

I hereby certify this to be a true copy of the original Order of which it purports to be a copy.

Dated this 26th day of Oct 2011

for M. Rajab
Registrar at Calgary
Bankruptcy Division of the
Court of Queen's Bench of Alberta

Clerk's Stamp:
BANKRUPTCY AND INSOLVENCY
RANPARILITE ET INSOLVABILITE
FILED
OCT 26 2011
JUDICIAL CENTRE
OF CALGARY

COURT FILE NUMBER BK NO: 25-1543324
COURT COURT OF QUEEN'S BENCH OF ALBERTA
IN BANKRUPTCY AND INSOLVENCY
JUDICIAL CENTRE CALGARY
PROCEEDING IN THE MATTER OF THE BANKRUPTCY OF DESMARAIS ENERGY
CORPORATION
DOCUMENT **ORDER**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

Burnet, Duckworth & Palmer LLP
2400, 525 – 8 Avenue SW
Calgary, Alberta T2P 1G1
Lawyer: Douglas S. Nishimura
Phone Number: (403) 260-0269
Fax Number: (403) 260-0332
Email Address: dsn@bdplaw.com
File No. 51856-26

DATE ON WHICH ORDER WAS PRONOUNCED: October 26, 2011

NAME OF JUSTICE WHO MADE THIS ORDER: Justice Streckf

ORDER

UPON THE APPLICATION of Desmarais Energy Corporation (the "Applicant") for an Order extending the stay of proceedings, approving new financing by DEC DIP Financial Group (the "DIP Lender") and approving an administrative charge; AND UPON hearing read the Affidavit of James Long, filed; AND UPON a stay of proceedings being granted providing protection to the Applicant under the *Bankruptcy and Insolvency Act* (the "BIA"); AND UPON hearing Counsel for the Applicant and the DIP Lender as well as Counsel representing various creditors and interested parties in these proceedings;

IT IS HEREBY ORDERED THAT:

1. Service of this application and the materials in support thereof is hereby deemed to be good and sufficient.

STAY OF PROCEEDINGS

2. The stay of proceedings under the BIA is extended to December 9, 2011.

ADMINISTRATION CHARGE

3. The Trustee, counsel to the Trustee and counsel to the Applicant shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Applicant as part of the costs of these proceedings and, the Applicant is hereby authorized to pay to the Trustee, counsel to the Trustee, and counsel to the Applicant, retainers in the cumulative amount of \$30,000 to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.
4. The Trustee and its legal counsel shall pass their accounts from time to time.
5. The Trustee, counsel to the Trustee, if any, and the Applicant counsel, as security for the professional fees and disbursements incurred both before and after the granting of this Order, shall be entitled to the benefits of and are hereby granted a charge (the "Administration Charge") on all present and after-acquired property of the Applicant (the "Property"), which charge shall not exceed an aggregate amount of \$100,000 as security for their professional fees and disbursements incurred at the normal rates and charges of the Trustee and such counsel, both before and after the making of this order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraph 12 hereof.

DIP CHARGE

6. The Applicant is hereby authorized and empowered to obtain and borrow under a credit facility from the DIP Lender in order to finance the Applicant's working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such credit facility shall not exceed \$100,000 unless permitted by further order of this Court.
7. Such credit facility shall be on the terms and subject to the conditions set forth in the funding proposal letter between the Applicant and the DIP Lender dated as of October 17, 2011 (the "Funding Letter").
8. The Applicant is hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the "Definitive Documents"), as are contemplated by the

Funding Letter or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Applicant is hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the Commitment Letter and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

9. The DIP Lender shall be entitled to the benefits of and is hereby granted a charge (the "DIP Lender's Charge") on the Property to secure all obligations under the Definitive Documents incurred on or after the date of this Order which charge shall not exceed the aggregate amount advanced on or after the date of this Order under the Definitive Documents. The DIP Lender's Charge shall have the priority set out in paragraph 12 hereof.
10. Notwithstanding any other provision of this Order:
 - (a) The DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender's Charge or any of the Definitive Documents;
 - (b) upon the occurrence of an event of default under the Definitive Documents or the DIP Lender's Charge, the DIP Lender, upon 7 days notice to the Applicant and the Trustee, with a copy to Nexen Inc. and any other party requesting service, may exercise any and all of its rights and remedies against the Applicant or the Property under or pursuant to the Funding Letter, Definitive Documents and the DIP Lender's Charge, including without limitation, to cease making advances to the Applicant and set off and/or consolidate any amounts owing by the DIP Lender to the Applicant against the obligations of the Applicant to the DIP Lender under the Commitment Letter, the Definitive Documents or the DIP Lender's Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicant and for the appointment of a trustee in bankruptcy of the Applicant; and
 - (c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicant or the Property.

11. The DIP Lender shall be treated as unaffected in any proposal filed by the Applicant under the *Bankruptcy and Insolvency Act* of Canada (the "BIA"), with respect to any advances made under the Definitive Documents.

VALIDITY AND PRIORITY OF CHARGES

12. The priorities of the Administration Charge and the DIP Lender's Charge, as among them, shall be as follows:

First – Administration Charge (to the maximum amount of \$100,000);

Second – DIP Lender's Charge; and

13. The filing, registration or perfection of the Administration Charge or the DIP Lender's Charge (collectively, the "Charges") shall not be required, and the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.
14. Each of the Charges (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts (except for any interests held in trust for Nexen Inc.), liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "Encumbrances") in favour of any Person (as defined in the BIA).
15. Except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Applicant also obtains the prior written consent of the Trustee, the DIP Lender and the beneficiaries of the Charges, or further order of this Court.
16. The Charges shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "Chargees") thereunder shall not otherwise be limited or impaired in any way by:
 - (a) the pendency of these proceedings and the declarations of insolvency made in this Order;
 - (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications;

- (c) any application(s) for receivership orders or any appointment of a receiver or receiver-manager;
- (d) the filing of any assignments for the general benefit of creditors made pursuant to the BIA;
- (e) the provisions of any federal or provincial statutes; or
- (f) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "Agreement") which binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:
 - (i) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of any documents in respect thereof, including the Funding Letter or the Definitive Documents, shall create or be deemed to constitute a new breach by the Applicant of any Agreement to which they are a party;
 - (ii) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges, or the Applicants entering into the Commitment Letter, or execution, delivery or performance of the Definitive Documents; and
 - (iii) the payments made by the Applicant pursuant to this order, including the Funding Letter or the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct or other challengeable or voidable transactions under any applicable law.


Justice of the Court of Queen's Bench of Alberta