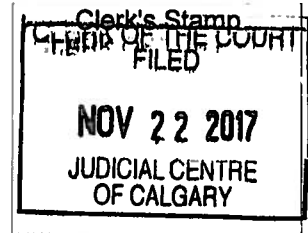


COURT FILE NUMBER **1601-07375**
COURT **COURT OF QUEEN'S BENCH OF ALBERTA**
JUDICIAL CENTRE **CALGARY**
PLAINTIFF **ALBERTA TREASURY BRANCHES**
DEFENDANT **LGX OIL + GAS INC.**



**IN THE MATTER OF THE RECEIVERSHIP
OF LGX OIL + GAS INC.**

AND IN THE MATTER OF:

COURT FILE NUMBER **1501-14562**
COURT **COURT OF QUEEN'S BENCH OF ALBERTA**
JUDICIAL CENTRE **CALGARY**
PLAINTIFFS **LGX OIL + GAS INC., THE CITY OF MEDICINE HAT, LINTUS RESOURCES LIMITED, SWADE RESOURCES LTD., W.F. BROWN EXPLORATION LTD., BARNWELL OF CANADA LIMITED, and SPYGLASS RESOURCES CORP.**
DEFENDANT **THE ATTORNEY GENERAL OF CANADA**
APPLICANT **ERNST & YOUNG INC., in its capacity as RECEIVER AND MANAGER OF LGX OIL + GAS INC.**
DOCUMENT **APPLICATION (Declaration Regarding Disclaimer Effect)**

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.: 01128610-0069

NOTICE TO THE RESPONDENT

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:	December 15, 2017
Time:	2:00 P.M.
Where:	Calgary Courts Centre
Before Whom:	The Honourable Madam Justice K. Horner

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. Ernst & Young Inc. in its capacity as Court-appointed receiver and manager (the **Receiver**) of the current and future assets, undertakings and properties of LGX Oil + Gas Inc. (**LGX**) seeks the following relief:
 - a. Declaring service of this Application and supporting materials to be good and sufficient;
 - b. An Order, substantially in the form attached hereto as **Schedule "A"**, declaring that the Receiver's disclaimer of the Manyberries Properties (as defined herein) is without prejudice to LGX's claim for *de facto* expropriation asserted against the Attorney General of Canada (**AGC**) in Court of Queen's Bench Action No. 1501-14562 (**AGC Action**); and
 - c. Such further and other relief as counsel may advise and as this Honourable Court may permit.

Grounds for making this application:

2. On June 7, 2016, the Receiver was appointed over the current and future assets, undertakings and properties of LGX pursuant to a Consent Receivership Order granted by the Honourable Mr. Justice Jeffrey (the **Receivership Order**).
3. Section 25 of the Receivership Order authorizes the Receiver to apply to this Honourable Court for advice and directions in the discharge of its powers and duties.

The Receiver's Decision to Disclaim

4. As further detailed in the Third Report of the Receiver and below, the Receiver determined that the best interests of LGX's stakeholders dictated that certain properties of LGX located in the Manyberries region in Southeastern Alberta (the **Manyberries Properties**) be disclaimed pursuant to the authority granted to the Receiver under paragraph 3(a) of the Receivership Order.
5. The disclaimer was effected in accordance with a letter agreement between the Receiver and the Alberta Energy Regulator dated February 8, 2017. Pursuant to that letter agreement, the disclaimer is made effective 90 days after delivery of the formal notice of disclaimer, which was provided by the Receiver to the Alberta Energy Regulator on November 8, 2017.

6. The Receiver seeks the Court's advice and directions and a declaration as to the effect of this decision to disclaim.

Background to the Disclaimer

7. The Manyberries Properties were rendered uneconomic and unsaleable as a consequence of the *Emergency Order for the Protection of the Greater Sage-Grouse*, SOR/2013-202 (2013), (**Emergency Order**). The Emergency Order was issued by the Governor General in Council on the recommendation of the Federal Minister of the Environment, pursuant to the *Species at Risk Act*, SC 2002, c 29.
8. Before LGX entered receivership, and before the Emergency Order removed all reasonable uses of the properties, the Manyberries Properties represented the principal assets of LGX.
9. The Receiver's view is that the Emergency Order precipitated the receivership of LGX.
10. In particular, the Emergency Order set into motion the series of events that culminated in LGX's first secured lender demanding repayment of its loan to LGX and seeking the appointment of the Receiver.
11. Before LGX entered receivership, it filed the Statement of Claim in the AGC Action. The basis of LGX's claim in the AGC Action is that the Emergency Order represents a *de facto* expropriation of the Manyberries Properties by the Crown, resulting in a loss to LGX in an amount initially estimated at \$60,000,000.00. The Crown did not compensate LGX for this *de facto* expropriation.
12. The Receiver has conducted its own damage quantification and has concluded that the loss suffered by LGX in respect of the *de facto* expropriation of the Manyberries Properties amounts to \$123,600,000.00.
13. The AGC Action is the principal asset in the receivership estate.
14. Early in the receivership proceedings, the Receiver determined that it would be prudent to retain the Manyberries Properties for as long as financially possible to avoid any prejudice to LGX's claim for *de facto* expropriation in the AGC Action.
15. The Receiver maintains that in the context of regulatory takings and claims for *de facto* expropriation it would be contrary to law and natural justice to defend on the basis that the plaintiff has disposed of the subject property, and therefore cannot have been the victim of expropriation. Nevertheless, the Receiver erred on the side of prudence in retaining the Manyberries Properties, with a view to mitigating any prejudice to the AGC Action.
16. It has now become economically unviable for the Receiver to retain the Manyberries Properties. Hence the decision to disclaim the assets.

The Purpose of this Application

17. Given the Receiver's decision to disclaim, the Receiver seeks advice, directions, and a declaration from this Honourable Court as to the effect of the disclaimer of the Manyberries Properties on the AGC Action.
18. In particular, the Receiver seeks a declaration that the effect of the disclaimer of the Manyberries Properties will not prejudice LGX's claim for *de facto* expropriation in the AGC Action.
19. The Receiver's view is that notwithstanding the disclaimer or disposal of the Manyberries Properties by the Receiver there has been a *de facto* expropriation of the Manyberries Properties

by the defendant in the AGC Action, and there remains a cause of action and compensable damages in that regard all as particularized in the Statement of Claim filed in the AGC Action.

20. Such further and other grounds as counsel may advise and this Honourable Court may permit.

Material or Evidence to be relied on:

21. The Receivership Order;

22. The Third Report of the Receiver;

23. The Statement of Claim in Action No. 1501-14562;

24. Such further and other materials as counsel may advise and this Honourable Court may permit.

Applicable Rules:

25. Rules 6.3(1), 6.9(1), and 7.1 of the Alberta *Rules of Court*.

26. Section 8 of the Alberta *Judicature Act*.

27. Such further and other Rules as counsel may advise and this Honourable Court may permit.

Applicable Acts and regulations:

28. The Alberta *Rules of Court*.

29. The Alberta *Judicature Act*.

30. 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:

31. There are no irregularities complained of or objections relied on.

How the application is proposed to be heard or considered:

32. Written and 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 1601-07375
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
PLAINTIFF ALBERTA TREASURY BRANCHES
DEFENDANT LGX OIL + GAS INC.



IN THE MATTER OF THE RECEIVERSHIP
OF LGX OIL + GAS INC.

APPLICANT ERNST & YOUNG INC. in its capacity as
RECEIVER AND MANAGER OF LGX OIL +
GAS INC.

DOCUMENT **ORDER (Declaration re Disclaimer Effect)**

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.: 01128610-0069

DATE ON WHICH ORDER WAS PRONOUNCED: December 15, 2017
NAME OF JUSTICE WHO MADE THIS ORDER: Honourable Madam Justice K. Horner
LOCATION OF HEARING: Calgary, Alberta

UPON THE APPLICATION of Ernst & Young Inc., in its capacity as Court-appointed Receiver (the **Receiver**) of the current and future assets, undertakings and properties of LGX Oil + Gas Inc. (**LGX**); **AND UPON HAVING READ** the Receivership Order granted by the Honourable Justice B.E.C. Romaine dated June 7, 2016, filed; **AND UPON HAVING READ** the Third Report of the Receiver dated November 21, 2017, filed (the **Third Report**); **AND UPON HAVING REVIEWED** the Statement of Claim in Court File No. 1501-14562 (**AGC Action**); **AND UPON HEARING FROM** counsel for the Receiver, counsel for the Attorney General of Canada, and any other parties present:

IT IS HEREBY ORDERED AND DECLARED THAT:

1. Service of the Application filed on November 22, 2017 is hereby validated and deemed good and sufficient and this Application is properly returnable today.

2. The disclaimer of the Manyberries Properties as such term is defined in the Third Report shall be without prejudice to LGX's claim for *de facto* expropriation and compensatory damages in the AGC Action.
3. The Receiver or any party appearing on the Court record of the hearing of the within application is at liberty to reapply for further advice and direction as may be necessary to give full force and effect to the terms of this Order.
4. Service of this Order by e-mail, facsimile, courier, regular mail or personal delivery shall constitute good and sufficient service of this Order.

J.C.Q.B.A.