

COURT FILE NUMBER 1601-11552

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

PLAINTIFF NATIONAL BANK OF CANADA IN ITS CAPACITY AS ADMINISTRATIVE AGENT UNDER THAT CERTAIN AMENDED AND RESTATED CREDIT AGREEMENT DATED JANUARY 15, 2016, AS AMENDED

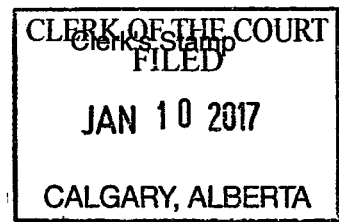
DEFENDANT TWIN BUTTE ENERGY LTD.

IN THE MATTER OF THE RECEIVERSHIP OF TWIN BUTTE ENERGY LTD.

APPLICANT FTI CONSULTING CANADA INC. in its capacity as Court-appointed Receiver of the current and future assets, undertakings and properties of TWIN BUTTE ENERGY LTD.

DOCUMENT **APPLICATION (Sale Approval and Vesting Order and Restricted Court Access Order)**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT  
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 File No.: 01020497-0005



**NOTICE TO THE RESPONDENTS**

This application is made against you. You are a respondent.  
 You have the right to state your side of this matter before the Justice.

To do so, you must be in Court when the application is heard as shown below:

Date: January 18, 2017

Time: 2:00 p.m.

Where: Calgary Courts Centre

Before Whom: The Honourable Madam Justice G. Campbell

Go to the end of this document to see what else you can do and when you must do it.

**Remedy claimed or sought:**

1. FTI Consulting Canada Inc. in its capacity as Court-appointed Receiver (the **Receiver**) of the current and future assets, undertakings and properties of Twin Butte Energy Inc. (**Twin Butte**) seeks the following relief:
  - a. Abridging, if necessary, the time for service of this Application and supporting materials, and declaring service of same to be good and sufficient.
  - b. An Order, substantially in the form attached hereto as **Schedule "A"**, seeking restricted court access in respect of the Confidential Supplemental Report to the Third Report of the Receiver filed in support of this Application exhibiting certain agreements and documents between the Receiver and Henenghaixin Operating Corp. (**HOC**), selling certain assets of Twin Butte to HOC (**HOC Transaction**) pursuant to the terms of the Purchase and Sale Agreement between the Receiver and HOC (the **HOC PSA**) and providing confidential details to this Court of the various competing bids and proposals; and approving the HOC Transaction.

**Grounds for making this application:**

2. On September 1, 2016, FTI Consulting Canada Inc. was appointed as Receiver over the current and future assets, undertakings and properties of Twin Butte pursuant to a Receivership Order granted by the Honourable Madam Justice B.E.C. Romaine (**Receivership Order**).
3. On September 12, 2016, the Receiver entered into an engagement letter with Peters & Co. and CIBC World Markets, to act as the exclusive selling agents (the **Selling Agents**) in a proposed Sale and Investment Solicitation Process (the **SISP**).
4. Pursuant to an Order dated October 11, 2016, this Honourable Court approved the SISP and the retention of the Selling Agents to act as the selling agents under the SISP.
5. The SISP had a bid deadline of November 17, 2016 for non-binding letters of intent (**Phase I Bid Deadline**) and a bid deadline of December 15, 2016 for binding offers (**Phase II Bid Deadline**).
6. Prior to the Phase II Bid Deadline, the Receiver and Selling Agents received 30 proposals from 30 counterparties including 9 corporate / en bloc offers and 21 offers for individual packages, including the en bloc offer from HOC for the HOC Transaction.
7. There is urgency associated with the completion of the HOC Transaction.
8. Receiver's counsel is holding a deposit towards the purchase price under the HOC Transaction, and closing of the HOC Transaction is proposed to be third (3<sup>rd</sup>) day following Court approval of the HOC Transaction.
9. It is the view of the Receiver that the details of the various offers received and the purchase price set out in the HOC PSA is commercially sensitive information which could negatively impact the SISP if made public, and should therefore remain confidential until closing of the HOC Transaction in order to preserve the integrity of the SISP in the event that the HOC Transaction does not close.
10. The Receiver believes that approval of the HOC PSA is in the best interest of all stakeholders for the following reasons:
  - a. it arose from the SISP which was implemented by the Receiver and the Selling Agents;

- b. the Receiver and the Selling Agents acted in good faith and with due diligence in meeting the milestones of the SISP and soliciting bids including the bid resulting in the HOC PSA;
  - c. there was a broad marketing of the assets to a large number of prospective purchasers over a reasonable time frame;
  - d. the Receiver believes that the HOC PSA was negotiated between the parties at arm's length and in good faith and is commercially reasonable;
  - e. the HOC PSA is supported by Twin Butte's senior secured lenders; and
  - f. the Receiver and the Selling Agents determined that the offer submitted by HOC was the highest and best offer for the assets of Twin Butte.
11. Such further and other grounds as counsel may advise and this Honourable Court may permit.

**Material or Evidence to be relied on:**

- 12. The Receivership Order;
- 13. The Third Report of the Receiver;
- 14. The Confidential Supplement to the Third Report of the Receiver;
- 15. Such further and other materials as counsel may advise and this Honourable Court may permit.

**Applicable Rules:**

- 16. Rules 6.3(1), 6.9(1), and 6.28 - 6.36 of the *Alberta Rules of Court*.
- 17. Such further and other Rules as counsel may advise and this Honourable Court may permit.

**Applicable Acts and regulations:**

- 18. The *Alberta Rules of Court*.
- 19. Such further and other Acts and regulations as counsel may advise and this Honourable Court may permit.

**Any irregularity complained of or objection relied on:**

- 20. There are no irregularities complained of or objections relied on.

**How the application is proposed to be heard or considered:**

- 21. Oral submissions by counsel.

**WARNING**

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is heard or considered.

**SCHEDULE A**

COURT FILE NUMBER 1601-11552 Clerk's Stamp

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

PLAINTIFF NATIONAL BANK OF CANADA IN ITS  
CAPACITY AS ADMINISTRATIVE AGENT  
UNDER THAT CERTAIN AMENDED AND  
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DOCUMENT **ORDER**  
**(Sale Approval and Vesting Order and**  
**Restricted Court Access Order)**

ADDRESS FOR SERVICE AND  
CONTACT INFORMATION OF  
PARTY FILING THIS  
DOCUMENT Norton Rose Fulbright Canada LLP  
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Calgary, Alberta T2P 4H2

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aditya.badami@nortonrosefulbright.com

Attention: Howard A. Gorman, Q.C. / Aditya M. Badami  
File No.: 01020497-0005

**DATE ON WHICH ORDER WAS PRONOUNCED: January 18, 2017**

**LOCATION WHERE ORDER WAS PRONOUNCED: Calgary, Alberta**

**NAME OF JUSTICE WHO MADE THIS ORDER: The Honourable Madam Justice G. Campbell**

**UPON THE APPLICATION** of FTI Consulting Canada Inc. in its capacity as Court-appointed Receiver (**Receiver**) of the current and future assets, undertakings and properties of Twin Butte Energy Inc. (the **Debtor**) for an order approving the sale transaction (the **Transaction**) contemplated by an agreement of purchase and sale (the **Sale Agreement**) between the Receiver and Henenghaixin Operating Corp. (the **Purchaser**) dated December 23, 2016 and appended to the Confidential Supplement to the Third Report of the Receiver dated January 9, 2017 (the **Report**), and vesting in the

Purchaser (or its nominee) the Debtor's right, title and interest in and to the assets described in the Sale Agreement as the Assets (the **Purchased Assets**);

**AND UPON HAVING READ** the Receivership Order dated September 1, 2016 (the **Receivership Order**), the Third Report of the Receiver dated January 9, 2017 and the Confidential Supplement to the Third Report; **AND UPON** hearing counsel for the Receiver and any other interested parties that may be present; **AND UPON IT APPEARING** that all interested and affected parties have been served with notice of this Application; **AND UPON** having read the pleadings, proceedings, orders and other materials filed in this action;

**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, and 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 TRANSACTIONS**

2. The Sale Agreement is hereby approved in its entirety. The Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized, ratified, confirmed, and approved, with such minor amendments as the Receiver and the Purchaser may agree to and 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 or for the conveyance of the Assets to the Purchaser (or its nominee).

**VESTING OF PROPERTY**

3. Upon the delivery of a Receiver's certificate to the Purchaser (or its nominee) substantially in the form set out in Schedule "A" hereto (the **Receiver's Certificate**), all of the Debtor's right, title, and interest in and to the Assets, as defined in the Sale Agreement shall vest absolutely, exclusively, and entirely in the Purchaser (or its nominee), free and clear of and from any and all rights, titles, benefits, priorities, security interests (whether contractual, statutory, or otherwise), hypothecs, caveats, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, claims (including claims provable in bankruptcy in the event that the Vendor should be adjudged bankrupt), liabilities (direct, indirect, absolute, or contingent), obligations, assignments, judgements, executions, writs of seizure or execution, notices of sale, options, agreements, rights of distress, set-off (legal, equitable, or contractual), adverse claims,

taxes, debts, charges, options to purchase, rights of first refusal or other pre-emptive rights in favour of third parties, restrictions on transfer of title, or other claims or encumbrances, whether or not they have attached or been perfected, registered, or filed, and whether secured, unsecured, or otherwise (collectively, the **Claims**, which term shall explicitly not include the Permitted Encumbrances, as defined in the Sale Agreement) including, without limiting the generality of the foregoing:

- (i) any encumbrances or charges created by or defined in: (a) the Receivership Order; or (b) any other Orders granted in the Receivership Proceedings; and
- (ii) all charges, security interests or claims evidenced by registration, filing, or publication pursuant to any of all of the following: (a) the *Personal Property Security Act* (Alberta); (b) the *Personal Property Security Act* (British Columbia); (c) the *Personal Property Security Act* (Saskatchewan); (d) the *Land Titles Act* (Alberta); (e) the *Land Title Act* (British Columbia); (f) the *Land Titles Act* (Saskatchewan); (g) the *Mines and Minerals Act* (Alberta); (h) the *Crown Minerals Act* (Saskatchewan); or (i) any other personal property, mineral, or real property registry system; and

for greater certainty, this Court orders that all of the Claims affecting or relating to the Assets are hereby expunged and discharged as against the Assets.

4. The Receiver, to the extent able and necessary, is hereby authorized and directed, without further order of this Honourable Court and without further notice to any persons, to take all necessary steps within its power to execute all documents and instruments necessary to effect any or all of the discharges relating to the Claims (except for the Permitted Encumbrances) and the applicable Registrars and other persons in control or otherwise supervising such offices of the corresponding registrations or recordings shall forthwith remove and discharge all such registrations or recordings.
5. The Purchaser (and its nominee, if any) shall, by virtue of the completion of the Transaction, have no liability of any kind whatsoever in respect of any of the Claims against the Debtor, other than the Permitted Encumbrances.
6. The Debtor and all persons who claim by, through, or under the Debtor in respect of the Assets, save and except for the persons entitled to the benefit of the Permitted Encumbrances, shall stand absolutely barred and foreclosed from all estate, right, title, interest, royalty, rental, equity of redemption, and encumbrance, in respect of the Assets and, to the extent that any such persons remain in possession or control of any of the Assets, or any artifacts or any certificates, instruments, or other indicia of title representing or evidencing any right, title, estate, or interest in or to the Assets, such persons shall forthwith deliver possession thereof to the Purchaser (or its nominee).

7. The Purchaser (or its nominee) shall be entitled to enter into and upon, hold and enjoy the Assets for its own use and benefit without any interference of or by the Debtor, or any persons claiming by or through or against the Debtor.
8. Immediately after the closing of the Transaction, the holders of the Permitted Encumbrances shall have no claim whatsoever against the Receiver or the Debtor.
9. Upon the delivery of the Receiver's Certificate, and upon the filing of a certified copy of this Order, together with any applicable registration fees, the Registrar or Registrars under the *Land Titles Act* (Alberta, British Columbia, and Saskatchewan), the Alberta Energy Regulator, the British Columbia Ministry of Natural Gas Development, Upstream Development Division, Tenure and Geoscience Branch, the British Columbia Ministry of Agriculture and Lands, FrontCounterBC, the British Columbia Oil and Gas Commission, the Department of Energy and the Minister of Energy of Alberta, the Ministry of the Economy of Saskatchewan and all other government ministries and authorities in Alberta, British Columbia, and Saskatchewan, respectively, exercising jurisdiction with respect to or over the Assets (collectively, the **Governmental Authorities**), as applicable, are hereby authorized, requested, and directed to (in each case as applicable):
  - (i) enter the Purchaser as the owner, lessee, and/or licensee of the Assets;
  - (ii) cancel the existing Certificates of Title to the Assets and issue new Certificates of Title for the Assets, in the name of the Purchaser (or its nominee);
  - (iii) delete and expunge from the existing title documents concerning the Assets all applicable Claims including encumbrances; and,
  - (iv) register such transfers, discharges, discharge statements, or conveyances, as may be required to convey clear title to the Assets to the Purchaser, subject only to the Permitted Encumbrances.
10. This Order shall be registered and the steps set out in Paragraph 9 shall be carried out by the applicable Registrar and/or Governmental Authorities notwithstanding the requirements of the respective *Land Titles Act* (Alberta, British Columbia, and Saskatchewan) and notwithstanding that the appeal period in respect of this Order has not elapsed, which appeal period is expressly waived.
11. For the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Assets (to be held in an interest bearing trust account by the Receiver) shall stand in the place and stead of the Assets, and from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Assets with the same priority as they had with respect to the Assets immediately prior to the sale, as if the Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.



12. The Receiver is to file with the Court a copy of the Receiver's Certificate, forthwith after Closing and delivery thereof to the Purchaser (or its nominee).
13. Pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act* and section 20(e) of the *Alberta Personal Information Protection Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Debtor's records pertaining to the Debtor's past and current employees, including personal information of those employees listed in the Sale Agreement. The Purchaser (or its nominee) shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.
14. Notwithstanding:
  - (i) the pendency of these proceedings;
  - (ii) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act (Canada)* in respect of the Debtor and any bankruptcy order issued pursuant to any such applications;
  - (iii) any assignment in bankruptcy made in respect of the Debtor; and
  - (iv) the provisions of any federal or provincial legislation,the vesting of the Assets in the Purchaser (or its nominee) pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act (Canada)* or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.
15. The Receiver, the Purchaser (or its nominee) and any other interested party, shall be at liberty to apply for further advice, assistance and directions 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.

#### SEALING ORDER

16. Part 6, Division 4 of the *Alberta Rules of Court* does not apply to the Application and the Receiver is hereby directed to file the Sale Agreement and the Confidential Supplement to the Third Report (**Confidential Supplement**), after three (3) months but before four (4) months after the filing of the Receiver's Certificate, and the Sale Agreement and the Confidential Supplement shall not be

made publically accessible until such time. The Sale Agreement and Confidential Supplement shall be sealed and filed in an envelope containing the following endorsement thereon:

THIS ENVELOPE CONTAINS CERTAIN CONFIDENTIAL MATERIALS AND THE CONFIDENTIAL SUPPLEMENT TO THE RECEIVER'S THIRD REPORT, DATED JANUARY 9, 2017. THE CONFIDENTIAL SUPPLEMENT TO THE RECEIVER'S THIRD REPORT IS SEALED PURSUANT TO AN ORDER ISSUED BY THE HONOURABLE MADAM JUSTICE G. CAMPBELL, DATED JANUARY 18, 2017 AND IS NOT TO BE PLACED ON THE PUBLIC RECORD OR MADE PUBLICALLY ACCESSIBLE.

17. Any person may apply, on reasonable notice to the Debtor, the Receiver, the Purchaser, and any other persons likely to be affected, to vary or amend the terms of paragraph 16 of this Order.

#### **MISCELLANEOUS MATTERS**

18. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the People's Republic of China, or in the United States 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 orders as to provide such assistance to the Receiver, as an officer of this 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.
19. This Order must be served only upon those interested parties attending or represented at the within application and service may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following the transmission or delivery of such documents.
20. Service of this Order on any party not attending this application is hereby dispensed with.

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J.C.Q.B.A.

**Schedule "A"**

COURT FILE NUMBER	<b>Form of Receiver's Certificate</b> 1601-11552	Clerk's Stamp
COURT	COURT OF QUEEN'S BENCH OF ALBERTA	
JUDICIAL CENTRE	CALGARY	
PLAINTIFF	NATIONAL BANK OF CANADA IN ITS CAPACITY AS ADMINISTRATIVE AGENT UNDER THAT CERTAIN AMENDED AND RESTATED CREDIT AGREEMENT DATED JANUARY 15, 2016, AS AMENDED	
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DOCUMENT	<b>RECEIVER'S CERTIFICATE</b>	
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Norton Rose Fulbright Canada LLP 400 3rd Avenue SW, Suite 3700 Calgary, Alberta T2P 4H2  Phone: +1 403.267.8222 Fax: +1 403.264.5973 Email: howard.gorman@nortonrosefulbright.com / aditya.badami@nortonrosefulbright.com  Attention: Howard A. Gorman, Q.C. / Aditya M. Badami File No.: 01020497-0005	

**RECITALS**

- A. Pursuant to an Order of the Honourable Madam Justice B.E.C. Romaine of the Court of Queen's Bench of Alberta, Judicial District of Calgary (the **Court**) dated September 1, 2016, FTI Consulting Canada Inc. was appointed as the receiver (the **Receiver**) of the undertaking, property and assets of Twin Butte Energy Ltd. (the **Debtor**).
  
- B. Pursuant to an Order of the Honourable Madam Justice G. Campbell dated January 18, 2017 the Court approved the agreement of purchase and sale made as of December 23, 2016 (the **Sale Agreement**) between the Receiver and Henenghaixin Operating Corp. (the **Purchaser**) and provided for the vesting in the Purchaser of the Debtor's right, title and interest in and to the

Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in sections 3.1, 3.2, 3.3, and 3.4 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, capitalized terms have the meanings set out in the Sale Agreement.

**THE RECEIVER CERTIFIES** the following:

1. The Purchaser (or its nominee) has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in sections 3.2, 3.3 and 3.4 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser (or its nominee); and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at [Time] on [Date].

**FTI Consulting Canada Inc., in its capacity as Receiver of the undertaking, property and assets of Twin Butte Energy Ltd., and not in its personal capacity.**

**Per:** \_\_\_\_\_

**Name:**

**Title:**