Action No.: 1901-13767
E-File Name: EVK25BELLATRIX
Appeal No.:____________________

IN THE COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE OF EDMONTON

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

IN THE MATTER OF THE PLAN OF COMPROMISE OR ARRANGEMENT OF BELLATRIX EXPLORATION LTD.

P R O C E E D I N G S

Edmonton, Alberta
March 14, 2025

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Proceedings taken in the Court of King's Bench of Alberta, Courthouse, Edmonton, Alberta

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March 14, 2025	Afternoon Session
The Honourable Justice J.J. Gill	Court of King's Bench of Alberta
D.S. Nishimura	For Alberta Energy
J. Reynaud	For the Purchaser
Q. Delainey	Court Clerk

THE COURT: Good afternoon. Mister clerk, can you hear me?

THE COURT CLERK: Yes, I can.

Decision

THE COURT: Well good afternoon, everybody and thank you for attending and for those counsel that were involved in the application a couple of days ago. I want to thank you for your very thorough written and oral submissions.

Now this is an oral decision, so I reserve the right to make non-substantive corrections and additions to any transcript. It will take me approximately 20 minutes to read the decision and then we can have any questions or other issues.

THE COURT CLERK: Well, things paused on my end. One second.

THE COURT: (WEBEX AUDIO INTERRUPTED) C double A proceeding --

THE COURT CLERK: Sorry, Justice --

THE COURT: Yes.

THE COURT CLERK: The Webex cut out on my end just for a minute there.

THE COURT: What was that, sorry?

THE COURT CLERK: Webex it was just cut out here for a couple seconds, so I missed what you just said.

THE COURT: Okay I just started. So maybe I could start again and hopefully it will be coherent. So, as I was saying, this application relates to a claim by the respondent, Alberta Energy, for unpaid royalties arising from a CCAA proceeding concerning Bellatrix Exploration Ltd., who I will refer to as Bellatrix.

The CCAA proceedings resulted in Spartan Delta Corp, who I will call Spartan, purchasing a number of assets, including Bellatrix's interest in its Crown mineral leases pursuant to a vesting order dated May 8th, 2020. The CCAA proceedings were completed on September 21, 2022. Also relevant is that the vesting order granted Spartan the right to seek further directions from this Court.

This application became necessary because in November of 2024, Alberta Energy issued notices to several of Spartan's working interest partners, and to Spartan directly demanding immediate payment of alleged Bellatrix royalty arrears. These default notices warned that failure to pay could lead to enforcement actions, including potential cancellation of agreements.

In December 2024, Alberta Energy agreed that it would refrain from taking any enforcement actions while court proceedings are ongoing. In this application, Spartan seeks miscellaneous relief, including the following orders that Alberta Energy is hereby precluded from collecting any payments related to the Bellatrix royalty arrears and Alberta Energy shall immediately return to third parties including the applicants working interest partners any credits offset by it or any payments made to satisfy the Bellatrix royalty arrears.

Now by way of background, the key facts are not in dispute and are set out in the briefs of the parties for which I take the following. As mentioned, the applicant Spartan was a party to Bellatrix's CCAA proceedings. Bellatrix was a Calgary-based company that, prior to the completion of the transaction with Spartan, focused on the exploration, acquisition, development, and production of oil and natural gas reserves in west-central Alberta. Facing liquidity issues, Bellatrix filed for protection under the CCAA on October 22nd, 2019, and this Court granted an initial order appointing PricewaterhouseCoopers Inc. as the monitor of Bellatrix and also imposed a stay of proceedings.

Bellatrix pursued a sale and investment solicitation process which led to a sale transaction formalized under a purchase agreement dated April 22nd, 2020 between Bellatrix as seller and ultimately Spartan as purchaser. Under this transaction, Spartan acquired nearly all of Bellatrix's assets relating to its petroleum and natural gas business, excluding working capital and certain other assets, all detailed in the purchase agreement.

The assets included substantially all of Bellatrix's interests in its Crown mineral leases. The purchase agreement specified that, subject to specific exceptions, Spartan assumed liabilities related to the purchased assets from the closing date onwards. The bulk of the liabilities in relation to the purchased assets that were payable for periods before the closing date, included any liabilities arising from non-payment or royalties owing in respect to Crown mineral leases were retained by Bellatrix. On May 8, 2020, this Court approved the Spartan purchase transaction by issuing an approval and vesting order. The transaction closed on June 1st, 2020. On June 1st, 2020, the monitor also issued a certificate in which he confirmed the closing of the Spartan transaction.

Now regarding post-filing or post-closing claims, the Spartan transaction was structured to include a holdback amount of $8.5 million, which was held in trust by the monitor. The holdback amount was designated to cover any outstanding post-filing liabilities of Bellatrix, including any royalty arrears owed to the Crown up until the closing date.

On June 11, 2020, Alberta Energy sent a letter alleging that Bellatrix was in default of paying outstanding royalties owed to the Crown. The royalty arrears claimed by the Crown were related exclusively to the period prior to the closing date. In response, Spartan's counsel requested that the Crown clarify the situation, confirm the amounts owed as Bellatrix royalty arrears, and identify the relevant parties.

In a letter dated October 8th, 2021, the Crown stated that Alberta Energy's review indicates that quote, "Spartan does not appear to be liable for any of the arrears on the Bellatrix leases" and stated that the department would not be pursuing payment or taking other debt collection action against Spartan for these arrears.

At the same time, or around about the same time Bellatrix, the monitor and Spartan were also working to determine what if any outstanding liabilities of Bellatrix remain that were accrued between the filing date and the closing date. The holdback amount previously mentioned could only be released once these liabilities were addressed. Further Crown correspondence from Alberta Energy on October 21st, 2021, stated that Bellatrix owed $87,378.59 for Crown royalty on two invoices covering April and May, 2020, along with a prorated share of $540,628.48 for annual GCA adjustments.

The letter secondly stated that the Bellatrix royalty deposit of $710,392.13 was sufficient to cover these amounts, clearing the debt owed. And finally, Bellatrix was authorized to proceed with the closing of the estate with no further liabilities to Alberta Energy. Relying on this response, the holdback amount was released.

On July 7th, 2022, this Court issued an amended and restated, CCAA termination order formally discharging the monitor from its duties and terminating the proceedings. The monitor filed its certificate on September 21st, 2022, confirming the official termination of the proceedings and the closing of Bellatrix's restructuring process.

Now, turning to the positions of the parties. The monitor supports the Spartan application. Canadian Natural Resources Limited, CNRL, also supports the Spartan application focusing on one issue, being whether Alberta Energy may enforce the Bellatrix for all its areas against unrelated third parties like itself. Alberta Energy is seeking repayment of $255,848.88 from CNRL.

Now, Alberta opposes the application for several reasons, including that it submits that it has the right to pursue third parties for the Bellatrix royalty arrears. It submits that the interests of co-leasees were not conveyed under the Spartan purchase agreement nor were claims against them released in any way by the vesting order. In addition, Alberta Energy submits that estoppel, as alleged, has not been established.

Now, to summarise my conclusion first, and then I will give some reasons. My conclusions are I find that Alberta Energy's claims for the payment of the Bellatrix royalty arrears against Spartan and the third parties are unenforceable for several reasons, including the following. Firstly, the claims are barred by the clear wording of the vesting order. Secondly, the claims undermine the integrity and finality of the Bellatrix CCAA process. And thirdly, the claims are not supported by the provisions of the *Mines and Minerals Act*.

Now, to expand. Firstly, the claims are barred by the clear wording of the vesting order. Insofar as Alberta Energy is seeking Bellatrix royalty arrears from the pre-filing date period, then the vesting order applies to bar any such claims. The wording of the vesting order clearly captures any arrears prior to the filing date. Turning to the vesting order itself, it contains standard provisions that expunge all claims against the purchased assets. Specifically referring to paragraph 4 which states that: (as read)

> Upon delivery of the monitor's certificate, all of Bellatrix's rights, title, and interests in the purchased assets vested absolutely in Spartan's name, free and clear of and from any defined claims that predate the filing date, which includes claims for royalty arrears.

Additionally, paragraph 11 of the vesting order bars any person or entity from asserting any claims against the purchased assets related to periods prior to the filing date, including claims for royalty arrears. Now, insofar as Alberta Energy is seeking Bellatrix royalty arrears from the post-filing date, I note that Alberta Energy was on the CCAA service list. It received notice of the post-filing holdback. As noted above, there was a holdback of $8.5 million held in trust by the monitor to deal with the post-filing claims, including claims for royalties. The monitor approached Alberta Energy seeking information concerning royalties owing post-filing. Alberta Energy confirmed with Bellatrix and the monitor in October 2021, that the Bellatrix royalty deposit was, “sufficient to offset the debt owed” and that “in summary, Bellatrix will not be responsible to pay any debt to the Crown and you may proceed with the closing of the estate.”

Additionally, I find that Alberta Energy's active participation in the CCAA process, including the written representations made in October 2021 prior to the release of the holdback, constitute an estoppel or a waiver by acquiescence of any claims for royalties.

Secondly, my second reason is that Alberta Energy claims are also precluded as they undermine the integrity and finality of the Bellatrix CCAA process.

In *Peace River Hydro Partners v. Petrowest Corporation* the Supreme Court of Canada reiterated the importance of the single proceeding model, which centralizes all claims related to a debtor's insolvency before a single court. This model is described as designed to prevent inefficiency and confusion that would arise from multiple separate legal actions by different stakeholders. The Court's broad authority under the CCAA ensures that all disputes, claims, and matters related to insolvency are dealt with expeditiously in the best interests of the debtor's creditors. In this CCAA process, the monitors supervised the process that addressed any liabilities, including the pre-filing royalty arrears, that needed to be addressed. In addition, there was a post-filing holdback process.

As I mentioned, Alberta Energy was involved in the CCAA process. It was on the service list. It received notice of all steps taken and was provided opportunities to participate at all stages during the process. It was aware of the transfer of the Bellatrix mineral leases agreements. In fact, it had to approve those transfers. It had the opportunity to address the issue of royalty arrears with the monitor prior to approving the transfer of the leases.

Alberta Energy should have raised the issue of pre-filing royalty arrears during the process. It appears that it elected not to do so. Third parties, like CNRL, relied on the processes established in the CCAA proceedings to assess the respective risks and rights. So in summary, the collection actions taken by Alberta Energy undermine the integrity of the Bellatrix CCAA process and also offend fundamental principles of fairness.

Thirdly, I find that the claims are not support of Alberta Energy are not supported by provisions of the *Mines and Minerals Act.* Alberta Energy referred to section 20(2.1) of the *Mines and Minerals Act*, submitting that it creates ongoing a liability for co-leasees for these royalty arrears. I disagree. I find that while section 20(2.1) makes registered participants on a lease jointly responsible for the existing obligations and liabilities that arise under a lease, no such liabilities and obligations currently exist with respect to the

Bellatrix royalty arrears. They were expunged by the vesting order, and paragraph 11 of the vesting order bars any claims in respect of the purchased assets.

Spartan submit that section 91.1(1) of the *Mines and Minerals Act*, is also relevant. That section was considered by Justice Romaine in *Terra Energy Corporation*. One of the issues considered was whether Alberta Energy's claim for royalty arrears survived the transfer of a lease to a new leaseholder. The arrears in that case were not calculated until after the transfer had occurred and Alberta Energy conducted an audit. The court concluded, and I am summarizing paragraphs 75 and 76, that the arrears did not exist at the time the leases were transferred, and that Alberta Energy's claim for royalties was merely a contingent liability at the time of the transfer, because the audit had not yet occurred. It noted that a contingent liability is one that, “that will only crystallize sometime in the future” and that, “may never become an existing legal liability because the event on which it depends may never happen.”

The ability to conduct an audit depends on the discretion of the Minister of Energy, and therefore it may or may not occur. It was submitted by the applicant and other parties that these principles apply in this case. That is, at the filing date and on the date of the vesting order, Alberta Energy had at most a contingent liability with respect to the Bellatrix royalty arrears. Alberta Energy's claim for the Bellatrix royalty arrears did not materialize until after the vesting order was issued on May 8th, 2020. The vesting order expunged any claims relating to the purchase assets “whether or not they had been attached or had been perfected, registered, or filed, and whether secured, unsecured, or otherwise.” The vesting order, therefore, prevented Alberta Energy's contingent liability claims or the Bellatrix royalty arrears from crystallizing. I agree and accept this submission.

Therefore, for these three reasons, the application is granted, and I said earlier, I grant the relief requested, which is Alberta Energy is hereby precluded from collecting any payments relating to the Bellatrix royalty arrears. And secondly, Alberta Energy shall immediately return to third parties, including the applicant's working interest partners, any credits offset by it or any payments made to it to satisfy the Bellatrix royalty arrears.

And that is, the end of the oral decision. So I now will open up the court for any comments, questions. Go ahead. Okay, are there any other issues then that will need to be addressed?

MR. NISHIMURA: Sir, I take it that you will not be issuing a written version of your reasons?

THE COURT: No. So you can order a transcript.

MR. NISHIMURA: Simp - simply a transcript. Okay. That - that was my only question, Sir.

THE COURT: All right, So you can order a transcript if you want, and I will -- and that will be produced in due course. Any other issues?

MR. REYNAUD: Just one question. Your Honour, are there -- are there any dispositions regarding costs and -- in your decision?

THE COURT: Well, typically, I would suggest in a case like this, that the parties try to come to some agreement on costs. If they are unable to do that, typically what I suggest is that we have brief submissions, you know, three or four pages in a letter with parties putting forward draft bills of costs, and I will choose what bill of costs or what combination I think is appropriate. Would that work with -- would that that work in this case?

MR. NISHIMURA: That's fine. We can -- we can have those discussions, Sir. Typically, in insolvency matters, it's been my experience that parties bear their own costs in these types of -- in these types of cases, but I'm happy to have the discussions.

THE COURT: Now, I forget if the costs were asked for.

MR. NISHIMURA: Well, I am -- I am certain they were.

THE COURT: (INDISCERNIBLE).

MR. NISHIMURA: I am certain they would have been in the application.

THE COURT: Okay.

MR. REYNAUD: (INDISCERNIBLE).

MR. NISHIMURA: And - and I wouldn't suggest that a lack of that in the application would preclude it in any event. So --

THE COURT: Absolutely. Absolutely.

MR. NISHIMURA: -- we'll have that discussion.

THE COURT: Okay. Well, thank you, Counsel. I will just ask any -- does anybody else wants to make a comment or have a question? Okay. Well, thank you for your time, and we will close the courtroom and have a good weekend. Thank you. Bye.

MR. REYNAUD: Have a good weekend.

PROCEEDINGS CONCLUDED

Certificate of Record

I, Quinn Delainey, certify that this recording is the record made of the evidence in proceedings in the Court of King’s Bench, held in courtroom 516 at Edmonton, Alberta, on the 14th day of March, 2025, and that I, Quinn Delainey, was the court official in charge of the sound-recording machine during the proceedings.

Certificate of Transcript

I, Abby Gagné, certify that

(a) I transcribed the record, which was recorded by a sound-recording machine, to the best of my skill and ability and the foregoing pages are a complete and accurate transcript of the contents of the record, and

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