The 9th Report.

13. The Pleadings, Orders, reports of the Receiver, and other materials filed in the within Action.

14. Such other materials and evidence as counsel may advise and this Honourable Court may permit.

Applicable rules:

15. *Rules* 6.3(1), 6.47(e) and (f), 6.9(1)(a), and 11.27, and such other *Rules* as counsel may advise and this Honourable Court may permit.

Applicable Acts and regulations:

16. The *Bankruptcy and Insolvency Act*, RSC 1985 c B-3, as amended, the *Judicature Act*, RSA 2000, c J-2, as amended, and such other Rules, Acts, and Regulations as counsel may advise and this Honourable Court may permit.

Any irregularity complained of or objection relied on:

17. None.

How the application is proposed to be heard or considered:

18. Oral submissions by counsel at an application in Justice Chambers at the Calgary Courts Centre in Calgary, Alberta, on the returnable date noted hereon, or so soon thereafter as counsel may be heard.

AFFIDAVIT EVIDENCE IS REQUIRED IF YOU WISH TO OBJECT.

WARNING

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