

COURT FILE NUMBER

District of Alberta
Division No. 01 – Edmonton
Court No. 24-2147111
Estate No. 24-2147111

Clerk's Stamp

COURT

COURT OF QUEEN'S BENCH OF
ALBERTA
IN BANKRUPTCY AND INSOLVENCY

JUDICIAL CENTRE

EDMONTON

IN THE MATTER OF THE NOTICE OF
INTENTION TO MAKE A PROPOSAL OF
VALLEY POWER CORP.

DOCUMENT

APPROVAL AND VESTING ORDER

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

OGILVIE LLP

Barristers & Solicitors
1400, 10303 Jasper Avenue
Edmonton AB T5J 3N6
Attention: Kentigern A. Rowan, Q.C.
Phone: 780.429-6236
Fax: 780.429.4453
File No.: 63675.1

**Service will be accepted by delivery or fax. No other form of
service will be accepted.**

DATE ON WHICH ORDER WAS PRONOUNCED: November 19, 2021

LOCATION WHERE ORDER WAS PRONOUNCED: Edmonton, Alberta

NAME OF JUSTICE WHO MADE THIS ORDER: Madam Justice J. Fagnan

UPON THE APPLICATION by Valley Power Corp. in its capacity as general partner of Valley Power Limited Partnership (collectively, the "Debtor") for an order approving the sale transaction (the "Transaction") contemplated by an agreement of purchase and sale (the "Sale Agreement") between the Debtor and Metalnecks Salvage Ltd. (the "Purchaser") dated October 22, 2021 and appended as Appendix D to the First Report of The Bowra Group Inc. Trustee of the Proposal of the Debtor dated November 8, 2021 (the "Report"), and vesting in the Purchaser the Debtor's right, title and interest in and to the assets described in the Sale Agreement (the "Purchased Assets");

AND UPON NOTING that the Debtor made a Proposal to its creditors, which Proposal was approved and sanctioned by Order of this Honourable Court granted in this action on March 8, 2017 (the "Proposal");

AND UPON HAVING READ the Report, the Affidavit of Grant Noll and the Affidavit of Service of notice of this Application and supporting matters; **AND UPON HEARING** the submissions of counsel for the Debtor and counsel for such other parties who have appeared on this Application;

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 is hereby approved and the Trustee and Valley Power are hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for completion of the Transaction and conveyance of the Purchased Assets to the Purchaser.

VESTING OF PROPERTY

3. Upon delivery of the Vendor's certificate to the Purchaser substantially in the form set out in **Schedule "A"** hereto (the "Vendor's Closing Certificate"), all of the Debtor's right, title and interest in and to the Purchased Assets including but not limited to the Lands described in **Schedule "B"** hereto 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 (other than Property Taxes as herein defined), 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:
 - (a) any encumbrances or charges created by the Proposal;
 - (b) any charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Alberta) or any other personal property registry system;
 - (c) any liens or claims of lien under the *Builders' Lien Act* (Alberta); and

- (d) those Claims listed in **Schedule “C”** hereto (all of which are collectively referred to as the “Encumbrances”, which term shall not include the permitted encumbrances, caveats, interests, easements, and restrictive covenants listed in **Schedule “D”** (collectively, “Permitted Encumbrances”))

and for greater certainty, this Court orders that all Claims including Encumbrances other than Permitted Encumbrances, affecting or relating to the Purchased Assets are hereby expunged, discharged and terminated as against the Purchased Assets

4. Nothing in this Order shall cause to be discharged as against the Purchased Assets any claims by the Town of Drayton Valley for outstanding property or other Taxes assessable against the Purchased Assets.
5. Upon delivery of the Vendor’s Closing Certificate, and upon filing of a certified copy of this Order, together with any applicable registration fees, all governmental authorities including those referred to below in this paragraph (collectively, “Governmental Authorities”) are hereby authorized, requested and directed to accept delivery of such Vendor’s Closing 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 the Purchaser or its nominee clear title to the Purchased Assets subject only to Permitted Encumbrances. Without limiting the foregoing:

- (a) the Registrar of Land Titles (“Land Titles Registrar”) for the lands defined below shall and is hereby authorized, requested and directed to forthwith:

- (i) cancel existing Certificates of Title No. 012 260 006 for those lands and premises municipally described as 5302 34 Avenue, Drayton Valley, AB, and legally described as:

Plan 9222632

Lot 2

Containing 23.82 Hectares (58.86 Acres) More or Less

Excepting Thereout:

		Hectares	(Acres) More or Less
A)	Plan 9523866 Road	0.702	1.73
B)	Plan 9525030 Subdivision	9.29	22.96
C)	Plan 0122262 Road	0.043	0.11

Excepting Thereout All Mines and Minerals

(the “Lands”)

- (ii) issue a new Certificate of Title for the Lands in the name of the Purchaser, namely, Metalnecks Salvage Ltd., 18532 Township Road 452, Camrose, AB T0B 2K0.
 - (iii) transfer to the New Certificate of Title the existing instruments listed in **Schedule “D”**, to this Order, including the pending registrations identified in **Schedule “D”** and any instruments created as a result of the pending registrations; and
 - (iv) discharge and expunge the Encumbrances listed in **Schedule “C”** to this Order and discharge and expunge any Claims including Encumbrances (but excluding Permitted Encumbrances) which may be registered after the date of the Sale Agreement against the existing Certificate of Title to the Lands except for such encumbrances that may be registered pursuant to pending registrations identified in **Schedule “D”** to this Order;
- (b) the Registrar of the Alberta Personal Property Registry (the “PPR Registrar”) shall and is hereby directed to forthwith cancel and discharge any registrations at the Alberta Personal Property Registry (whether made before or after the date of this Order) claiming security interests (other than Permitted Encumbrances) in the estate or interest of the Debtor in any of the Purchased Assets which are of a kind prescribed by applicable regulations as serial-number goods.
6. In order to effect the transfers and discharges described above, this Court directs each of the Governmental Authorities to take such steps as are necessary to give effect to the terms of this Order and the Sale Agreement. Presentment of this Order and the Vendor’s Closing Certificate shall be the sole and sufficient authority for the Governmental Authorities to make and register transfers of title or interest and cancel and discharge registrations against any of the Purchased Assets of any Claims including Encumbrances but excluding Permitted Encumbrances.
 7. No authorization, approval or other action by and no notice to or filing with any governmental authority or regulatory body exercising jurisdiction over the Purchased Assets is required for the due execution, delivery and performance by the Trustee of the Sale Agreement.
 8. Upon delivery of the Vendor’s Closing Certificate together with a certified copy of this Order, this Order shall be immediately registered by the Land Titles Registrar notwithstanding the requirements of section 191(1) of the *Land Titles Act*, RSA 2000, c.L-7 and notwithstanding that the appeal period in respect of this Order has not elapsed.
 9. The Debtor shall be entitled to receive the cash portion of the consideration paid pursuant to the Sale Agreement (the “Cash Payment”).

10. The Debtor shall be entitled to pay its costs of completing the sale and transfer of the Purchased Assets, including obtaining this Order, from the Cash Payment and shall supply to the Trustee an accounting thereof (the "Expenses").
11. If any portion of the Cash Payment remains after payment of the Expenses, the Debtor shall pay that remaining portion to the Trustee.
12. Except as expressly provided for in the Sale Agreement or by section 5 of the *Alberta Employment Standards Code*, the Purchaser (or its nominee) shall not, by completion of the Transaction, have liability of any kind whatsoever in respect of any Claims against the Debtor.
13. Upon completion of the Transaction, the Debtor and all persons who claim by, through or under the Debtor in respect of the Purchased Assets, and all persons or entities having any Claims of any kind whatsoever in respect of the Purchased Assets, save and except for persons entitled to the benefit of the Permitted Encumbrances, shall stand absolutely and forever barred, estopped and foreclosed from and permanently enjoined from pursuing, asserting or claiming any and all right, title, estate, interest, royalty, rental, equity of redemption or other Claim whatsoever in respect of or to the Purchased Assets, and to the extent that any such persons or entities remain in the possession or control of any of the Purchased Assets, or any artifacts, certificates, instruments or other indicia of title representing or evidencing any right, title, estate, or interest in and to the Purchased Assets, they shall forthwith deliver possession thereof to the Purchaser (or its nominee).
14. The Purchaser (or its nominee) shall be entitled to enter into and upon, hold and enjoy the Purchased Assets for its own use and benefit without any interference of or by the Debtor, or any person claiming by, through or against the Debtor.
15. Immediately upon closing of the Transaction, holders of Permitted Encumbrances shall have no claim whatsoever against the Trustee.
16. The Debtor is directed to file with the Court a copy of the Vendor's Closing Certificate forthwith after delivery thereof to the Purchaser.

MISCELLANEOUS MATTERS

17. Notwithstanding:
 - (a) the pendency of these proceedings and any declaration of insolvency made herein;
 - (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"), in respect of the Debtor, and any bankruptcy order issued pursuant to any such applications;
 - (c) any assignment in bankruptcy made in respect of the Debtor; and

(d) the provisions of any federal or provincial statute:

the vesting of the Purchased Assets in the Purchaser 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 transfer at undervalue, settlement, fraudulent preference, assignment, fraudulent conveyance, or other reviewable transaction under the BIA 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.

18. The Trustee, 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.

19. 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, 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 Trustee 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 Trustee, as an officer of the Court, as may be necessary or desirable to give effect to this Order or to assist the Trustee and its agents in carrying out the terms of this Order.

20. 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

Posting a copy of this Order on the Trustee's website at:
<https://www.bowragroup.com/valley-power-corp>,

and service on any other person is hereby dispensed with.

21. 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.

Justice of the Court of Queen's Bench of Alberta

Schedule "A"**Form of Vendor's Certificate**

COURT FILE NUMBER

District of Alberta
 Division No. 01 – Edmonton
 Court No. 24-2147111
 Estate No. 24-2147111

Clerk's Stamp

COURT

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

EDMONTON

IN THE MATTER OF THE NOTICE OF
 INTENTION TO MAKE A PROPOSAL OF
 VALLEY POWER CORP.

DOCUMENT

VENDOR'S CERTIFICATE

ADDRESS FOR SERVICE AND
 CONTACT INFORMATION OF
 PARTY FILING THIS
 DOCUMENT

OGILVIE LLP

Barristers & Solicitors
 1400, 10303 Jasper Avenue
 Edmonton AB T5J 3N6
 Attention: Kentigern A. Rowan, Q.C.
 Phone: 780.429-6236
 Fax: 780.429.4453
 File No.: 63675.1

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 of service will be accepted.**

RECITALS

- A. Valley Power Corp., as general partner of Valle Power Limited Partnership (collectively, "Valley Power") filed a Notice of Intention to Make a Proposal to its creditors on July 26, 2016. On January 20, 2017, Valley Power filed a Proposal, which was approved by its creditors at a meeting of creditors held February 9, 2017, and subsequently approved by the Court of Queen's Bench of Alberta by Order dated March 8, 2017.
- B. Pursuant to an Order of the Court dated November 19, 2021, the Court approved the agreement of purchase and sale made as of October 22, 2021 (the "Sale Agreement") between the Debtor and Metalnecks Salvage Ltd. (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 Vendor 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 section _____ of the Sale Agreement have been satisfied or waived by the Vendor and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Vendor.

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

THE VENDOR CERTIFIES the following:

1. The Purchaser has paid and the Vendor 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 section _____ of the Sale Agreement have been satisfied or waived by the Vendor and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Vendor.
4. This Certificate was delivered by the Vendor at _____ on _____.

VALLEY POWER CORP.

Per: _____

Name:

Title:

SCHEDULE "C"

DOCUMENT	INSTRUMENT NUMBER
BUILDERS' LIEN	162 064 763
BUILDERS' LIEN	162 118 758
BUILDERS' LIEN	162 128 589
CERTIFICATE OF LIS PENDENS	162 200 231
CERTIFICATE OF LIS PENDENS	162 200 446
CERTIFICATE OF LIS PENDENS	162 298 812

SCHEDULE "D"

DOCUMENT	INSTRUMENT NUMBER
Caveat	3186LA
Utility Right of Way	3246LD
Utility Right of Way	7292LD
Right of Entry/ Arbitration Act Order	4857LF
Order	2841LR
Order	5099LP
Order	3144LR
Order	3145LR
Caveat re: Utility Right of Way	812 127 891
Utility Right of Way	862 057 755
Utility Right of Way	862 063 531
Utility Right of Way	882 237 981
Utility Right of Way	912 287 328
Caveat re: Surface Lease	952 333 254
Caveat	962 148 659
Utility Right of Way	102 020 009
Tax Notification	202 089 897

PENDING REGISTRATIONS:

TRANSFER OF INSTRUMENT – DRR NUMBER C005Q00

TRANFSER OF INSTRUMENT – DRR NUMBER C005Q18