

COURT FILE NUMBER 2201-02699
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
PLAINTIFF NATIONAL BANK OF CANADA
DEFENDANTS BALANCED ENERGY OILFIELD SERVICES INC., BALANCED ENERGY OILFIELD SERVICES (USA) INC., BALANCED ENERGY HOLDINGS INC., MICHELLE THOMAS, NEIL SCHMEICHEL, DARREN MILLER, and CODY BELLAMY
DOCUMENT **APPROVAL AND REVERSE VESTING ORDER**
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT **OSLER, HOSKIN & HARCOURT LLP**
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File Number: 1230496



DATE ON WHICH ORDER WAS PRONOUNCED: March 30, 2022
NAME OF JUDGE WHO MADE THIS ORDER: The Honourable Justice J.T. Neilson
LOCATION OF HEARING: Edmonton, Alberta (by WebEx)

UPON the application of FTI Consulting Canada Inc. in its capacity as the receiver and manager (the “**Receiver**”) of all current and future assets, undertakings, and properties of every nature and kind whatsoever and wherever situate of Balanced Energy Oilfield Services Inc. (“**BCAN**”), Balanced Energy Oilfield Services (USA) Inc. (“**BUSA**”), and Balanced Energy Holdings Inc. (“**BEH**” and together with BCAN and BUSA, the “**Debtors**”) for an Order approving the transaction (the “**Transaction**”) contemplated by a binding term sheet between XDI Energy Solutions Inc. (the “**Purchaser**”) and the Receiver, dated March 21, 2022 (as amended, the “**Term Sheet**”), a copy of which is appended to the First Report of the Receiver, dated March 21, 2022 (including the Confidential Supplement thereto, the “**First Report**”) as Appendix “B”, and: (a) vesting in BEH all of BCAN’s right, title and interest in and to the Transferred Assets (the “**Transferred Assets**”) and the Transferred Liabilities (the “**Transferred Liabilities**”) (as those

terms are more particularly defined in the Term Sheet and as more particularly described in Schedule “B” hereto); and (b) vesting in the Purchaser all of BEH’s right, title and interest in and to all of the issued and outstanding common shares in the capital of BCAN (the “**Purchased Shares**”) free and clear of all Claims and Encumbrances (as defined below); **AND UPON** reviewing the Receivership Order of the Honourable Madam Justice A.D. Grosse, granted March 7, 2022 (the “**Receivership Order**”); **AND UPON** reviewing the First Report and the Affidavit of Dana Ades-Landy, sworn February 28, 2022; **AND UPON** hearing from counsel for the Receiver, the Purchaser and any other interested party appearing at the application; **AND UPON** reviewing the Affidavit of Service of Elena Pratt, sworn March 22, 2022; **AND UPON** noting that capitalized terms used but not otherwise defined in this Order shall have the meaning given to such terms in the Term Sheet; **IT IS HEREBY ORDERED AND DECLARED THAT:**

SERVICE

1. Service of notice of this application and supporting materials is hereby declared to be good and sufficient, no other person is required to have been served with notice of this application and time for service of this application is abridged to that actually given.

APPROVAL OF TRANSACTION

2. The Transaction and the Term Sheet are hereby approved and the execution of the Term Sheet by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction. In the event of any conflict between the terms of the Term Sheet and this Order, this Order shall govern.

VESTING OF ASSETS, LIABILITIES AND SHARES

3. Notwithstanding any other provisions in this Order: (a) this Order shall only be effective and come into force upon the filing of a Certificate by the Receiver (the “**Receiver’s SSP Certificate**”) substantially in the form attached as Schedule “B” to the Order (Approval of Sales Solicitation Process and Approval of Stalking Horse Term Sheet), granted concurrently to the within Order by this Honourable Court on March 30, 2022 (the “**SSP Order**”); and (b) this Order may be set aside by this Honourable Court on further

application by the Receiver if the Receiver's SSP Certificate is not filed as a result of one or more Superior Offers being received within the Sales Solicitation Process.

4. Upon delivery of a Receiver's Certificate substantially in the form set out in Schedule "A" hereto (the "**Receiver's Certificate**"), the following shall occur and be deemed to occur commencing at the time of delivery of the Receiver's Certificate (the "**Effective Time**"), in the following sequence:
 - (a) all right, title and interest of BCAN in and to the Transferred Assets shall be transferred to and shall vest absolutely and exclusively in BEH;
 - (b) all Transferred Liabilities, but specifically excluding the Retained Liabilities ("**Retained Liabilities**", as that term is defined and described in Schedule "C" hereto) shall be transferred to and shall be assumed by and shall vest absolutely and exclusively without recourse in BEH, and (i) such Transferred Liabilities shall continue to attach to the Transferred Assets with the same nature and priority as they had immediately prior to the Effective Time; (ii) such Transferred Liabilities equal to the fair market value of the Transferred Assets shall be transferred to and assumed by BEH in consideration for the transfer of the Transferred Assets; and (iii) the remaining Transferred Liabilities shall be transferred to and assumed by BEH for no consideration as part of, and to facilitate, the implementation of the Transaction;
 - (c) all Transferred Liabilities shall be irrevocably and forever expunged, released and discharged as against the Purchaser, BCAN, and the Retained Assets ("**Retained Assets**", as that term is defined and described in Schedule "C" hereto);
 - (d) all of BEH's right, title and interest in and to the Purchased Shares, shall vest absolutely in the name of the Purchaser, free and clear of and from any and all caveats, security interests, hypothecs, pledges, mortgages, liens, trusts or deemed trusts, reservations of ownership, royalties, options, rights of pre-emption, privileges, interests, assignments, actions, judgements, executions, levies, taxes, writs of enforcement, charges, or other claims, whether contractual, statutory, financial, monetary or otherwise, whether or not they have attached or been

perfected, registered or filed and whether secured, unsecured or otherwise (collectively, “**Claims**”) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Receivership Order; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Alberta) or any other personal property registry system (all of which are collectively referred to as the “**Encumbrances**”);

- (e) all Claims and Encumbrances affecting or relating to the Purchased Shares shall be, and are hereby, expunged, discharged, and terminated as against the Purchased Shares;
- (f) without limiting subparagraphs 4(c) and 4(e) hereto, any and all security registrations against BCAN (other than any security registrations in respect of the Retained Liabilities) and/or claiming interests in the estate or interest of BEH in the Purchased Shares shall be and are hereby forever released and discharged as against BCAN and the Purchased Shares, and all such security registrations shall attach to the Transferred Assets vested in BEH (including the net proceeds realized from the sale of the Purchased Shares) and maintain the same attributes, rights, nature, perfection and priority as they had immediately prior to the Effective Time, and no financing change statements in any applicable personal property or other registry system are required to reflect the transfer of and assumption by BEH of such security registrations; and
- (g) BCAN shall cease to be a Defendant in this Action and shall be released from the scope and effect of the Receivership Order and all other orders of this Court granted in these proceedings and the style of cause in these proceedings shall be amended to delete BALANCED ENERGY OILFIELD SERVICES INC. as a defendant.

5. As of the Effective Time:

- (a) BCAN shall continue to hold all right, title and interest in and to the Retained Assets, free and clear of all Transferred Liabilities other than the Retained Liabilities;

- (b) BCAN shall be deemed to have disposed of the Transferred Assets and shall have no right, title or interest in or to any of the Transferred Assets; and
 - (c) BEH shall be deemed to have transferred and assigned the Purchased Shares to the Purchaser and shall have no right, title or interest in or to the Purchased Shares.
6. For greater certainty, any person that, prior to the Effective Time:
- (a) had a Claim or Encumbrance in respect of the Transferred Liabilities (other than the Retained Liabilities) against BCAN or its assets, properties or undertakings shall, as of the Effective Time, no longer have any such Claim or Encumbrance in respect of the Transferred Liabilities as against or in respect of BCAN or the Retained Assets, but shall have an equivalent Claim or Encumbrance, as applicable, against the Transferred Assets and BEH to be administered by the Receiver from and after the Effective Time, with the same attributes, rights, security, nature and priority as such Claim or Encumbrance had immediately prior to its transfer to BEH, and nothing in this Order limits, lessens, modifies (other than by change in debtor) or extinguishes the Claim or Encumbrance of any person as against the Transferred Assets to be administered by the Receiver of BEH; and
 - (b) had a Claim or Encumbrance against the Purchased Shares, shall, as of the Effective Time, no longer have any such Claim or Encumbrance as against the Purchased Shares, but shall have an equivalent Claim or Encumbrance, as applicable, against the net proceeds from sale of the Purchased Shares with the same priority as they had with respect to the Purchased Shares immediately prior to the sale, as if the Purchased Shares had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.
7. From and after the Effective Time, the Purchaser and/or BCAN shall be authorized to take all steps as may be necessary to effect the discharge and release:
- (a) as against BCAN and the Retained Assets of the Transferred Liabilities that are transferred to and vested in BEH pursuant to this Order; and

- (b) as against BEH of all Claims and Encumbrances with respect to the Purchased Shares.
8. Upon delivery of the Receiver's Certificate, and upon filing of a certified copy of this Order, together with any applicable registration fees, all governmental authorities and any other applicable registrar or government ministries or authorities exercising jurisdiction with respect to BCAN, the Retained Assets, the Transferred Assets, or the Purchased Shares (collectively, "**Governmental Authorities**") are hereby authorized, requested and directed to accept delivery of such Receiver's Certificate and certified copy of this Order as though they were originals and to register such transfers, interest authorizations, discharges and discharge statements of conveyance as may be required to convey to give effect to the terms of this Order and the completion of the Transaction and to discharge and release all Claims and Encumbrances other than Retained Liabilities against or in respect of BCAN, the Retained Assets, and the Purchased Shares, and presentment of this Order and the Receiver's Certificate shall be the sole and sufficient authority for Governmental Authorities to do so.

RELEASES

9. Except as expressly provided for in the Term Sheet, the Purchaser shall not, by completion of the Transaction, have liability of any kind whatsoever in respect of any Claims or Encumbrances against the Debtors.
10. Except as expressly provided for in the Term Sheet, BCAN shall not, by completion of the Transaction, have liability of any kind whatsoever in respect of any Transferred Liabilities, except for the Retained Liabilities.
11. From and after the Effective Time, all persons shall be absolutely and forever barred, estopped, foreclosed and permanently enjoined from pursuing, asserting, exercising, enforcing, issuing or continuing any steps or proceedings, or relying on any rights, remedies, claims or benefits in respect of or against the Receiver, the Purchaser, BCAN, the Purchased Shares or the Retained Assets, in any way relating to, arising from or in respect of:
- (a) the Transferred Assets;

- (b) any and all Claims or Encumbrances other than the Retained Liabilities against or relating to BCAN, the Transferred Assets, the Purchased Shares or the Retained Assets existing immediately prior to the Effective Time;
- (c) the insolvency of BCAN prior to the Effective Time;
- (d) the commencement or existence of these receivership proceedings; or
- (e) the completion of the Transaction.

MISCELLANEOUS MATTERS

12. The Receiver is directed to file with the Court a copy of the Receiver's Certificate forthwith after delivery thereof to the Purchaser.
13. Notwithstanding:
 - (a) the pendency of these proceedings;
 - (b) the pendency of any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3, as amended (the "BIA"), and any bankruptcy order issued pursuant to any such applications; and
 - (d) the provisions of any federal or provincial statute,

the execution of the Term Sheet and the implementation of the Transaction shall be binding on any trustee in bankruptcy or receiver that may be appointed in respect of the Debtors and shall not be void or voidable by creditors of BEH or BCAN, nor shall it constitute nor be deemed to be a transfer at undervalue, settlement, fraudulent preference, assignment, fraudulent conveyance or other reviewable transaction under the BIA or any other applicable federal or provincial legislation or at common law, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.
14. The Receiver, the Purchaser and any other interested party, shall be at liberty to apply for further advice, assistance and direction as may be necessary in order to give full force and effect to the terms of this Order and to assist and aid the parties in closing the Transaction.

15. This Court shall retain exclusive jurisdiction to, among other things, interpret, implement and enforce the terms and provisions of this Order, the Term Sheet and all amendments thereto, in connection with any dispute involving BCAN or BEH and to adjudicate, if necessary, any disputes concerning BCAN or BEH related in any way to the Transaction.
16. This Honourable Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any of its provinces or territories or in any foreign jurisdiction (including, but not limited to, the United States of America), to act in aid of and to be complimentary to this Court in carrying out the terms of this Order, to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such order and to provide such assistance to the Receiver, as an officer of the Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.
17. Service of this Order shall be deemed good and sufficient by:
 - (a) Serving the same on:
 - (i) the persons listed on the service list created in these proceedings;
 - (ii) any other person served with notice of the application for this Order;
 - (iii) any other parties attending or represented at the application for this Order;
 - (iv) the Purchaser or the Purchaser's solicitors; and
 - (b) Posting a copy of this Order on the Receiver's website at:

<http://cfcanada.fticonsulting.com/balancedenergy/default.htm>and service on any other person is hereby dispensed with.
18. Service of this Order may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following transmission or delivery of this Order.

James J. Neilson

Justice of the Court of Queen's Bench of Alberta

SCHEDULE “A”

Receiver’s Certificate

COURT FILE NUMBER	2201-02699
COURT	COURT OF QUEEN’S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFF	NATIONAL BANK OF CANADA
DEFENDANTS	BALANCED ENERGY OILFIELD SERVICES INC., BALANCED ENERGY OILFIELD SERVICES (USA) INC., BALANCED ENERGY HOLDINGS INC., MICHELLE THOMAS, NEIL SCHMEICHEL, DARREN MILLER, and CODY BELLAMY
DOCUMENT	RECEIVER’S CERTIFICATE
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	<p>OSLER, HOSKIN & HARCOURT LLP Barristers & Solicitors Brookfield Place, Suite 2700 225 6 Ave SW Calgary, AB T2P 1N2</p> <p>Solicitors: Randal Van de Mosselaer / Emily Paplawski Telephone: (403) 260-7060 / (403) 260-7071 Facsimile: (403) 260-7024 Email: RVandemosselaer@osler.com / EPaplawski@osler.com File Number: 1230496</p>

RECITALS

- A. Pursuant to an Order of the Honourable Madam Justice A.D. Grosse of the Court of Queen’s Bench of Alberta (the “**Court**”), dated March 7, 2022, FTI Consulting Canada Inc. was appointed receiver and manager (the “**Receiver**”) of the undertaking, property and assets of Balanced Energy Oilfield Services Inc., Balanced Energy Oilfield Services (USA) Inc., and Balanced Energy Holdings Inc. (the “**Debtors**”).
- B. Pursuant to an Approval and Reverse Vesting Order granted by the Honourable Mr. J.T. Neilson on March 30, 2022 (the “**Order**”) the Court approved a binding term sheet between XDI Energy Solutions Inc. (the “**Purchaser**”) and the Receiver, dated March 21, 2022 (as amended, the “**Term Sheet**”). This Receiver’s Certificate is the certificate referred to in paragraph 4 of the Order.

C. Capitalized terms not otherwise defined herein have the meanings given to those terms in the Term Sheet.

THE RECEIVER CERTIFIES THE FOLLOWING:

1. The Receiver has received the Purchase Price from or on behalf of the Purchaser.
2. The conditions to Closing as set out in the Term Sheet have been satisfied or waived by the Receiver and the Purchaser.
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ on _____, 2022.

FTI Consulting Canada Inc., in its capacity as Receiver of the undertakings, property and assets of Balanced Energy Oilfield Services Inc., Balanced Energy Oilfield Services (USA) Inc., and Balanced Energy Holdings Inc., and not in its personal or corporate capacity.

Name:

Title:

SCHEDULE "B"**Transferred Assets and Transferred Liabilities****Transferred Assets**

- a) all of BCAN's cash and cash equivalents, including all cash collateral and deposits posted by or for the benefit of the Debtors as security for any obligation;
- b) all accounts receivable, notes receivable and negotiable instruments of the Debtors;
- c) all rights to receive any refund, rebate, credit, abatement or recovery of or with respect to taxes;
- d) all of the right, title and interest of BCAN in and to the intercompany loan agreement between BCAN and BUSA which was entered into by the parties to facilitate the transfer of certain equipment from BCAN to BUSA; and
- e) subject to the prior written consent of the Receiver, any other assets of BCAN designated by the Purchaser as Transferred Assets, prior to the Closing Date.

Transferred Liabilities

- a) all unpaid funded indebtedness, including all claims of National Bank of Canada, Business Development Bank of Canada and Export Development Canada;
- b) all unsecured claims against BCAN;
- c) all liabilities of BCAN associated with the employees that are not retained, which employees shall be identified by the Purchaser prior to Closing;
- d) all of the right, title and interest of BCAN in and to the Calgary office lease and all liabilities associated with the lease;
- e) all of the right, title and interest of BCAN in and to the Brooks facility lease and all liabilities associated with the lease; and
- f) subject to the prior written consent of the Receiver, any other liabilities designated by the Purchaser as Transferred Liabilities, prior to the Closing Date.

SCHEDULE “C”**Retained Assets and Retained Liabilities****Retained Assets**

- a) all prepaid charges and expenses, including all prepaid rent;
- b) all inventory;
- c) all equipment and other tangible assets, including all vehicles, tools, parts and supplies, fuel, machinery, furniture, furnishing, appliances, fixtures, office equipment and supplies, owned and licensed computer hardware and related documentation, stored data, communication equipment, trade fixtures and leasehold improvements, in each case, with any transferable warranty and service rights of any Seller related thereto;
- d) all contracts (except for accounts receivable payable to the Debtors under such contracts);
- e) all licenses and permits used by BCAN in connection with the operation of its business;
- f) all employees of BCAN which the Purchaser decides to retain, acting in its sole discretion (the “**Retained Employees**”);
- g) all intellectual property;
- h) all goodwill and intangibles;
- i) all books and records;
- j) all rights under insurance contracts and policies;
- k) all telephone numbers, fax numbers and email addresses;
- l) all prepaid taxes and tax credits;
- m) all bank accounts;
- n) all non-disclosure agreements entered into by the Receiver on behalf of the Debtors in connection with the Stalking Horse SSP process;
- o) all proceeds of insurance paid following Closing in connection with that damaged coiled tubing unit of BCAN having serial No. 27124977-0435A-1013;
- p) all life insurance policies outstanding in respect of Mr. Neil Schmeichel and Ms. Michelle Thomas (which shall be assigned by National Bank of Canada to the Purchaser); and
- q) all other or additional assets, properties, privileges, rights and interests relating to the business of BCAN, the Retained Liabilities or the assets of BCAN (other than any Transferred Assets) of every kind and description and wherever located, whether known

or unknown, fixed or unfixed, accrued, absolute, contingent or otherwise, and whether or not specifically referred to in this Term Sheet.

Retained Liabilities

- a) all liabilities and obligations arising from the possession, ownership and/or use of the Purchased Shares and the Retained Assets following Closing;
- b) all liabilities associated with contracts included in Retained Assets;
- c) all outstanding property taxes or obligations;
- d) all liabilities of BCAN with respect to the following shareholder loans made to BCAN: (i) loan from 1821109 Alberta Ltd. in the approximate amount of \$181,931.71; and (ii) loan from Michelle Thomas in the approximate amount of \$508,286.15;
- e) all liabilities associated with the Retained Employees; and
- f) any other liabilities of BCAN designated by the Purchaser as Retained Liabilities, prior to the Closing Date.