



COURT FILE NUMBER 2001-06997

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

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

AND IN THE MATTER OF THE COMPROMISE OR
ARRANGEMENT OF BOW RIVER ENERGY LTD.

DOCUMENT **THIRD REPORT OF BDO CANADA LIMITED,
IN ITS CAPACITY AS MONITOR OF
BOW RIVER ENERGY LTD.**

SEPTEMBER 30, 2020

ADDRESS FOR
SERVICE AND
CONTACT
INFORMATION OF
PARTY FILING THIS
DOCUMENT

MONITOR'S COUNSEL

Bennett Jones LLP
4500 Bankers Hall East, 855 - 2nd Street SW
Calgary, AB T2P 4K7

Attention: Keely Cameron
Telephone: 403-298-3324
Facsimile: 403-265-7219
Email: cameronk@bennettjones.com

**THIRD REPORT OF THE MONITOR
BDO CANADA LIMITED
SEPTEMBER 30, 2020**

I N D E X

INTRODUCTION.....	1
PURPOSE	2
TERMS OF REFERENCE AND DISCLAIMER.....	3
OPERATIONAL UPDATE	3
SALES AND INVESTMENT SOLICITATION PROCESS.....	4
FINANCIAL PERFORMANCE.....	7
UPDATED CASH FLOW FORECAST	9
EXTENSION OF STAY OF PROCEEDINGS	11
RECOMMENDATION.....	12

INTRODUCTION

1. On June 1, 2020 (the "**Filing Date**"), upon the application by Bow River Energy Ltd. ("**Bow River**" or the "**Company**") to the Court of Queen's Bench of Alberta (the "**Court**") pursuant to the *Companies Creditors Arrangement Act*, RSC 1985 c. C-36, as amended (the "**CCAA**"), the Honourable Madam Justice A. D. Grosse granted an order (the "**CCAA Initial Order**").
2. Pursuant to the CCAA Initial Order, the Court appointed BDO Canada Limited as monitor (the "**Monitor**") in the CCAA proceedings (the "**Proceedings**") and granted Bow River certain relief including but not limited to the imposition of an initial stay of proceedings (the "**Stay**") in favour of the Company and its assets through to June 11, 2020.
3. On June 5, 2020, the Monitor filed a report to the Court (the "**First Report**") in advance of the Company's June 10, 2020 Court application (the "**Comeback Application**").
4. At the Comeback Application, the Court granted an *Amended and Restated CCAA Initial Order* (the "**ARIO**") which included certain relief, *inter alia*:
 - a. An extension of the Stay through to July 31, 2020; and
 - b. The approval of a super-priority afforded to the Administration Charge and the Director's Charge as against the property, assets and undertakings of the Company (the "**Assets**") as follows:
 - i. Administration Charge (\$300,000) – first ranking; and
 - ii. Directors' Charge (\$400,000) – second ranking.
5. On July 20, 2020, the Monitor prepared a report to the Court (the "**Second Report**") in advance of Bow River's July 24, 2020 application (the "**July 24th Application**") seeking certain relief.

6. At the July 24th Application, the Court granted two Orders as follows:
- a. an Order:
 - i. further extending the Stay to October 16, 2020;
 - ii. approving a settlement agreement entered into between the Company and Husky Oil Operations Limited; and
 - iii. approving an interim financing agreement with 2270943 Alberta Ltd. (“227”) and the granting of a charge against the Assets to a maximum of \$1.1 Million in relation to borrowings thereunder (the “**Interim Lender’s Charge**”) ranking immediately behind the Administration Charge; and
 - b. an Order:
 - i. approving a sales and investment solicitation process (the “**SISP**”) and the engagement of Sayer Energy Advisors (“**Sayer**”) to administer same;
 - ii. approving an asset purchase and sale agreement between Bow River and 227 in respect of certain of Bow River’s assets as a stalking horse offer (the “**Stalking Horse APA**”) in conjunction with the SISP; and
 - iii. The sealing of certain materials filed in respect of the July 24th Application.

PURPOSE

7. The purpose of this report (the “**Third Report**”) is to provide information to this Honourable Court with respect to:
- a. An operational update since the Filing Date;
 - b. An update as to the status of the SISP;
 - c. Bow River’s financial performance since the Second Report;
 - d. The Company’s further updated cash flow forecast; and

- e. Bow River's upcoming Court application to seek a further extension of the Stay through to October 30, 2020.

TERMS OF REFERENCE AND DISCLAIMER

8. In preparing this Third Report, the Monitor has been provided with, and has relied upon unaudited financial information, certain books and records of Bow River, discussions with the Company's management ("**Management**") and its legal counsel (collectively referred to as the "**Information**").
9. The Monitor has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided; however, the Monitor has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of such information in such a manner that would wholly or partially comply with standards as set out in the *Chartered Professional Accountants Canada Handbook* (the "**CPA Handbook**") and, accordingly, the Monitor expresses no opinion or other form of assurance in respect of such Information
10. Some of the Information referenced in this Third Report relates to weekly cash flow forecasts, projections and related assumptions. An examination or review of cash flow forecasts, projections and related assumptions as outlined in the CPA Handbook has not been performed.

OPERATIONAL UPDATE

11. There have been no material adverse changes in Bow River's operations. The Company has reported recent average production levels of approximately 1,213 boe/d, which is generally consistent with production volumes as at the date of the Second Report.
12. Management continues to liaise with its suppliers and maintain ongoing payments to ensure continuous operations and the uninterrupted supply of goods and services to the Company.

SALES AND INVESTMENT SOLICITATION PROCESS

13. Sayer undertook the following marketing steps in relation to the implementation and administration of the SISP:
 - a. Public marketing of the SISP began on July 24, 2020, with an information brochure summarizing Bow River's assets and the SISP (the "Teaser") being mailed to approximately 700 contacts, and with the Teaser also being posted to Sayer's website at www.sayeradvisors.com (the "Sayer Website");
 - b. Sayer advised that the Teaser was downloaded 231 times from the Sayer Website, which is a high number of downloads for an offering of this nature;
 - c. On July 27, 2020, the Teaser was distributed electronically to approximately 2,100 additional contacts;
 - d. On July 27, 2020, Sayer caused an advertisement to be placed in the *BOE Report* and advised that this advertisement was viewed approximately 2,800 times;
 - e. On August 4, 2020, Sayer caused an advertisement to be placed in the *Daily Oil Bulletin* and advised that this advertisement was viewed 556 times;
 - f. Sayer also placed advertisements in *A&D Watch* and *Energy Advisors Group*, in an attempt to reach new parties not currently on its mailing or email distribution lists in Canada and the United States; and
 - g. Sayer also advertised in its internal *Canadian Oil and Industry Asset Sale Listing* during the entirety of the marketing period, being from July 24, 2020 until August 24, 2020.
14. As a result of Sayer's efforts, 52 parties executed confidentiality agreements and gained access to each of the virtual data room and the physical data room established by Sayer in conjunction with the Company.

15. Fourteen parties submitted offers by the August 24, 2020 noon bid deadline (the “**Bid Deadline**”) provided for by the SISP. One party submitted a late offer the evening of August 24, 2020, which was accepted into the process by Bow River, following consultation with each of Sayer and the Monitor.
16. In total, Bow River received offers on 98% and 95% of its producing properties in Alberta and Saskatchewan respectively.
17. None of the offers received by the Company constituted a “Superior Offer” (as defined by the SISP) to the Stalking Horse APA and so in consultation with the Monitor it was determined that an auction was not necessary.
18. Following the Bid Deadline, the Company in consultation with Sayer and the Monitor, negotiated with certain of the bidders to develop a proposal by which a significant portion of Bow River’s Alberta assets would be sold in three separate transactions including the Stalking Horse Bid (the “**Proposal**”). The Proposal provides for a significant portion of Bow River’s outstanding surface and mineral lease payments and outstanding royalties to be satisfied by the prospective purchasers, in order to transfer the assets subject to the Proposal. Additionally, the Proposal contemplates that all post-filing property taxes owed by the Company to various municipalities would also be obligations assumed by the prospective purchasers.
19. With a view to attempting to advance the Proposal, on September 10, 2020, with the Monitor in attendance, the Company met with and presented the Alberta Energy Regulator (the “**AER**”) and the Orphan Well Association (the “**OWA**”) with a summary of the Alberta offers received, explained which offers the Company intended to pursue as part of the Proposal, and discussed what environmental liabilities would remain as a result.

20. At that meeting, the AER raised several concerns with the Company's Proposal including the Stalking Horse APA. In an effort to move the Proposal forward, the Company relayed these concerns to the stalking horse bidder, 227, and recommended that 227 approach the AER to discuss these issues prior to the Company preparing its Court materials seeking approval of the Proposal.
21. On September 16, 2020, 227, with the Monitor and the Company also in attendance, 227 met with the AER to explain the rationale for the Stalking Horse APA and to attempt to address the AER's concerns with respect to the Stalking Horse APA.
22. On September 21, 2020, the AER formally responded to Bow River advising that it could not support the Proposal for various reasons and would object to an application by the Company to seek the Court's approval of the Proposal. A copy of the AER's response is attached as Exhibit "A" to the September 28, 2020 Affidavit of Daniel Belot filed in the Proceedings (the "**Fourth Belot Affidavit**").
23. On September 24, 2020, counsel for the Company wrote to the AER in response to the AER's position, a copy of which is attached as Exhibit "B" to the Fourth Belot Affidavit. In addition to setting out the Company's response to the AER's position, the Company:
 - a. Sought confirmation as to whether the AER would reconsider the Proposal in light of the Company's response to the AER's concerns;
 - b. In the alternative, offered to seek Court approval of a further abbreviated sales process that would not include the Stalking Horse APA; however, third party funding of up to \$500,000 would be required to ensure the Company had sufficient access to funds to see a further sales process through to completion; and

- c. In the alternative, inquired as to whether the AER would be willing to work with the Company on a plan to transition the Company's Alberta assets to the care and custody of, presumably the OWA, by way of the appointment of a Receiver.
24. A meeting between the Company, the AER, the OWA and the Monitor to further discuss the situation is scheduled for October 2, 2020.
25. Since the Bid Deadline, Management has also engaged in communications with the Saskatchewan Ministry of Energy and Resources, Indian Oil & Gas Canada and the Saskatchewan Ministry of Justice with a view to attempting to formulate viable asset transactions in respect of certain offers received for Bow River's Saskatchewan assets. At this time, it is not certain as to whether any agreements will be reached in light of unresolved issues relating to the treatment of outstanding surface and mineral lease payments and royalties owed to various parties in Saskatchewan, including various Saskatchewan governmental ministries. Further, there are issues surrounding security deposit requirements with the Saskatchewan Ministry of Energy and Resources.

FINANCIAL PERFORMANCE

26. In advance of the July 24th Application, Management prepared an updated cash flow forecast covering the period July 11 to October 16, 2020 (the "**Updated Forecast**") a copy of which was appended as Exhibit "B" to the July 17, 2020 Affidavit of Daniel Belot filed in the Proceedings.
27. A variance analysis of the Company's actual receipts and disbursements for the period July 11 to September 18, 2020 (the "**Review Period**") versus the corresponding period in the Updated Forecast is set out in the following table:

	Actual	Forecast	Variance
Receipts			
Gross oil and gas sales	1,802,865	1,924,650	(121,785)
Receivables/Other	299,216	40,000	259,216
	<u>2,102,081</u>	<u>1,964,650</u>	<u>137,431</u>
Disbursements			
Operating	(1,219,361)	(2,527,278)	1,307,917
Transportation	(86,844)	(125,000)	38,156
Royalties	(74,537)	(170,617)	96,080
Leases	(172,583)	(293,835)	121,252
G&A	(530,199)	(499,556)	(30,643)
Other	(292,498)	(196,220)	(96,278)
Interim financing	260,000	260,000	-
Professional fees	(370,833)	(431,048)	60,215
Sales process	10,700	-	10,700
	<u>(2,476,155)</u>	<u>(3,983,554)</u>	<u>1,507,399</u>
Net cash flow	(374,074)	(2,018,904)	1,644,830
Cash - beginning	2,389,641	2,389,641	-
Cash - closing	<u>2,015,567</u>	<u>370,737</u>	<u>1,644,830</u>

28. Bow River had approximately \$2.0 Million of available funds as of September 18, 2020; however, as noted below there are a significant amount of accrued operating expenses to be paid.
29. The Company experienced negative cash flow of approximately \$374,000 over the Review Period, which resulted in a favourable overall variance of approximately \$1.6 Million in comparison to the cash flow predicted in the Updated Forecast, the majority of which variance is attributable to timing differences in respect of the payment of operating expenses.

30. The Monitor offers the following comments in respect of the following significant noted individual line item variances:

- a) The favourable variance of approximately \$259,000 in respect of accounts receivable is due to the collection of \$258,000 from a joint venture partner that had not been anticipated; and
- b) The positive variance of approximately \$1.3 Million in respect of operating expenses is due primarily to timing differences in respect of the receipt and payment of invoices from suppliers including utility bills.

UPDATED CASH FLOW FORECAST

31. Management has prepared a further updated cash flow forecast for the period September 19 to November 27, 2020 (the “**September 19th Forecast**”), including estimated accrued revenues and expenses to November 27, 2020, a copy of which is attached as Exhibit “C” to the Fourth Belot Affidavit. The September 19th Forecast can be summarized as follows:

Receipts	
Gross oil and gas sales	\$4,278,437
Accounts receivable	1,575
	4,280,012
Disbursements	
Operating expenses	(3,619,563)
Transportation	(150,000)
Royalties	(418,690)
Leases	(277,246)
G&A	(517,961)
Other (GST/PST)	(98,115)
Professional fees	(392,000)
Shut-in costs	(496,000)
Bid deposits	(10,700)
Sales process	(75,000)
	(6,055,275)
Net cash flow	(1,775,263)
Cash - beginning	2,015,567
Cash - ending	\$240,304

32. The Monitor has reviewed the reasonableness of the September 19th Forecast in accordance with section 23(1)(b) of the CCAA and wishes to highlight the following significant points:
- a. Management has forecast negative cash flow of approximately \$1.8 Million over the forecast period;
 - b. The September 19th Forecast does not contemplate the closing of any of the transactions contemplated by the Proposal; and
 - c. The September 19th Forecast contemplates the Company effectively ceasing operations as of the end of November.
33. Our review consisted of inquiries, analytical procedures and discussions related to information, and assumptions provided to us by Management. Since hypothetical assumptions need not be supported, our analysis thereof was limited to evaluating whether they were consistent with the purpose of the September 19th Forecast. We have also reviewed the support provided by Management for the probable assumptions and the preparation and presentation of the September 19th Forecast.
34. Based on our review, nothing has come to our attention that causes us to believe that, in all material respects:
- a. The hypothetical assumptions are not consistent with the purpose of the September 19th Forecast;
 - b. As of the date of this Third Report, the probable assumptions developed by Management are not suitably supported and consistent with the current plans of Bow River or do not provide a reasonable basis for the September 19th Forecast, given the hypothetical assumptions; or
 - c. The September 19th Forecast does not reflect the probable and hypothetical assumptions.

35. The Monitor gives no assurance and makes no representations as to whether the September 19th Forecast will be met. The Monitor expresses no opinion or other form of assurance with respect to the accuracy of any financial information presented in this Third Report that has been provided by the Company. The September 19th Forecast has been prepared solely for the purpose of demonstrating the Company's ability to fund operations over the forecast period and readers are cautioned that they might not be appropriate for other uses.

EXTENSION OF STAY OF PROCEEDINGS

36. As set out earlier in this Third Report, the Stay expires on October 6, 2020. In light of the current uncertainties associated with the status of the sale of the assets in each of Alberta and Saskatchewan, the Company will be seeking a further brief extension of the Stay through to October 30, 2020, with a view to attempting to further engage with the significant stakeholders and establish clarity on a path forward.
37. The Monitor is of the view that Management continues to act with due diligence and in good faith as reflected by:
- a. Continuing to attempt to work towards consummating potential transactions generated from the SISP;
 - b. Continuing to manage the day-to-day business and operations;
 - c. Engaging with the significant stakeholders, including the various regulatory bodies;
 - d. Participating in ongoing meetings and communications with the Monitor;
and
 - e. Cooperating as necessary to prepare for the upcoming Court application.

RECOMMENDATION

38. At this time, the Monitor is supportive of a brief extension of the Stay to allow Management the opportunity to engage in further communications with the Company's significant stakeholders in order to either establish a path forward for the consummation of certain sales transactions, or in the alternative develop a plan for the orderly transfer of the care and custody of the Company's assets to a responsible party.

All of which is respectfully submitted this 30th day of September 2020.

BDO Canada Limited
in its capacity as Monitor of Bow River Energy Ltd.
and not in its personal or corporate capacity



Per:

Marc Kelly
Senior Vice President