

**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 K.M. Eidsvik at the Calgary Courts Centre in the City of Calgary in the Province of Alberta, on Friday, the 13th day of November, 2009, at the hour of nine o'clock the forenoon or so soon thereafter as counsel may be heard for the following relief:

1. An Order, substantially in the form as attached as Schedule "A" hereto:
 - (a) 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 13th, 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 "B" hereto, is hereby dispensed with;
 - (b) Extending the stay of proceedings or enforcement processes against the Applicant granted pursuant to paragraph 13 of the Initial Order (the "**Initial Order**") under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c C - 37 (the "**CCAA**") until December 15, 2009;
 - (c) 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;
- (d) Declaring that the Town of Slave Lake (“**Slave Lake**”) is currently indebted to the Applicant in the sum of \$152,360.83 (the “**Slave Lake Indebtedness**”);
- (e) Directing that the Slave Lake Indebtedness be dealt with as follows:
- (i) Slave Lake paying the sum of \$99,633.20 to the Applicant, forthwith and in any event no later than November 18, 2009 (the “**Slave Lake Applicant Payment**”); and
 - (ii) Slave Lake paying the sum of \$52,727.63 to the Monitor to be held by the Monitor as Trust Funds, forthwith and in any event no later than November 18, 2009 (the “**Slave Lake Sub-Contractor Payments**”); and

in the event that Slave Lake fails to make either the Slave Lake Applicant Payment or the Slave Lake Sub-Contractor Payments by November 18, 2009, the Applicant may commence enforcement processes against Slave Lake in respect of the amount of the Slave Lake Indebtedness which remains outstanding;

- (iii) Either the Applicant or Slave Lake may commence proceedings or seek further direction in relation to additional amounts in dispute between the Applicant and Slave Lake;

- (f) 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**");
- (g) 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 18, 2009 (the "**Saddle Hills Applicant Payment**"); and
 - (ii) 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 18, 2009 (the "**Saddle Hills Sub-Contractor Payments**"); and

in the event that Saddle Hills fails to make either the Saddle Hills Applicant Payment or the Saddle Hills Sub-Contractor Payments by November 18, 2009, the Applicant may commence enforcement processes against Saddle Hills in respect of the amount of the Saddle Hills Indebtedness which remains outstanding;

- (h) Declaring that:
 - (i) Pembina Pipeline Corporation ("**Pembina**") is currently indebted to the Applicant in the sum of \$143,522.36 (the "**Pembina Indebtedness**"); and
 - (ii) In the event that Pembina fails to pay the Pembina Indebtedness to the Applicant by November 18, 2009, the Applicant may commence enforcement processes against Pembina in respect of the amount of the Pembina Indebtedness that remains outstanding;
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 Extension of the Stay Period

3. On October 15, 2009, this Honourable Court issued the Initial Order;
4. The Initial Order, *inter alia*:
 - (a) Appointed the Monitor as monitor of the Applicant pursuant to the CCAA;
 - (b) Stayed proceedings or enforcement processes against the Applicant up to and including November 13, 2009 (the “**Stay Period**”); and
 - (c) Permitted the Applicant to proceed with an orderly restructuring of its business (the “**Restructuring**”);
5. The Applicant is seeking an extension of the Stay Period until December 15, 2009 so that it may continue with the Restructuring;
6. The Applicant has acted and is acting in good faith and with due diligence;
7. The Monitor supports the extension of the Stay Period until December 15, 2009;

The Trust Funds

8. Empowering, authorizing and directing the Monitor to hold the Trust Funds will assist the Applicant with the Restructuring;
9. The Monitor supports the enhancement of its powers to hold the Trust Funds;

The Slave Lake Indebtedness

10. There is a dispute concerning payment between the Applicant, Slave Lake and two of the Applicant’s sub-contractors (collectively, the “**Slave Lake Sub-Contractors**”) on a construction project in Slave Lake, Alberta (the “**Slave Lake Project**”). In particular:

- (a) The Applicant claims it is owed \$178,360.83 by Slave Lake for work performed on the Slave Lake Project;
 - (b) The Slave Lake Sub-Contractors claim to be owed a total of \$52,727.63 by the Applicant; and
 - (c) Slave Lake claims that it is entitled to deduct the sum of \$26,000 from amounts owed to the Applicant for certain construction deficiencies and delays;
11. With the exception of the Slave Lake Sub-Contractors, all of the other persons to whom the Applicant owed money for work provided or materials furnished in respect of the Slave Lake Project have been paid in full by the Applicant;
12. Slave Lake does not dispute that it owes the sum of Slave Lake Indebtedness (being \$152,360.83) to the Applicant;
13. The proposed relief with respect to Slave Lake would allow for:
- (a) The entire amount alleged owed to the Slave Lake Sub-Contractors to be held by the Monitor;
 - (b) The remaining undisputed amount owed to the Applicant to be paid to the Applicant; and
 - (c) The preservation of rights as between Slave Lake and the Applicant relating to deductions from amounts owed to the Applicant by Slave Lake for alleged construction deficiencies and delays;

The Saddle Hills Indebtedness

14. 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;
15. 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;
16. The proposed relief with respect to Saddle Hills would allow for:
- (a) The entire amount alleged owed to the Saddle Hills Sub-Contractors to be held by the Monitor; and
 - (b) The remaining amount owed to the Applicant to be paid to the Applicant;

The Pembina Indebtedness

17. Pembina is indebted to the Applicant in the sum of the Pembina Indebtedness for work performed by the Applicant for Pembina on a construction project (the “**Pembina Project**”);
18. The Pembina Project was completed on July 24, 2009, and the Pembina Indebtedness has been owed by Pembina to the Applicant since September 9, 2009;
19. Pembina has failed, refused or neglected to pay Pembina Indebtedness to the Applicant;

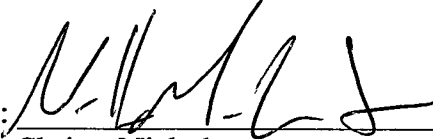
AND FURTHER TAKE NOTICE THAT the Applicant will refer to the following:

20. The Affidavit of Barry Watson, sworn November 10th, 2009, filed;
21. The Initial Order;
22. The CCAA, the Alberta *Rules of Court*, A.R. 390/68 and the *Builders’ Lien Act*, R.S.A. 2000, c B – 7;

23. The inherent jurisdiction of this Honourable Court; and
24. 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 10th 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 "B"

SCHEDULE "A"

Action No.: 0901-15051

**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 BRUTE FORCE OIL FIELD HAULING INC.

BEFORE THE HONOURABLE)
MADAM JUSTICE K.M EIDSVIK) AT THE LAW COURTS, IN THE CITY
IN CHAMBERS) OF CALGARY, IN THE PROVINCE OF
) ALBERTA, ON FRIDAY, THE 13th
) DAY OF NOVEMBER, 2009

ORDER

UPON the application of the Applicant; **AND UPON** noting the Order granted by this Honourable Court in the within proceedings on October 15, 2009 (the "**Initial Order**"); **AND UPON** having read (i) the Notice of Motion, filed, (ii) the Affidavit of Barry Watson, sworn November 10th, 2009, filed, and (iii) the First Report of the Monitor, dated November ●, 2009; **AND UPON** hearing counsel for the Applicant, the Monitor, the Toronto-Dominion Bank, and counsel present for other parties; **AND UPON** being satisfied that the Applicants have acted and continue to act in good faith and with due diligence and that the circumstances exist that make this Order appropriate; **IT IS HEREBY ORDERED AND DECLARED THAT:**

1. All capitalized terms not otherwise defined in this Order shall have the meaning ascribed to them in the Initial Order;
2. The time for service of the Notice of Motion dated November 10th, 2009 and the materials in support thereof (the "**Notice of Motion**") is abridged, the Notice of Motion is properly returnable today, service of the Notice of Motion is good and sufficient and further service of the Notice of Motion and this Order, other than to those listed on the Service List attached as Schedule "B" to the Notice of Motion, is hereby dispensed with;

3. The Stay Period as set forth at paragraph 13 of the Initial Order is hereby extended up to and including December 15, 2009;
4. The Monitor is hereby empowered, directed and authorized to:
 - (a) 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**”);
 - (b) Disburse the Trust Funds upon agreement between the relevant Payor and the Applicant or further order of this Honourable Court; and
 - (c) Account to this Honourable Court for the receipt and disbursement of the Trust Funds;
5. The Town of Slave Lake (“**Slave Lake**”) is indebted to the Applicant in the sum of \$152,360.83 (the “**Slave Lake Indebtedness**”);
6. It is hereby directed that:
 - (a) Slave Lake shall pay the sum of \$99,633.20 to the Applicant, forthwith and in any event no later than November 18, 2009 (the “**Slave Lake Applicant Payment**”); and
 - (b) Slave Lake shall pay the sum of \$52,727.63 to the Monitor to be held by the Monitor as Trust Funds, forthwith and in any event no later than November 18, 2009 (the “**Slave Lake Sub-Contractor Payments**”); and

in the event that Slave Lake fails to make either the Slave Lake Applicant Payment or the Slave Lake Sub-Contractor Payments by November 18, 2009, the Applicant may commence enforcement processes against Slave Lake in respect of the amount of the Slave Lake Indebtedness which remains outstanding;
 - (c) Either the Applicant or Slave Lake may commence proceedings or seek further direction in relation to additional amounts in dispute between the Applicant and Slave Lake;

7. The County of Saddle Hills ("**Saddle Hills**") is indebted to the Applicant in the sum of \$184,633.79 (the "**Saddle Hills Indebtedness**");

8. It is hereby directed that:

(a) Saddle Hills shall pay the sum of \$102,087.18 to the Applicant, forthwith and in any event no later than November 18, 2009 (the "**Saddle Hills Applicant Payment**"); and

(b) Saddle Hills shall pay 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 18, 2009 (the "**Saddle Hills Sub-Contractor Payments**"); and

in the event that Saddle Hills fails to make either the Saddle Hills Applicant Payment or the Saddle Hills Sub-Contractor Payments by November 18, 2009, the Applicant may commence enforcement processes against Saddle Hills in respect of the amount of the Saddle Hills Indebtedness which remains outstanding;

9. It is hereby declared that:

(a) Pembina Pipeline Corporation ("**Pembina**") is currently indebted to the Applicant in the sum of \$143,522.36 (the "**Pembina Indebtedness**"); and

(b) In the event that Pembina fails to pay the Pembina Indebtedness to the Applicant by November 18, 2009, the Applicant may commence enforcement processes against Pembina in respect of the amount of the Pembina Indebtedness that remains outstanding;

J.C.Q.B.A.

ENTERED this ____ day of November, 2009

Clerk of the Court

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ORDER

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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

**Schedule "B"
Service List**

Brute Force Oil Field Hauling Inc.

Last Updated on November 10, 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

<i>Party</i>	<i>Telephone</i>	<i>Fax</i>	<i>Representing</i>
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.
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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	780.425.9510	780.429.3044	Yellowhead County

<i>Party</i>	<i>Telephone</i>	<i>Fax</i>	<i>Representing</i>
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	416.367.6749	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	

<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		

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