

COURT FILE NUMBER **2001-06997**
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE Calgary

Clerk's Stamp

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

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

DOCUMENT **AFFIDAVIT**

ADDRESS FOR SERVICE AND Jessica L. Cameron
CONTACT INFORMATION OF Borden Ladner Gervais LLP
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 File No. 441275/000025

AFFIDAVIT NO. 4 OF DANIEL G. BELOT

Sworn on September 28, 2020

I, Daniel G. Belot, of Alberta, SWEAR AND SAY THAT:

1. I am the Vice President of Finance, Chief Financial Officer, and co-founder of the applicant, Bow River Energy Ltd. ("**Bow River**" or the "**Company**"). I have been the VP Finance and CFO of Bow River since February 2013. I have over 30 years of financial experience in the oil and gas industry, focusing on financial management, corporate finance, and energy investment banking. As such, I have personal knowledge of the matters to which I depose in this Affidavit, except where such matters are stated to be based

on information and belief, in which case I have stated the source of my information and, in all cases, I believe such information to be true. In preparing this Affidavit, I consulted with the Company's management team and advisors and reviewed relevant documents and information concerning the Company's operations, financial affairs and restructuring activities.

2. I am authorized to swear this Affidavit as corporate representative of the Company.
3. I previously swore Affidavits in the within proceedings on May 29, 2020 (the "**First Affidavit**") and June 5, 2020 (the "**Second Affidavit**"), in support of applications by Bow River for an initial order and an amended and restated initial order, respectively, each pursuant to the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended (the "**CCAA**").
4. I also previously swore an Affidavit in the within proceedings on July 17, 2020 (the "**Third Affidavit**"), in support of an application by Bow River for, *inter alia*, the approval of a sales and investment solicitation process ("**SISP**"), the approval of a Stalking Horse Asset Purchase and Sale Agreement (the "**Stalking Horse APA**") and an extension of the stay of proceedings up to and including October 16, 2020.
5. On June 1, 2020, the Honourable Madame Justice Grosse granted the Company's application for an initial order (the "**Initial Order**"). On June 10, 2020, the Honourable Mister Justice Jeffrey granted the Company's application for an amended and restated initial order (the "**ARIO**"). On July 24, 2020, the Honourable Madame Justice Topolniski granted the Company's application for, *inter alia*, the implementation of the SISP and the approval of the Stalking Horse APA (the "**SISP Order**") and the extension of the stay period as provided for by the ARIO until and including October 16, 2020 (the "**Stay Extension Order**").
6. I swear this third Affidavit in support of the Company's application for an order which, amongst other things:

- (a) extends the stay of proceedings as presently granted by the ARIO and as extended by the Stay Extension Order up to and including October 30, 2020, or such further and other date as this Court may consider appropriate;
 - (b) grants such further and other relief as the Company may request and this Honourable Court may deem just.
7. All capitalized terms used by not otherwise defined herein shall have the meaning given to them in the ARIO.

THE SISP & STALKING HORSE APA

8. In July 2020, the Company sought and obtained the SISP Order as a means to maximize value to its stakeholders through either the sale of, or an investment in, all of Bow River's property (the "**Opportunity**"). The Stalking Horse APA was included as part of the SISP, and was approved by this Court in the SISP Order.
9. Pursuant to the SISP Order, the Company worked in consultation with the Monitor and Sayer Energy Advisors (the "**SISP Advisor**") to conduct the SISP. I am advised by Tom Pavic, President of the SISP Advisor, and honestly believe that:
- (a) Public marketing of the SISP and the Opportunity 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 on that date, and with the Teaser also being posted to the SISP Advisor's website at www.sayeradvisors.com (the "**Sayer Website**").
 - (b) Over the course of the SISP, 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 by the SISP Advisor to approximately 2,100 additional contacts.
 - (d) On July 27, 2020, the SISP Advisor caused an advertisement respecting the Opportunity to be placed in the *BOE Report* and that this advertisement was viewed 2,782 times.

- (e) On August 4, 2020, the SISP Advisor caused an advertisement respecting the Opportunity to be placed in the *Daily Oil Bulletin* and that this advertisement was viewed 556 times.
 - (f) The SISP Advisor also placed advertisements in *A&D Watch* and *Energy Advisors Group* respecting the Opportunity, in an attempt to reach new parties not currently on its mailing or email distribution lists in Canada and the United States.
 - (g) The SISP Advisor also advertised the Opportunity 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.
10. During the course of the SISP, a total of 52 parties executed confidentiality agreements and gained access to each of the virtual data room and the physical data room, which was setup in Bow River's office in order to allow bidders to conduct due diligence respecting the Opportunity. During the course of the marketing period, four parties attended at Bow River's office in order to conduct due diligence regarding the Opportunity.
 11. A total of 14 companies submitted offers prior to the noon bid deadline on August 24, 2020, and one company submitted a late offer the evening of August 24, 2020, which offer was accepted in the process by Bow River, following consultation with each of the SISP Advisor and the Monitor.
 12. I am advised by Mr. Pavic and do honestly believe that the ratio of executed confidentiality agreements to offers received, being 27%, is comparable to other similar divestiture assignments the SISP Advisor has recently managed.
 13. None of the offers received by the Company constituted a "Superior Offer" as defined within the SISP.
 14. In total, Bow River received offers on 98% and 95% of its producing properties in Alberta and Saskatchewan, respectively.

15. Following the SISP bid deadline of August 24, 2020, the Company worked, diligently and in good faith, to develop a proposal by which a significant portion of Bow River's Alberta assets would be sold in three separate transactions (the "**Proposal**"). Pursuant to the Proposal, a significant portion of Bow River's outstanding surface and mineral lease payments and outstanding royalties would also be satisfied by the proposed purchasers, in order to transfer the assets subject to the Proposal. Additionally, the Proposal contemplated that all post-filing property taxes owed by the Company to various municipalities would also be obligations assumed by the purchasers.
16. Among the Company's efforts to move forward with its Proposal, were discussions with the Alberta Energy Regulator ("**AER**") on September 10, 2020 and September 16, 2020, respectively. The Monitor participated in each of the Company's meetings with the AER, and supported the Company's Proposal.
17. At the first meeting with the AER, the Company presented the AER with a summary of all of the offers received through the SISP, which offers the Company intended to pursue, being the Proposal, and discussed what environmental liabilities would remain as a result. The Company advised the AER that it intended to submit the Proposal for approval by this Court at the October 6, 2020 hearing date.
18. At that meeting, the AER raised several concerns with the Company's Proposal and the Stalking Horse APA in particular. In an effort to move the Proposal forward, the Company relayed these concerns to the stalking horse bidder, 2270943 Alberta Ltd. ("**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.
19. The Company again participated in a meeting with the AER on September 16, 2020, at the request of 227, regarding concerns the AER had expressed regarding the Stalking Horse APA. While primarily a meeting between the AER, the Monitor and 227, the Company participated in this meeting in the event the AER had any further questions for the Company respecting the Proposal in general.

20. On September 21, 2020, counsel for the AER formally responded to the Proposal by letter to Borden Ladner Gervais (“**BLG**”), counsel for the Company in these CCAA proceedings (the “**AER Letter**”). A copy of the AER Letter is attached hereto and marked as **Exhibit “A”**.
21. In the AER Letter, the AER gave notice that it would not support the Proposal and would object to any application by the Company for the Court’s approval of the Proposal. This response severely prejudices the Company and its stakeholders’ ability to achieve the goals of these CCAA proceedings.
22. Counsel for the Company responded to the AER Letter on September 24, 2020 (the “**Response Letter**”). A copy of the Response Letter is attached hereto and marked as **Exhibit “B”**.
23. In the Response Letter, the Company sought confirmation from the AER as to its position on Bow River’s intended application for approval of the transactions reflected in the Proposal. As of my swearing of this Affidavit, the AER has not provided a response to the Company’s Response Letter.
24. The Company undertook the Court-approved SISP and agreed to the Stalking Horse APA in good faith and in consideration of the purposes of the CCAA. Throughout these CCAA proceedings, the Company has been working closely with and cooperating with the Monitor, and has been acting in good faith and with due diligence throughout the process.

EXTENSION OF THE STAY OF PROCEEDINGS

25. The Company requests an extension of the Stay Period, which is currently set to expire on October 16, 2020, up to and including October 30, 2020, or such further and other date as this Court may consider appropriate.
26. Since the granting of the ARIO, the Company, with the oversight and assistance of the Monitor, has been working diligently to maintain the stability of its operations and business, manage its liquidity position, and review potential strategic options and alternatives to address its financial position.

27. In particular, the Company has:

- (i) Developed the SISP in consultation with the Monitor and SISP Advisor, and received this Court's approval to conduct the SISP;
- (ii) conducted the SISP in accordance with the terms of the SISP Order;
- (iii) solicited bids and otherwise participated in the SISP;
- (iv) received final bids from interested parties pursuant to the SISP;
- (v) begun discussions with regulators regarding the proposed transactions;
- (vi) begun discussions with Indian Oil and Gas Canada ("**IOGC**") and various ministries within the Government of Saskatchewan (the "**Saskatchewan Ministries**") respecting possible transactions on the Company's Saskatchewan properties as well;
- (vii) met with the AER on September 10, 2020 and again on September 16, 2020, presenting it with the offers received and discussing any liabilities that would remain; and
- (viii) in light of the bids received through the SISP, issued the Proposal to the AER to accept the Stalking Horse APA and two other transactions for Bow River's assets.

28. Following receipt of the AER Letter, the Company discussed possible next steps with each of 227 and the Monitor. Through these conversations, the Company indicated if the AER continues to refuse to support the Proposal arising from the court-approved SISP, the Company would consider conducting an additional, abbreviated sales process, as set out in the Response Letter (the "**Proposed Additional Sales Process**"). The Proposed Additional Sales Process would:

- (a) be abbreviated;
- (b) be conducted by the Company with the assistance of the SISP Advisor and Monitor;
- (c) be an open remarketing of all of Bow River's assets with no stalking horse bid;
- (d) include an auction with respect to qualified bidders; and
- (e) specify that preference would be given to *en bloc* offers, offers that whitemap a particular geographical area, and/or offers that assume the most deemed liabilities.

29. The Company has recognized that the reality of an additional sales process would require funding from an alternate source. Particularly given the time, resources and funds expended during the previously court-approved SISP and the Company's rapidly deteriorating cash position, Bow River does not anticipate having the funds necessary to support the holding and conclusion of the Proposed Additional Sales Process. Similarly, the Company's current interim lender, being 227, is unwilling to fund an additional sales process. In these circumstances, the only solution would be for the AER, or alternatively the Orphan Well Association ("OWA"), to fund the process. Bow River proposed this course of action to the AER in the Response Letter. As of my swearing of this Affidavit, the AER has not responded to our proposal.
30. Ultimately, if the AER does not agree to fund the Proposed Additional Sales Process, an extension of the CCAA stay will nonetheless be necessary. If the Company is unable to conduct the Proposed Additional Sales Process it will have exhausted all of its alternatives and will be unable to carry on business in the ordinary course. As a result, it will be necessary for the Company to cease its restructuring efforts and to focus on an orderly wind-down of its affairs and transition its interests to the applicable energy regulator, or as they direct. In this regard, through the Response Letter the Company has advised the AER that if the Proposed Additional Sales Process does not proceed, it will have exhausted its restructuring efforts and will work with the AER to ensure an orderly transition of its assets.
31. The Company also requires the proposed stay extension to continue negotiating transactions regarding its Saskatchewan assets. Bow River has received offers pursuant to the SISP regarding these assets and, as noted above, has been in discussions with IOGC and the Saskatchewan Ministries, regarding their disposition.
32. The offers received for the Saskatchewan assets are insufficient to satisfy outstanding surface and mineral leases and royalty payments, related to the assets and owed to the IOGC and Saskatchewan Ministries. Thus, the Company is and will continue working with the Saskatchewan Ministries and IOGC to attempt to reach a resolution in order to allow these transactions to proceed. I do not expect that such negotiations will resolve prior to October 16, 2020, the current expiry of the Stay Period.

33. In the event these negotiations are not resolved expeditiously or are ultimately unsuccessful, the Company will also have to develop a transition plan respecting its Saskatchewan assets as well.
34. The Company has prepared an updated cash flow forecast out to November 27, 2020, which is attached hereto as **Exhibit "C"**. The Cash Flow Forecast supports the requested stay extension; however, it contains several critical assumptions, as follows:
- (a) it assumes that there will be no material changes in commodity pricing, including the differential between Western Canadian Select ("WCS") and West Texas Intermediary ("WTI"), operating costs, or current production levels until the end of November 2020;
 - (b) it assumes that the Company will continue to defer payment of post-filing surface and mineral lease payments on its non-producing properties; and
 - (c) it assumes that the Company will only pay the pro-rated portion of post-filing non-linear property taxes on producing properties in Alberta, excepting where the property taxes are so immaterial that the Company will nonetheless remit payment of them. It generally does not account for payment of Saskatchewan property taxes, which largely are not due until December 31, 2020.
35. Further, under the Cash Flow Forecast, the Company's electricity charges, which are included as an operating expense, are presently two months behind actual consumption due to a timing variance with respect to the issuance of invoices by EPCOR. Therefore, while the Company does not have any overdue invoices presently, there is a concern that if EPCOR accelerated monthly billing, this could have an adverse impact on the Company's Cash Flow up to an estimated \$500,000.
36. The Cash Flow Forecast does not contemplate any further draws on the Interim Facility (as defined in my Third Affidavit). As noted above, the Company asked 227 whether it would be willing to fund the Proposed Additional Sales Process; however, 227 declined to make a further advance under the Interim Facility to Bow River.

37. While the Cash Flow Forecast indicates an estimated positive balance of \$240,000 at the end of November 2020, in order to conduct the Proposed Additional Sales Process the Company estimates that a further \$250,000 to \$500,000 in funding would be required. The reason for this is that if the Proposed Additional Sales Process were conducted, even under the compressed timelines, transactions under that process likely would not close until the beginning of December. The length of this additional period, coupled with the variable assumptions underlying the Cash Flow Forecast and the timing variance with respect to EPCOR billings, could easily result in negative cash balances for the Company. If this occurred, it would be unable to complete the Proposed Additional Sales Process without outside funding.
38. The Company has been acting in good faith and with due diligence throughout these CCAA proceedings and believes it is in the best interests of Bow River and all stakeholders to continue these proceedings until October 30, 2020. The requested stay extension will allow the Company time to confirm the AER's position respecting the Proposed Additional Sales Process, and in particular, whether the AER, or the OWA, are willing to fund that process.
39. It will also allow the Company time to continue negotiations with respect to transactions for the Saskatchewan assets with the IOGC and Saskatchewan Ministries.
40. Alternatively, if funding for the Proposed Additional Sales Process is not possible, and/or the Company's negotiations respecting transactions on the Saskatchewan assets are unsuccessful, the requested stay extension will allow the Company time to develop a plan to orderly, and safely, transition its assets to the care and custody of a third party as directed by the applicable energy regulators.

Via Email

September 21, 2020

Borden Ladner Gervais LLP (BLG)
Centennial Place, East Tower,
1900, 520 – 3rd Ave. SW,
Calgary, AB, Canada T2P 0R3

Attention: Jessica Cameron, Senior Associate

Dear Ms. Cameron:

RE: Bow River Energy Ltd. Companies Creditors Arrangements Act (CCAA)

You have asked whether the AER would support a proposal by Bow River Energy Ltd. (Bow River) that involves the sale of specific assets (not white-mapped) to 2270943 Alberta Ltd. (“the Stalking Horse Bidder”)- a credit bid by one of the debenture holders of Bow River and the sale of additional white mapped assets to [REDACTED], resulting in a remaining liability of approximately \$18-\$23 million destined for the OWA (“the Proposal”).

The AER has completed its review of the Proposal. We were aided in our review by the meetings you set up for us on September 10, 2020 and September 16, 2020 and by the subsequent information you and the Stalking Horse Bidder provided. In brief, for the reasons explained below, the AER cannot support the Proposal and would object to a court application for approval of these sales.

The AER had previously expressed its reservations in court on July 24, 2020 regarding the proposed sales process if the effect was for the Stalking Horse Bidder to selectively bid on assets to reduce their debt while leaving unfunded liabilities behind. While we appreciate that the outcome of the sales process did not meet expectations, unfortunately the current Proposal does nothing to alleviate the AER’s concerns.

The AER objects to the Proposal as it is contrary to the Supreme Court of Canada’s decision in *Redwater*. In *Redwater*, the Court held that in an insolvency proceeding, environmental obligations are to be addressed in priority to other monetary claims, including those of secured creditors. The Proposal is contrary to this principle in that its effect is to eliminate the debt of the Stalking Horse Bidder (a debenture holder) in priority to addressing Bow River’s environmental obligations.

THIS IS EXHIBIT " A
referred to in the Affidavit of
Daniel G. Belot
Sworn before me this 28th
day of September, A.D. 2020

Myles Fish
A Commissioner for Oaths in
and for Alberta

MYLES J. FISH
A Commissioner for Oaths
in and for Alberta
Lawyer, Notary Public

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It appears that Bow River seeks to distinguish this “liquidating” CCAA process from other CCAA processes in that Bow River will not continue to operate after the conclusion of the CCAA process but rather the Stalking Horse Bidder and others will take over the operation of the selected assets. However, on the contrary, this so-called “liquidating” aspect of this CCAA makes it even more akin to a receivership and there is all the more reason that the priority established in *Redwater* should apply.

As BLG noted on its own blog summary of the *Redwater* decision:

The landmark decision from the Supreme Court of Canada highlights the generational shift toward environmental protection at every sphere and at every level. ...Environmental protection should be high in the priority of all business endeavours regardless of whether the undertaking directly or indirectly engages environmental laws.

You should also be aware that the AER has dealt with several CCAA matters since *Redwater*, and the decision was a factor in each of these matters.

While we appreciate the economic rationale behind the Stalking Horse Bidder’s selective bid, this does not address the significant remaining environmental liability that would result from this Proposal. Similarly, while we appreciate that the Stalking Horse Bid was the superior offer received, we are concerned that it did not serve the purpose of a stalking horse bid in that rather than establishing a floor for bids, the Stalking Horse bidder advised that it was over the market value of those assets. As a result, in our view, the sales process was flawed from the outset in that other bidders could not compete with the Stalking Horse Bid.

While the AER is willing to work collaboratively with companies to find solutions that might be mutually agreeable, we have consistently held that *Redwater* must be upheld and that a CCAA process cannot be used to prioritize business considerations over regulatory obligations. The AER is happy to work with Bow River, and the Monitor if there are other proposals that would address our objections or alternatively, other approaches that would provide for an orderly wind up of Bow River’s operations.

In addition, as you know, the AER retains its statutory discretion on licence transfers. Were Bow River to enter into bankruptcy or receivership then the involvement of some of the Stalking Horse Bidder’s directors as shareholders and former directors of Bow River is a relevant consideration. As noted in your correspondence on September 17, one of the Directors stepped down from Bow

River after his appointment to 2270943 Alberta Ltd. (the Stalking Horse Bidder's company), resulting from a conflict of interest between those two roles.

Finally, if you intend to seek court approval of this Proposal, in spite of our objections, then the October 6th Edmonton date is no longer appropriate. It was only on September 16, 2020 that we were advised by the Stalking Horse Bidder that they questioned the application of *Redwater* to the CCAA process and we assume by implication this is the position of Bow River.

If this is the case, then this application raises complex legal issues that will require additional time to adequately respond to. As such, we would request a later court date before a Calgary commercial Court Justice as they regularly deal with and understand complex insolvency issues. **Please advise, as soon as possible, if you are agreeable to this latter request as if not, we will need to immediately seek a formal adjournment of the October 6 date.**

Sincerely,



Maria Lavelle
Legal Counsel, AER

cc: Robyn Gurofsky, BLG
Matti Lemmens, BLG
Keely Cameron, Bennett Jones
Kaitlin Szacki, AER
Bonni Pierce, AER

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BLG
Borden Ladner Gervais

File No. 441275/000025

September 24, 2020

Delivered by Email

Alberta Energy Regulator
Calgary Head Office
Suite 1000, 250-5 Street SW
Calgary AB, T2P 0R4

Attention: Ms. Maria Lavelle

Dear Ms. Lavelle,

**Re: In the Matter of the *Companies' Creditors Arrangement Act* proceedings of
Bow River Energy Ltd. ("Bow River" or the "Company")**

Thank you for your letter of September 21, 2020. To say that our client, Bow River was disappointed with the Alberta Energy Regulator's ("AER") decision in the above noted proceedings would be an understatement. For the reasons noted below, we would urge the AER to reconsider its position respecting the three transactions Bow River proposes to consummate in its proceedings under the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended ("CCAA").

First, we are extremely troubled by the AER's assertions in your letter that Bow River's Court-approved sales process was flawed from the outset due to the presence of the Stalking Horse Bid. Bow River advised the AER that it intended to pursue a sales process involving a stalking horse credit bid prior to bringing such application. Furthermore, the AER appeared and made representations to the Court during the Application where such process, and the Stalking Horse Purchase and Sale Agreement (the "**Stalking Horse PSA**") itself, were both approved by the Court. While the AER reserved its rights with respect to potential vesting motions following the outcome of Bow River's sales process, the process itself that was approved by the Court was not challenged. The Court went out of its way to confirm that the AER was not reserving its rights with respect to either the process itself, or the Stalking Horse PSA, as those were the very issues before it for approval. The AER never appealed this order and the appeal period has long since expired.

While all parties are understandably disappointed with the outcome of the sales process, the fact remains that this was a court-approved process, that involved a stalking horse credit bid from the outset, and the AER did not object to the process itself, nor the Stalking Horse PSA. Based on this, Bow River has expended considerable time, resources and scarce funds, in order to pursue this process. The AER cannot lie in the weeds and object to the process at this stage in the proceedings because it is dissatisfied with the outcome. This is patently unfair and prejudicial to not only Bow River, but all of Bow River's stakeholders, including the interim lender and stalking horse bidder,

THIS IS EXHIBIT " B "
referred to in the Affidavit of
Daniel G. Belot
Sworn before me this 28th
day of September A.D. 20 20

Myles Fish
A Commissioner for Oaths in
and for Alberta

MYLES J. FISH
A Commissioner for Oaths
in and for Alberta
Lawyer, Notary Public

2270943 Alberta Ltd. (“227”), and the Alberta public in general. It also raises questions about whether the AER’s position is subject to the principle of *res judicata*.

Second, in our view, the AER misconstrues the applicability of the Supreme Court of Canada’s decision in *Redwater* to these proceedings. The decision in *Redwater* concerned the allocation of sale proceeds as between the AER and the secured creditor. It did not involve a credit bid by the first ranking secured creditor to acquire the assets. If the AER’s position is taken to its logical conclusion, it would imply that the AER is not supportive of any credit bids in any form of insolvency proceedings. This surely cannot be the case, as we understand the AER has supported credit bids by secured creditors in other insolvency proceedings. We also do not believe this is the effect of the *Redwater* decision.

Third, in your letter you note that it is the AER’s position that the CCAA process cannot be used to prioritize business considerations over regulatory obligations. That is hardly what Bow River is attempting to do here. Bow River’s primary objective in conducting its sales process was to transfer as many liabilities as possible to solvent third parties, knowing full well that it will not survive the within CCAA proceedings. As you are aware, Bow River is proposing to pursue a whitemap offer on assets where there are competing bids offering higher cash consideration. This decision puts repayment of the interim financing facility at risk. Certainly this is an example of putting its regulatory obligations ahead of business interests. Moreover, with respect to the single well transaction proposed by the Company, this was the only offer received for this asset. The cash consideration will barely be sufficient to cover the professional fees associated with consummating the transaction. Again, an indication of the Company putting regulatory obligations above its own commercial interests.

With respect to the Stalking Horse Bid, the only other bids received on these properties pertained to the underlying mineral interests, which would have seen no transfer of liabilities. The Stalking Horse Bid therefore results in the greatest transfer of liabilities possible based on the offers the Company received. We understand the AER takes issue with the Stalking Horse Bid; however, we reiterate that the sales process and the Stalking Horse PSA were all approved by the Court on July 24, 2020. Pursuant to that Order, Bow River is at liberty to apply for an Order vesting title to the Purchased Assets (as defined in the Stalking Horse PSA) following completion of the sales process.

The present stay of proceedings expires on October 16, 2020. Additionally, the Company’s cash position is rapidly deteriorating. Without pursuing the transactions proposed by the Company, the end result will very likely be that all of the Company’s assets will be orphaned, thereby increasing the strain on the Orphan Well Fund.

The AER’s position in denying the proposed transactions therefore runs directly contrary to at least two policies and objectives we had understood the AER is attempting to protect. First, it is contrary to the objectives of protecting the environment and the public interest, as more assets are likely to be orphaned. Second, it runs afoul of the AER’s commitment to transparency, as it is in direct opposition to a previously granted Court Order, granted at an Application to which the AER was an active participant, resulting in an Order upon which Bow River relied when pursuing its Court-approved Sales Process.

In light of the foregoing, and in light of the fact that Bow River has a final Court Order authorizing it to apply for a vesting order in this exact situation, please confirm whether the AER is prepared to proceed with the Company's application for approval of the two additional proposed sale transactions, and vesting orders with respect to all three transactions.

Alternatively, we note the invitation in your letter that the AER is willing to work collaboratively with Bow River and the Monitor to pursue other proposals to address an orderly wind-up of the Company. Without conceding that there were any flaws in the sales process that has already been conducted by Bow River, and solely in an effort to reach a mutually agreeable resolution with the AER, the Company is prepared to seek approval of an additional sales process.

The proposed sales process would be abbreviated and conducted again by the Company with the assistance of Sayer Energy Advisors as sales agent, and the Monitor. The sales process would not involve a stalking horse bid from 227 and would be an open remarketing of all of Bow River's assets. Following the remarketing, the sales process would include an auction with respect to qualified bidders. Lastly, the sales process would specify that preference will be given to *en bloc* offers, offers that whitemap a particular geographical area, and/or offers that assume the most deemed liabilities. In this manner, the design of the sales process would be to maximize the amount of environmental liabilities transferred and assumed by solvent third parties.

Such a sales process would only be conducted if the AER agrees to proceed with it and abide by its terms. Further, it is highly unlikely that Bow River will be able to fund this additional process, having almost exhausted its resources on completing the previously approved Court sales process. Bow River estimates that the costs to run this additional sales process range between \$250,000 to \$500,000, on account of its operational losses. To that end, Bow River will require a funding commitment of \$500,000 in order to conduct an additional sales process. Bow River's present interim lender, 227, has denied this request for additional funding.

We understand the Orphan Well Association ("OWA") has indicated it may be willing to fund a receivership respecting Bow River. In our view, if funding exists to fund a receivership run by the OWA, those funds may be utilized to support Bow River in conducting a sales process in the within CCAA proceedings, while management remains in place and would be able to assist with such a process. To that end, can you please advise whether the AER itself, or the OWA, would be willing to fund such an additional sales process?

Finally, prior to embarking on any further duplicative process, some understanding will have to be reached as between the Company and the AER so that the Company does not find itself in the same position as it is now – without any *en bloc* offers, but attempting to consummate what transactions it may. Can the AER confirm that if Bow River conducts the additional sales process as proposed, and receives no *en bloc* offers, that the AER will not object to the Company entering into a, or several, transaction(s) in an effort to address what environmental liabilities it can?

As you are aware, our filing deadline with respect to the October 6th Court date is next Monday September 28, 2020. In light of the uncertainties surrounding these proceedings, Bow River intends to use the October 6th date to seek an extension of the stay of proceedings. We will be seeking a

filing extension from the Court in order to file and serve those materials on parties, including the AER no later than noon on Thursday October 1, 2020.

That being said, if an additional sales process is going to be run, it will require Court approval as soon as possible. The Company is unlikely to have the cash resources to survive past the end of November 2020. Therefore, it needs to conduct the process, finalize definitive purchase and sale agreements, obtain court approval and submit license transfers all within the next eight weeks. With that in mind, time on the Commercial List will need to be secured on an urgent basis in order to approve any additional sales process. **We would therefore appreciate receiving the AER's position by close of business on Monday September 28, 2020 as to whether it:**

1. Is prepared to proceed with the sale approval and vesting motions as originally contemplated, given the current standing of the July 24, 2020 Court Order;
2. Would support the Company's formulation of a subsequent sales process, on the terms and stipulations set forth in this letter; or
3. Will work with the Company on a plan to transition assets to the care and custody of presumably the OWA, and appoint a receiver over the Company.

We look forward to hearing from you in regards to the above.

Sincerely,

Borden Ladner Gervais LLP



Jessica L. Cameron

cc: Bonni Pierce and Kaitlin Szacki, Alberta Energy Regulator – via email
Lars dePauw, Orphan Well Association – via email
Bruce Lawrence, Borden Ladner Gervais LLP (Counsel to Bow River Energy Ltd.) – via email
Matti Lemmens, Borden Ladner Gervais LLP (Counsel to 2270943 Alberta Ltd.) – via email
Marc A. Kelly, BDO Canada Limited (Monitor) – via email
Keely Cameron, Bennett Jones LLP (Counsel to the Monitor) – via email

BOW RIVER ENERGY LTD.
Cash Flow Forecast
Prepared by Management on September 21, 2020 - UNAUDITED
\$CAD

	Note(s)	FORECAST FOR WEEK ENDING:										Total	
		25-Sep-20	02-Oct-20	09-Oct-20	16-Oct-20	23-Oct-20	30-Oct-20	06-Nov-20	13-Nov-20	20-Nov-20	27-Nov-20		Oct/Nov carryover
Opening cash		2,015,567	2,658,190	2,028,948	1,681,731	808,903	754,903	1,101,538	783,029	337,924	236,519	846,227	2,015,567
Cash Inflows													
Gross oil and gas sales	1	1,177,248	-	-	-	-	1,024,088	-	-	-	1,081,374	995,727	4,278,437
Receivables/Other	2	-	-	-	-	-	1,575	-	-	-	-	-	1,575
Total Cash Inflows		1,177,248	-	-	-	-	1,025,663	-	-	-	1,081,374	995,727	4,280,012
Cash Outflows													
Operating Disbursements:													
Operating	3, 13	225,000	475,867	164,217	619,691	-	435,863	225,000	293,925	-	180,000	1,000,000	3,619,563
Transportation	4	25,000	-	25,000	-	25,000	-	25,000	-	25,000	-	25,000	150,000
Royalties	5	86,364	-	-	89,496	-	-	-	94,180	-	-	148,650	418,690
Leases	6	100,200	-	-	111,641	-	-	-	-	65,405	-	-	277,246
G&A	7, 13	71,946	6,175	37,000	52,000	-	146,666	44,509	57,000	7,000	101,666	(6,000)	517,961
Capital	8	-	-	-	-	-	-	-	-	-	-	-	-
Other	9	26,115	-	-	-	4,000	30,000	-	-	4,000	-	34,000	98,115
Financing Disbursements:													
Debentures	10	-	-	-	-	-	-	-	-	-	-	-	-
Interim financing	11	-	-	-	-	-	-	-	-	-	-	-	-
Restructuring Costs:													
Professional fees	12	-	136,500	25,000	-	25,000	31,500	24,000	-	-	150,000	-	392,000
Sales process		-	-	-	-	-	35,000	-	-	-	40,000	-	75,000
Shut-in costs		-	-	96,000	-	-	-	-	-	-	-	400,000	496,000
Bid deposits		-	10,700	-	-	-	-	-	-	-	-	-	10,700
Total Cash Outflows		534,625	629,241	347,217	872,828	54,000	679,028	318,509	445,105	101,405	471,666	1,601,650	6,055,275
Net Cash Flow		642,623	(629,241)	(347,217)	(872,828)	(54,000)	346,635	(318,509)	(445,105)	(101,405)	609,708	(605,923)	(1,775,263)
Ending cash		2,658,190	2,028,948	1,681,731	808,903	754,903	1,101,538	783,029	337,924	236,519	846,227	240,304	240,304

BOW RIVER ENERGY LTD.

Per: Daniel Belot
VP Finance and CFO

September 28, 2020
CALGARY, ALBERTA

FORECAST CASH FLOW ASSUMPTIONS:

General Note:

Management of Bow River Energy Ltd. have prepared this forecasted cash flow statement based on probable and hypothetical assumptions as detailed in notes 1-13 below. The forecast has been prepared solely for the purpose of the Company's CCAA filing. As such, readers are cautioned that it may not be appropriate for other purposes and may not match presentation in the Company's financial statements.

Notes:

- Oil and natural gas sales are estimated based on prior month's volumes less anticipated production declines and strip/hedged prices as at the time of filing. Monthly cash receipts relate to production volumes and sales from the prior month.
- Receivables are primarily from joint interest billings receivables. BRE has one primary partner in its Saskatchewan and Amisk, Alberta areas. That partner currently owes approximately \$1.1 million in current JIBs and we anticipate it will be billed approximately \$100-\$200 thousand per month going forward to cover monthly operating costs as they take in kind. However, due to timing of JIB inquiries, that include concern over non-payment of lease rentals by BRE, to be conservative we have reduced our estimated cash inflow to nil.
- Operating costs include field payroll and expenses, vehicle leases and utilities, and are gross payments including the share that will be billed to partners. Estimates are based on historical expenses and projected production levels. Forecast timing assumes certain vendors continue to withhold credit and require cash-on-delivery payment terms. Only the non-linear, post-stay, producing area portion of material property taxes are being paid pending the outcome of the SISIP.
- Transportation costs relate to costs to transport products to sales points and are forecast based on average historical costs. BRE does not have any fixed transportation contracts.
- Royalties are comprised of Crown and Freehold royalties, GORRs, and Gas Cost Allowance rebates based on historical results being approximately 8% of oil and natural gas sales.
- Annual mineral and surface lease payments which will become due during the forecast period, excluding certain lease payments becoming due in relation to shut-in properties and which lease payments are being deferred pending the outcome of the SISIP.
- General and administrative costs include rent, office payroll and benefits and various office expenses.
- No capital expenditures planned at this time.
- The Company files GST and PST returns on a monthly basis. This reflects the Company's conservative estimate of potential net GST and PST owing.
- Debenture payments of principal and interest were suspended in April 2020 and are expected to be stayed during the CCAA process.
- BRE has obtained an agreement from a debenture holder for interim financing of \$1.1 million at a 12% per annum interest rate based on its forecast of cash needs to completion of the proposed sale process.
- Restructuring costs consist of and monthly payments for professional fees to be incurred as part of the CCAA process. This includes payments to the Company's legal counsel and the Monitor and its legal counsel, and is based on updated estimates from those professionals. Also, included are further shut-in costs deemed necessary for safety reasons in the two areas shut-in in late April 2020.
- The Company is receiving the Canadian Emergency Wage Subsidy (CEWS) and will continue to apply. The Company has allocated a portion as a credit to field salaries and a portion as a credit to G&A. An estimate of future claims and timing of payments has been included to the end of November.

MYLES J. FISH
A Commissioner for Oaths
in and for Alberta
Lawyer, Notary Public

THIS IS EXHIBIT "C"
referred to in the Affidavit of
Daniel G. Belot
Sworn before me this 28th
day of September, A.D. 2020

Myles Fish
A Commissioner for Oaths in
and for Alberta