COURT FILE NUMBER	2001-10261
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
APPLICANTS	IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c C-36, AS AMENDED AND IN THE MATTER OF COMPROMISE OR ARRANGEMENT OF GLENOGLE ENERGY INC., 1651558 ALBERTA LTD. AND GLENOGLE ENERGY LP
DOCUMENT	**FIFTH REPORT OF ERNST & YOUNG INC. IN ITS CAPACITY AS MONITOR OF GLENOGLE ENERGY INC., GLENOGLE ENERGY LIMITED PARTNERSHIP, AND 1651558 ALBERTA INC.** **September 8, 2022**
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	<u>**MONITOR**</u> ERNST & YOUNG INC. Calgary City Centre 2200, 215 - 2nd Street SW Calgary, Alberta T2P 1M4 Attention: Neil Narfason / Carolyn Parker Telephone: 403-206-5067 / 403-206-5122 Fax: 403-206-5075 Email: neil.narfason@parthenon.ey.com carolyn.parker@parthenon.ey.com <u>**MONITOR'S COUNSEL**</u> MLT Aikins LLP 2100 Livingston Place 222 3rd Avenue SW Calgary, Alberta T2P 0B4 Attn: Ryan Zahara Telephone: 403-693-5420 Email: rzahara@mltaikins.com

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APPENDICES

INTRODUCTION

1. On May 14, 2020 (the "**Date of Filing**"), Glenogle Energy Inc. ("**GEI**") and Glenogle Energy Limited Partnership ("**GELP**") obtained protection from their creditors through the filing of a Notice of Intention to Make a Proposal (the "**NOI**") under Section 50.4(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3, as amended (the "**BIA**").

2. Ernst & Young Inc. was named as Proposal Trustee under the NOI. On July 23, 2020, GEI and GELP were granted a stay extension for 45 days to September 10, 2020.

3. On September 8, 2020, GEI along with a wholly owned subsidiary 1651558 Alberta Ltd. ("**165**") were granted protection and permission to commence proceedings (the "**CCAA Proceedings**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, C-36, as amended (the "**CCAA**"), which converted the existing NOI proceedings into the CCAA Proceedings. GELP's NOI Proceedings were continued and taken up under the CCAA. GEI, GELP and 165 are collectively referred to as "**Glenogle**", the "**Company**" or "**Applicants**".

4. Also, on September 8, 2020, this Honourable Court approved a stay extension as outlined in paragraph 15 of the Amended and Restated Initial Order (the "**ARIO**") until and including March 31, 2021 (the "**Stay Period**").

5. On March 15, 2021, the Company's request for a stay extension through November 30, 2021 was approved by this Honourable Court. Further stay extensions were granted on November 29, 2021 for a stay extension through February 28, 2022, and most recently on February 15, 2022, wherein the Company's request for a stay through September 30, 2022 was approved.

6. Under the ARIO, the Applicants were authorized, upon obtaining the prior consent of the Monitor and HSBC, by this Honourable Court to commence a Sales and Investment Solicitation Process ("**SISP**").

7. The SISP was undertaken in the Fall of 2021, which was unsuccessful due to the Bidder's inability to meet the terms outlined in its initial non-binding letter of intent. The revised terms indicated by the Bidder were materially adverse and as such, the Selling Agent recommended that Glenogle undertake a refresh of the SISP (the "**Refreshed SISP**").

8. Under the Refreshed SISP, the Selling Agent contacted all bidders who originally submitted proposals under the SISP, as well as certain additional counterparties who expressed interest after the November 4, 2021 bid deadline. Three parties submitted proposals under the Refreshed SISP which were received mid-February 2022, two of which ultimately submitted binding term sheets to the Company in mid-March.

9. Glenogle, with the assistance of the Monitor and in consultation with HSBC and the Selling Agent, selected the Astara Energy Corp. bid, which all parties believed would yield the highest recovery for all stakeholders.

10. The Company, its counsel, and the Monitor finalized a definitive acquisition agreement (the "**Acquisition Agreement**") for the purchase of all of Glenogle's assets, inclusive of all environmental and regulatory obligations associated therewith (together, the "**Transaction**"), which contemplated the sale being completed through a Transaction and Reverse Vesting Order ("**RVO**"). The Acquisition Agreement was fully executed on April 21, 2022.

11. On May 12, 2022, the Company's request for the approval of the RVO and the proposed Claims Procedure Order (the "**CPO**") was granted by this Honourable Court. On May 17, 2022, the Court granted an Amended and Restated RVO.

12. The Transaction closed on May 19, 2022.

13. The Transaction proceeds were not sufficient to provide HSBC with a full recovery on its outstanding debts. The Claims Procedure approved by the Court was established to identify any claims which may rank ahead of or on par with that of HSBC and to identify any claims against the directors and officers of Glenogle, which was required given the use of a RVO structure for the Transaction.

14. Through the Claims Procedure, all claims have now been fully resolved with the exception of two lien claims (the "**Lien Claims**") of Energetic Services Inc. ("**Energetic**") and Bidell Gas Compression Ltd. ("**Bidell**") (collectively, the "**Lien Claimants**").

15. Additional background information concerning these CCAA Proceedings, the Company and its NOI proceedings is available on the Monitor's website at www.ey.com/ca/glenogleenergy.

PURPOSE

16. The purpose of this fifth report of the Monitor (the "**Fifth Report**") is to provide this Honourable Court with comments and the Monitor's recommendation with respect to the Lien Claims of Energetic and Bidell under the CPO.

TERMS OF REFERENCE AND DISCLAIMER

17. In preparing this Fifth Report, the Monitor has been provided with, and has relied upon, unaudited financial information from the Company's books and records and financial information prepared by Glenogle as well as discussions with its management ("**Management**") (collectively, the "**Information**").

18. All references to dollars are in Canadian currency unless otherwise noted.

19. Capitalized terms not defined herein are as defined in the Initial Order, the ARIO, the RVO, the CPO, the Pre-filing Report of the Proposed Monitor, the Supplement to the Pre-filing Report of the Proposed Monitor (together, the "**Pre-filing Reports**"), the First Report, Second Report, Third Report and Fourth Report.

LIEN CLAIMS RECEIVED IN ACCORDANCE WITH CPO

20. Under the CPO, and prior to the Claims Bar Date of June 10, 2022, Energetic and Bidell both submitted secured claims for $228,032.63 and $527,990.20, respectively. Each of the Lien Claimants claimed security through the existence of valid and subsisting Alberta Builders' Liens on the mineral interests registered under mineral agreement number 054 05414040196 (the "**Liened Interests**") that related to mineral interests beneath the lands located at 6-13-081-33 NE (the "**Battery Lands**") where the work was performed.

21. On June 28, 2022, the Monitor issued Notices of Revision or Disallowance ("**NORDs**") to both Energetic and Bidell, disallowing the entirety of the Lien Claims on the basis that Glenogle did not have any mineral or ownership rights in the Liened Leases.

22. On July 11, 2022 and July 13, 2022, Bidell and Energetic responded to the NORDs with Notices of Dispute, respectively, which were received by the Monitor before the stipulated deadline, ending 15 calendar days after the issuance of the NORDs. Within their Notices of Dispute, the Lien Claimants provided further reasoning for their disputes, specifically that a common purpose lien may exist, which would extend their registered liens to adjacent lands where Glenogle holds an interest in certain mineral interests.

23. Due to the related nature of their claims, Bidell and Energetic subsequently filed a joint application for the adjudication and resolution of their claims by this Honourable Court, scheduled for October 21, 2022. This application was made within the timeline agreed to by the Monitor.

24. Since the filing of its joint application, the Lien Claimants have been engaged in negotiations with the Monitor in an attempt to resolve the Lien Claims; however there has been no resolution of the Lien Claims as of the date of this Fifth Report.

25. See Appendices for copies of the proofs of claim received, NORDs issued and Notices of Dispute received with respect to the Lien Claimants Lien Claims under the CPO.

EVALUATION OF LIEN CLAIMS RECEIVED

26. The Lien Claimants performed work for Glenogle at the Battery located on the Battery Lands in and around . The Battery was used by Glenogle for the purpose of treating effluents, gas compression and processing production for Glenogle's production wells (the "**Wells**") which were located on the lands described as 6-13-82-20-NE (the "**Well Lands**"). Certificates of title for the Battery Lands and Well lands are attached hereto as Appendix "**G**".

27. Glenogle was the 100% operator of the Battery and there is one other third party gas handling agreement with Leucrotta Exploration Inc. for the provision of gas handling services at the Battery. Otherwise, the Battery was used exclusively by Glenogle. Glenogle's production wells are physically connected to the Battery via a production pipeline gathering system. The Monitor understands that the Battery and the Wells do not constitute a singular project and are located at separate site locations.

28. The Lien Claimants did not perform work directly on the Well Lands rather they performed work at the Battery. Glenogle retained the Lien Claimants prior to commencement of the CCAA proceedings and failed to pay them for their work performed at the Battery and the Battery Lands.

29. The work performed by Energetic included in its claim relates to the transportation of production fluid to and from the Battery. The work performed by Bidell included in its claim relates to compressor rental charges, servicing, maintenance, parts, and labour performed at the Battery.

30. In approximately spring 2020, the Lien Claimants registered liens against the Liened Interests registered under the Battery Lands. The Liened Interests were at that time of the registration of the Liens owned entirely by ARC Resources Ltd. ("**ARC**").

31. Glenogle neither currently nor at any point historically has been a partner with ARC in a joint venture or any other form of agreement in connection with the Liened Interests. Any of the work performed on the Battery does not appear to have benefited ARC or the Liened Interests.

32. Glenogle has a surface lease interest caveat and a right of way caveat registered against the Battery Lands allowing it to access the Battery. No registrations have been completed by the Lien Claimants against either of these interests of Glenogle in the Battery or the Battery Lands.

33. Glenogle owns mineral interests under mineral agreement number 054 5496070142 (the "**Glenogle Interests**") and which are located under the Well Lands. The Well Lands are located several kilometers away from the Battery. The Well Lands are not contiguous with the Battery Lands. Further, the Monitor understands that there is no shared reservoir between Glenogle and ARC with respect to each of their respective mineral interests in the Battery Lands and the Well Lands.

34. Since the registration of their liens, the Lien Claimants have attempted to enforce on their lien rights on the Liened Interests by commencing a Statement of Claim against ARC and Glenogle and registering a certificate of *lis pendens*. The Lien Claimants did not register any liens on the Glenogle Interests, the Well Lands, or the Battery Lands.

35. The Lien Claimants are now attempting to advance claims as secured creditors under the CPO by virtue of the Lien Claims filed against the Liened Interests or, in the alternative, pursuant to a common purpose lien (or common interest lien) on the Glenogle Interests in the Well Lands. The Lien Claimants allege that the work performed for Glenogle at the Battery / Battery Lands has a common purpose with the Glenogle Interests, such that the work performed gives rise to common purpose lien rights in the Glenogle Interests or some other interests owned by Glenogle.

36. The Monitor also notes that it appears that the Lien Claim of Biddell should be reduced by amounts that Biddell owes to Glenogle and this has not been accounted for in Biddell's Lien Claim.

37. The Monitor's position, as set out in the NORDs, is that the Lien Claims asserted by the Lien Claimants are invalid due to the fact that the Lien Claimants failed to register their liens against any interests of Glenogle and any lien rights that the Lien Claimants had expired prior to the commencement of the CCAA proceedings.

38. Accordingly, the evaluation of whether a common purpose lien exists need not be undertaken and is not relevant for the purpose of ascertaining the claims of the Lien Claimants.

RECOMMENDATION

39. The Monitor respectfully recommends that this Honourable Court disallow the secured claims of the Lien Claimants and find that the Lien Claims are unsecured claims on the basis that the registered liens were not registered against any interests of Glenogle prior to those lien rights expiring.

Dated at Calgary, this 8th day of September, 2022.

ERNST & YOUNG INC.
in its capacity as the
Monitor of Glenogle Energy Inc.,
Glenogle Energy LP, and 1651558 Alberta Inc.

Neil Narfason, CPA, CA, CIRP, LIT, CBV
President

Carolyn Parker, CPA, CBV
Senior Director

APPENDIX A

PROOF OF CLAIM – ENERGETIC

Jessica Murray

From: Calvin Robb <crobb@milesdavison.com>
Sent: June-02-22 2:21 PM
To: Jessica Murray
Subject: Energetic Services Inc. - Proof of Claim (Glenogle Energy Inc.)
Attachments: Energetic Services Inc._poc.pdf

Jessica

Attached is the Proof of Claim on behalf of Energetic Services Inc.

Please confirm receipt.

Thanks.

CALVIN C. ROBB
Barrister and Solicitor

MILES DAVISON LLP

900, 517 - 10th Avenue SW
Calgary, Alberta T2R 0A8
Tel: 403.298.0373
Fax: 403.263.6840
email: crobb@milesdavison.com

PROOF OF CLAIM

(See attached for instructions)

IN THE MATTER OF THE CCAA PROCEEDINGS OF GLENOGLE ENERGY INC., GLENOGLE ENERGY LIMITED PARTNERSHIP AND 1651558 ALBERTA INC. (collectively, the "APPLICANTS", and individually, an "APPLICANT")

Regarding the Secured/Priority Claim or D&O Claim of Energetic Services Inc. (referred to in this form as "**the Claimant**").
(name of Claimant)

ONLY SUBMIT A PROOF OF CLAIM IF YOU HAVE A SECURED/PRIORITY CLAIM OR A D&O CLAIM (AS THOSE TERMS ARE DEFINED IN THE CLAIMS PROCEDURE ORDER).

THERE WILL BE NO DISTRIBUTION TO UNSECURED CREDITORS (UNLESS THEY HAVE A D&O CLAIM). UNSECURED CREDITORS (UNLESS THEY HAVE A D&O CLAIM) ARE NOT TO FILE A PROOF OF CLAIM.

All notices or correspondence regarding this claim to be forwarded to the Claimant at the following address:

c/o Miles Davison LLP, 900, 517 - 10 Avenue SW, Calgary, AB T2R 0A8

Telephone Number: 403-298-0373

Facsimile Number: 403-263-6840

Attention (Contact Person): Calvin C. Robb

Email Address: crobb@milesdavison.com

(*All future correspondence will be delivered to the designated email address unless the Claimant specifically requests that hardcopies be provided*)

☒ Please provide hardcopies of materials to the address above.

I, Calvin C. Robb (name of the Claimant or representative of the Claimant), of Calgary, Alberta (City, Province or State) do hereby certify that:

I am the Claimant;

OR

I am Agent (*state position/title*) of the Claimant.

I have knowledge of all the circumstances connected with the claim referred to in this form.

Check box the Applicant against whom you make this claim.

☒ Glenogle Energy Inc. ☐ 1651158 Alberta Ltd. ☐ Glenogle Energy LP ☐ Director / Officer

The Applicant or Applicants (check appropriate box(es) above) was or were, at May 14, 2020 and still is or are indebted to the Claimant in the sum of CDN$ 228,032.63 (*insert CDN dollar value of claim*) as shown by the statement of account attached hereto and marked Schedule "A". Claims should not include the value of goods and/or services supplied or interest accrued after May 14, 2020. If a Claimant's claim is to be reduced by deducting any counterclaims to which the CCAA Applicant or Applicants is or are entitled and/or amounts associated with the return of equipment and/or assets by the CCAA Applicant or Applicants, please specify.

The statement of account must specify the evidence in support of the claim including the date and location of the delivery of all services and materials. Any claim for interest must be supported by contractual documentation evidencing the entitlement to interest.

☐ A. PRIORITY CLAIM OF $____________. That in respect of this claim, the Claimant does not hold and has not held any assets as security.

☒ B. SECURED CLAIM OF $ 228,032.63. That in respect of this claim, the Claimant holds assets valued at $ unknown as security, particulars of which are as follows:

Give full particulars of the security, including the date on which the security was given and the value at which the Claimant assesses the security together with the basis of valuation, and attach a copy of the security documents as Schedule "B".

☐ C. D&O CLAIM OF $____________. That in respect of this claim, the Claimant does not hold and has not held any assets as security.

Have you acquired this Claim by assignment? Yes ☐ No ☒
(if yes, attach documents evidencing assignment)

(if yes) Full Legal Name of original creditor(s): __________________

DATED this 2nd day of JUNE, 2022

Rachel J

Witness

Per: Calvin C Robb

Print name of Claimant:

Energetic Services Inc.

If Claimant is other than an individual, print name and title of authorized signatory

Name: Calvin C. Robb

Title: Agent, Solicitor

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