

**IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF CALGARY**

**IN THE MATTER OF THE *COMPANIES' CREDITORS*
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
BRUTE FORCE OIL FIELD HAULING INC.**

APPLICANT

NOTICE OF MOTION

TAKE NOTICE that an application will be made on behalf of Brute Force Oil Field Hauling Inc. (the "**Applicant**") before the Honourable Justice S.J. LoVecchio at the Calgary Courts Centre in the City of Calgary in the Province of Alberta, on Friday, the 20th day of November, 2009, at the hour of two o'clock the afternoon or so soon thereafter as counsel may be heard for the following relief:

1. An Order:

- (a) Declaring that the time for service of this Notice of Motion and the materials in support thereof (the "**Notice of Motion**") is abridged, the Notice of Motion is properly returnable on Friday, November 20, 2009, service of the Notice of Motion is good and sufficient and further service of the Notice of Motion and any Order arising therefrom, other than to persons listed on the Service List attached as Schedule "A" hereto, is hereby dispensed with;
- (b) Setting the date of Friday, November 27, 2009 or such other date as may be available for the hearing of any further applications as may be necessary;
- (c) Granting the relief within paragraphs 1(c), 1(e), 1(f) and 1(g) of the Notice of Motion filed by the Applicant on November 12, 2009 and adjourned by the Order granted by this Honourable Court in the within proceedings on November 13, 2009 (as such relief is amended below);

- (d) If necessary, empowering, directing and authorizing Hardie & Kelly Inc. (the “**Monitor**”) to:
- (i) Receive and hold monies that are payable or alleged to be payable by persons (each a “**Payor**”) to the Applicant in trust (the “**Trust Funds**”);
 - (ii) Disburse the Trust Funds upon agreement between the relevant Payor and the Applicant or further order of this Honourable Court; and
 - (iii) Account to this Honourable Court for the receipt and disbursement of the Trust Funds;
- (e) Declaring that the County of Saddle Hills (“**Saddle Hills**”) is currently indebted to the Applicant in the sum of \$184,633.79 (the “**Saddle Hills Indebtedness**”);
- (f) Directing that the Saddle Hills Indebtedness be dealt with as follows:
- (i) Saddle Hills paying the sum of \$102,087.18 to the Applicant, forthwith and in any event no later than November 26, 2009 (the “**Saddle Hills Applicant Payment**”);
 - (A) Declaring that the Saddle Hills Applicant Payment (or any portion thereof) is not subject to any trust created by the *Builders’ Lien Act* (Alberta) (the “**BLA**”) and is not required to be held in trust by the Applicant pursuant to the BLA; or
 - (B) With respect to the balance of the Saddle Hills Indebtedness, in the alternative, Saddle Hills paying the sum of \$82,546.61 to the Monitor to be held by the Monitor as Trust Funds, forthwith and in any event no later than November 26, 2009 (the “**Saddle Hills Sub-Contractor Payments**”); and
 - (ii) In the event that Saddle Hills fails to make the Saddle Hills Applicant Payment or the Saddle Hills Sub-Contractor Payments by November

26, 2009, the Applicant may commence enforcement processes against Saddle Hills in respect of the amount of the Saddle Hills Indebtedness which remains outstanding on November 27, 2009;

(g) Declaring that:

(i) 1324206 Alberta Ltd., Ridge Development Corp., and Skyrider Developments Ltd. (collectively, the “**Whitemud Heights Debtors**”) are jointly and severally indebted to the Applicant in the sum of \$342,000 (the “**Whitemud Heights Indebtedness**”); and

(ii) In the event that the Whitemud Heights Debtors fail to pay the Whitemud Indebtedness to the Applicant by November 26, 2009, the Applicant may commence enforcement processes against the Whitemud Heights Debtors in respect of the amount of the Whitemud Heights Indebtedness that remains outstanding on November 27, 2009;

2. Such further and other relief as the Applicant may request and this Honourable Court may allow;

AND FURTHER TAKE NOTICE THAT the grounds of this application are as follows:

The Trust Funds

3. Empowering, authorizing and directing the Monitor to hold the Trust Funds, if necessary, will assist the Applicant with the Restructuring;

The Whitemud Heights Indebtedness

4. The Whitemud Heights Debtors are indebted to the Applicant in the sum of the Whitemud Heights Indebtedness for work performed by the Applicant for the Whitemud Heights Debtors on a construction project (the “**Whitemud Heights Project**”);

5. The Whitemud Heights Project was completed on July 15, 2009, and the Whitemud Heights Indebtedness has been owed by the Whitemud Heights Debtors to the Applicant since September 15, 2009;
6. The Whitemud Heights Debtors have failed, refused or neglected to pay the Whitemud Heights Indebtedness to the Applicant;
7. Receipt of the payment of the Whitemud Heights Indebtedness is important to the Applicant's restructuring;

The Saddle Hills Indebtedness

8. There is a dispute concerning payment between the Applicant, Saddle Hills and four of the Applicant's sub-contractors (collectively, the "**Saddle Hills Sub-Contractors**") on a construction project in Saddle Hills, Alberta (the "**Saddle Hills Project**"). In particular:
 - (a) The Applicant claims it is owed \$184,633.79 by Saddle Hills for work performed on the Saddle Hills Project; and
 - (b) The Saddle Hills Sub-Contractors claim to be owed a total of \$82,546.61 by the Applicant;
9. With the exception of the Saddle Hills Sub-Contractors, all of the other persons to whom the Applicant owed money for work provided or materials furnished in respect of the Saddle Hills Project have been paid in full by the Applicant;
10. The proposed relief with respect to Saddle Hills would allow for:
 - (a) The entire amount alleged to be owed to the Saddle Hills Sub-Contractors to be held by Saddle Hills or, in the alternative, by the Monitor; and
 - (b) The balance of the amount owed to the Applicant to be paid to the Applicant;

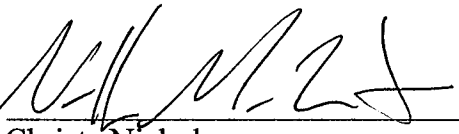
AND FURTHER TAKE NOTICE THAT the Applicant will refer to the following:

11. The Initial Order granted October 15, 2009;

12. The Order granted by Madam Justice K.M. Eidsvik on November 13, 2009;
13. The Notice of Motion filed by the Applicant on November 12, 2009;
14. The Affidavit of Barry Watson, sworn November 10, 2009, filed;
15. The Affidavit of Barry Watson, sworn November 17, 2009, filed;
16. The CCAA, the Alberta *Rules of Court*, A.R. 390/68 and the *Builders' Lien Act*, R.S.A. 2000, c B – 7;
17. The inherent jurisdiction of this Honourable Court; and
18. Such further and other materials as counsel may advise and this Honourable Court may permit.

DATED at the City of Calgary, in the Province of Alberta, this 17th day of November, 2009.

OSLER, HOSKIN & HARCOURT LLP

Per: 

Christa Nicholson
Walker W. MacLeod

TO: Clerk of the Court

AND TO: Service List - see attached Schedule "A"

**Schedule "A"
Service List**

Brute Force Oil Field Hauling Inc.

Last Updated on November 17, 2009

<i>Party</i>	<i>Telephone</i>	<i>Fax</i>	<i>Representing</i>
OSLER HOSKIN & HARCOURT LLP Suite 2500, Trans Canada Tower 450 - 1st Street SW Calgary, Alberta T2P 5H1 Christa Nicholson cnicholson@osler.com Walker W. MacLeod wmacleod@osler.com	403.260.7000	403.260.7024	Brute Force Oil Field Hauling Inc.
HARDIE & KELLY INC. 206 5800 – 2 nd Street SW Calgary, Alberta T2H 02H Marc Kelly mkelly@insolvencey.net	403.252.1766	403.640.9051	Monitor
BLAKE CASSELS & GRAYDON LLP 3500 Bankers Hall East 855 2 nd Street SW Calgary, Alberta T2P 4J8 Kelly Bourassa kelly.bourassa@blakes.com	403.260.9697	403.260.9700	Monitor
MACLEOD DIXON LLP 3700 Canterra Tower 400 Third Avenue SW Calgary, Alberta T2P 4H2 Howard Gorman Howard.Gorman@macleoddixon.com	403.267.8144	403.264.5973	TD Bank
SIMONS & STEPHENS 10216 124 St N.W. # 70 Edmonton, Alberta T5N 4A3 Roger C. Stephens rcstephens1@telus.net	780.482.1536	780.488.1914	Jordan Kabat

Party	Telephone	Fax	Representing
MAPLE TRADE FINANCE INC. 5475 Spring Garden Road 7th Floor Halifax, Nova Scotia B3J 3T2 Alexis Inkpen alexis@mapletradefinance.ca	902.444-5566	902.860.2386	Maple Trade Finance Inc.
STIKEMAN ELLIOTT 1155 René-Lévesque Blvd West 40 th Floor Montréal , QC H3B 3V2 Guy P. Martel gmartel@stikeman.com 4300 Bankers Hall West 888 - 3rd Street S.W. Calgary, AB T2P 5C5 Harold K. Andersen handersen@stikeman.com	514.397.3000	514.397.3222	Pembina Pipelines Corporation
BROWNLEE LLP 2200 Commerce Place 10155 – 102 Street Edmonton , AB T5J 4G8 Paul V. Stocco pstocco@brownleelaw.com	780.497.4800	780.424.3254	Town of Slave Lake
DUNCAN & CRAIG LLP 2800 Scotia Place 10060 Jasper Ave Edmonton, Alberta T5J 3V9 Maeve Cahill mcahill@dcllp.com	780.409.4415	780.969.6377	Alexis Nakota Sioux Nation
REYNOLDS MIRTH RICHARDS & FARMER LLP 3200 Manulife Place 10180-101 Street Edmonton, AB T5J 3W8 Jeremy Taitinger jtaitinger@rmrf.com Bill Barclay wbarclay@rmrf.com	780.425.9510	780.429.3044	Yellowhead County, County of Saddle Hills and County of Lac LaBiche LaFarge Canada Inc.

Party	Telephone	Fax	Representing
BRAUL MCEVOY & GEE 10123 99 St NW Edmonton, AB T5J 3H1 Walter Braul wbraul@braullaw.ab.ca	780.423.2481	780.423.2474	Phoenix Insurance
BORDEN LADNER GERVAIS LLP Scotia Plaza 40 King Street West Toronto, Ontario M5H 3Y4 Craig Hill chill@blgcanada.com 1000 Canterra Tower 400 Third Avenue S.W. Calgary, AB T2P 4H2 Josef Kruger jkruger@blgcanada.com	416.367.6000 403.232.9500	416.367.6749 403.266.1395	Guarantee Company of North America
STRINGAM DENECKY LLP 104 - 140 Maple Avenue S.E. Medicine Hat, AB T1A 8C1 John D. Evans jdevans@stringam.ca	403.488.8200	403.488.4815	Newell Regional Services Corporation
HUSTWICK HODGSON & PAYNE 600 Capital Place 9707 - 110 Street Edmonton, AB T5K 2L9 Lawrence R. Cunningham larryc@hhplegal.com	780.482.6555	780.482.6613	Cancen Oil Processors
DEPARTMENT OF JUSTICE CANADA 510, 606 4th St. S.W. Calgary, AB T2P 1T1 Jill Medhurst-Tivadar jill.medhurst-tivadar@justice.gc.ca	403.299.3985	403.299.3966	

Party	Telephone	Fax	Representing
LEWIS & CHRENEK LLP Barristers and Solicitors #108, 9824-97 Avenue Grande Prairie AB T8V 7K2 Tyler Keddie tkeddie@telus.net	780 539-6800	780 539-7975	Brian Fredland Bonnie Fredland
AFW CONSTRUCTION LIMITED Walter Briand wbriand@explorenet.com			
J.E. NASH ENTERPRISES LTD. PO Box 129 Slave Lake, AB T0G 2A0 Jennifer jennifer@nashcompany.ca	780.849.3977	780.849.3244	
RUSSELL SAUDER rsauder@telus.net			
WELCLEAN LAND SERVICES LTD. 2306 52A Avenue Lloydminster, AB T9V 2R5 Rod Stefanizyn bbfred@telusplanet.net	780.875.6354	780.875.6334	
KENNEDY AGRIOS LLP 1325 Manulife Place 10180 - 101 Street NW Edmonton, AB T5J 3S4 Janice Agrios jagrios@kennedyagrios.com	780.969.6900	780.969.6901	1376510 Alberta Ltd. and Skyrider Developments Ltd.

<i>Party</i>	<i>Telephone</i>	<i>Fax</i>	<i>Representing</i>
SADDLE HILLS COUNTY Administrative Building 5201-47 Street P.O. Box 69 Spirit River, AB T0H 3G0 Jason Jagodich	780.864.3760	780.864.3904	Saddle Hills County
CANADA REVENUE AGENCY 220 4 th Avenue S.E. Calgary, Alberta T2G 0L1	1.800.959.5525	403.264.5893	
BUSINESS DEVELOPMENT BANK OF CANADA Box 6, 505 Burard Street Vancouver, BC V7X 1V3	604.666.7467	604.666.1573	
AGRICULTURAL FINANCIAL SERVICES CORPORATION PO Box 5000, Station M 4910 – 52 Street Camrose, Alberta T4V 4E8	780.679.1350	780.679.1394	
ALTERINVEST II FUND LP 110, 444 7 Avenue SW Calgary, Alberta T2P 0X8	403.292.5600	403.292.6616	
TERRA NOVA VENTURES LTD 45-5304 Range Road 274 Spruce Grove, Alberta T7X 3T1	780.720.6663		

Action No. 0901-15051

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OSLER, HOSKIN & HARCOURT LLP
Barristers and Solicitors
2500, 450 – 1st Street S.W.
Calgary, AB T2P 5H1

Christa Nicholson/Walker W. MacLeod
Telephone: (403) 260-7000
Facsimile: (403) 260-7024
File Number: 1119057