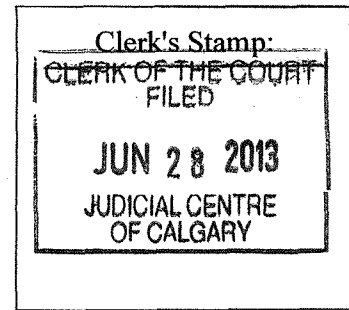


COURT FILE NUMBER 1201 15737  
COURT COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL CENTRE CALGARY  
APPLICANT IN THE MATTER OF THE COMPANIES'  
CREDITORS ARRANGEMENT ACT, R.S.C.  
1985, c. C-36, AS AMENDED  
AND IN THE MATTER OF FAIRWEST  
ENERGY CORPORATION  
DOCUMENT AFFIDAVIT OF MARION MACKIE  
SWORN JUNE 28, 2013



Burnet, Duckworth & Palmer LLP  
2400, 525 – 8 Avenue S.W.  
Calgary, Alberta T2P 1G1

ADDRESS FOR SERVICE AND  
CONTACT INFORMATION OF  
PARTY FILING THIS DOCUMENT

Lawyer: Carole J. Hunter  
Phone Number: (403) 260-0368  
Fax Number: (403) 260-0332  
Email Address: [chunter@bdplaw.com](mailto:chunter@bdplaw.com)

File No. 71301-1

**AFFIDAVIT OF MARION MACKIE**  
**(Sworn June 28, 2013)**

I, MARION MACKIE of the City of Calgary, in the Province of Alberta, MAKE OATH  
AND SAY:

1. I am the Chief Restructuring Officer (the "CRO") of FairWest Energy Corporation ("FairWest" or the "Company"). As such, I have knowledge of the matters hereinafter deposed to, except where stated to be based on information and belief, in which case I have stated the source of the information and believe it to be true.

2. This affidavit is made in support of an application by FairWest for the following relief:
  - (a) an Order granting an extension to the Stay Period (as defined in the Initial Order dated December 12, 2012) granted in these proceedings to and including July 16, 2013;
  - (b) an Order deleting paragraph 32 of the Initial Order and replacing it with the following:
 

32. Such credit facility shall be on the terms and subject to the conditions set forth in the commitment letter between the Applicant and the DIP Lender dated as of December 10<sup>th</sup>, 2012, as amended pursuant to amending letters dated January 8, 2013, February 7, 2013, March 12, 2013, April 23, 2013, May 27, 2013 and June 27, 2013 (the "**Commitment Letter**"), filed.
  - (c) such other relief as may be sought by FairWest and granted by this Honourable Court.
3. On December 12, 2012, FairWest sought and obtained protection from its creditors pursuant to the Initial Order granted in these proceedings under the *Companies' Creditors Arrangement Act* (the "CCAA"). Pursuant to the Initial Order, PricewaterhouseCoopers Inc. was appointed as the monitor of FairWest (the "**Monitor**"). The Initial Order provided for a stay of proceedings up to and including January 11, 2013. The stay of proceedings has been extended on six occasions and now expires on July 3, 2013.
4. On May 28, 2013, pursuant to the Order of the Honourable Madam Justice B. E. Romaine (the "**May 28 Order**"), I was appointed as the CRO of FairWest with the authority to, among other things, supervise and manage the business of FairWest and operate and carry on the business for the purpose of implementing the sales transaction contemplated by the Successful Bid (as hereinafter defined).
5. Since the date of the Initial Order, FairWest has worked with the Monitor to stabilize operations, communicate with stakeholders, reduce costs and provide information to the Monitor and other stakeholders.

### ***Restructuring Efforts***

6. FairWest and the Monitor have been in communication with lenders, trade suppliers, operators, investors and other stakeholders. It is FairWest's goal to ensure availability of information for its stakeholders. The Monitor has established a website where all public documents in these proceedings are being made available: [www.pwc.com/car-fec](http://www.pwc.com/car-fec).

(a) *Royalty Investments Limited Partnership*

7. Since the CCAA proceedings began, FairWest has been focused on stabilizing operations and reducing costs. FairWest has, however, encountered some difficulty with one of its joint venture partners, Royalty Investments Limited Partnership ("**RILP**") which has impacted the proceedings.

8. On December 31, 2012, FairWest sent a default notice to RILP relating to the indebtedness owing by RILP to FairWest under the Joint Operating Agreement between FairWest and RILP dated October 5, 2010 (the "**JOA**"). On January 31, 2013, FairWest received a letter from RILP's counsel requesting that FairWest withdraw the default notice issued to RILP on December 31, 2012 and provide an accounting to RILP of net production revenues and certain asset sales. On February 6, 2013, FairWest also received a letter from Tallinn Capital Corp. ("**Tallinn**"), the lender for RILP demanding payment of amounts owing to RILP that Tallinn claimed had been withheld by FairWest and over which Tallinn claims priority over pursuant to a subordination agreement executed by Tallinn and FairWest.

9. In conjunction with the Monitor, FairWest reviewed the allegations made in the letters from RILP and Tallinn. On February 28, 2013, FairWest advised RILP that FairWest did not see any basis for withdrawing the default notice issued to RILP on December 31, 2012. On the same date, FairWest has also advised Tallinn that no payments will be made by FairWest to Tallinn.

10. On March 18, 2013, RILP filed an application originally returnable on March 19, 2013, seeking, among other things, that the net sales revenue payable by FairWest to RILP for December 2012, January 2013 and February 2013 be paid by FairWest to RILP or Tallinn (the "**Revenue Application**"). On April 3, 2013, RILP filed another application seeking, among other things, declarations that RILP has a beneficial interest in certain properties held in the name of FairWest and that the default notice issued by FairWest to RILP on December 31, 2012 is invalid (the "**Disputed Properties Application**"). The Revenue Application and the Disputed Properties Application (together, the "**RILP Applications**") were heard on April 23 and 24, 2013 before the Honourable Madam Justice J. Strekaf.

11. On April 26, 2013, the decision on the Disputed Properties Application was delivered and it was determined that, with the exception of one property, RILP did not have a beneficial interest in any of the properties held in the name of FairWest which were detailed in RILP's application materials. In respect of the one property, FairWest has adjusted the land records such that RILP is now shown as having a 32% working interest, instead of a gross overriding royalty, in that property. Further to the direction of the Honourable Madam Justice J. Strekaf, FairWest has also provided RILP with an accounting of the revenue and expenses associated with that property.

12. On June 4, 2013, following the delivery of additional written submissions by Tallinn, RILP and FairWest, the decision on the Revenue Application was delivered and it was determined that FairWest had the right to set-off the production revenue against the indebtedness owing by RILP to FairWest, however, once the indebtedness owing by RILP to FairWest was equal to \$366,000, Tallinn had a right to the production revenue in accordance with the provisions of the subordination agreement between Tallinn and FairWest. The issue of the costs to be awarded in respect of the RILP Applications has not been determined however, briefs have been filed by FairWest, RILP and Tallinn.

13. As a result of the decision in the Revenue Application, the production revenue that FairWest had been required to place in trust on March 25, 2013, April 25, 2013 and May 24, 2013 should have been available to be released to FairWest to assist in funding its operations. However, on June 18, 2013, Tallinn advised the Honourable Madam Justice J. Strekaf that it intended to bring an application to deal with additional issues relating to the production revenue, including whether Tallinn's registered security interest against RILP had priority over FairWest's operator's lien or right of set-off under the JOA or at law. At that hearing, it was determined that (i) Tallinn could proceed with the application and was required to file its application materials on the priority dispute (the "**Priority Application**") by Friday, June 21, 2013; (ii) Tallinn had to provide an undertaking to pay the reasonable solicitor-client costs of FairWest and any incremental costs relating to the funds required to be borrowed by FairWest from its DIP Lender, in the event that Tallinn is unsuccessful in its application; and (iii) the amount that FairWest was required to place in trust on the 25<sup>th</sup> day of each month would be changed from \$40,000 to the actual net revenue payable to RILP. No application materials were served by Tallinn on Friday, June 21, 2013, however, the parties are discussing dates in August for the hearing of the Priority Application.

(b) *Energy Resources Conservation Board*

14. On February 5, 2013, FairWest received notice from the Energy Resources Conservation Board (the "**ERCB**") that a security deposit in the amount of \$111,880.54 was required to be posted by FairWest to offset the difference between FairWest's deemed assets and deemed liabilities. The ERCB indicated that this amount was to be paid on or before March 1, 2013.

15. On February 26, 2013, FairWest requested an extension of the time to pay the security deposit to April 1, 2013 as FairWest was unaware of the requirement to pay the security deposit when the cash flow projections for the period ending March 15, 2013 had been prepared and approved by the DIP Lender (as hereinafter defined). The ERCB did not agree to the extension of the time to pay and issued a Notice of Low Risk Noncompliance against FairWest.

16. On June 6, 2013, the ERCB imposed a Global Refer status and issued a Miscellaneous Order against FairWest as a result of its failure to pay the security deposit. The ERCB advised FairWest that it must pay the security deposit in the amount of \$3,051,224.40 (based on the June 2013 assessment of assets and liabilities) by July 5, 2013.

17. The ERCB had earlier advised that FairWest will be provided with additional time to pay the security deposit during the CCAA proceedings but that the ERCB expects full payment of the security deposit when FairWest emerges from CCAA protection. FairWest anticipates that any issues relating to the payment of the security deposit will need to be addressed to facilitate a sale of FairWest's assets.

(c) *Operational Issues*

18. On June 13, 2013, a leak was discovered and reported to FairWest in the gas pipeline leading from the Berry Creek 6-19 Plant ("**6-19 Plant**") to the 1-16-26-12W4 TransCanada Meter Station. The leak was immediately reported to the ERCB and production at the 6-19 Plant has been shut-in. FairWest is currently exploring alternatives to bring the 6-19 Plant back on-line as it has a significant negative impact on FairWest's monthly net revenue. In a best case scenario, FairWest anticipates that the 6-19 Plant could be back on-line by mid-July 2013.

***Sales and Investment Solicitation Process***

19. In accordance with the Order of this Honourable Court dated March 19, 2013 (the "**March 19 Order**"), the engagement of PricewaterhouseCoopers Corporate Finance Inc. as financial advisor to FairWest (the "**Financial Advisor**") was approved. The Monitor, in conjunction with FairWest and the Financial Advisor commenced the sales and investment solicitation process (the "**SISP**") following the granting of the March 19 Order.

20. The bid deadline was originally on April 5, 2013 but was extended to April 12, 2013 in accordance with the provisions of the SISP. On April 12, 2013, the Monitor received six bids for various portions of FairWest's assets. Following the determination of the Disputed Properties Application, the Financial Advisor, in consultation with management of FairWest and the Monitor, determined that a credit bid by Supreme Group Inc. ("**SGI**") for a significant portion of FairWest's properties was the best bid that had been received under the SISP. The board of directors of FairWest did not approve the bid submitted by SGI and later resigned on May 30, 2013.

21. As a result of the resignation of the board of directors, the Monitor's powers were expanded pursuant to the May 28 Order to allow the Monitor to, among other things, (i) select the successful bid (the

"**Successful Bid**") from amongst the bids submitted pursuant to the SISP and (ii) oversee and direct the completion of the transaction contemplated by the Successful Bid. The Monitor has selected the bid submitted by SGI for a significant portion of FairWest's assets as the Successful Bid.

22. Over the past month, the Monitor has exchanged correspondence with the ERCB in an attempt to: (i) address the issues relating to the payment of the security deposit by FairWest for the properties that are not included in the Successful Bid and (ii) obtain the ERCB's support for the Successful Bid. The ERCB has advised that it will not support the approval of the Successful Bid unless the ERCB's Directive 006 is complied with, which would require that FairWest pay a security deposit in respect of the properties that are not being transferred in the transaction contemplated by the Successful Bid. FairWest does not have the financial resources necessary to pay the security deposit required by the ERCB's Directive 006.

### ***Cash Flows***

23. Attached as Schedule "B" to the Sixth Report of the Monitor dated June 28, 2013 are FairWest's cash flows projections for the period ending July 16, 2013 (the "**Cash Flows**"). The Cash Flows have been prepared in conjunction with the Monitor and I verily believe them to be accurate.

24. As a result of a decline in production volumes due to unexpected operational issues at one of its properties and FairWest's need to shut-in some production due to mechanical failures and the pipeline leak, the Cash Flows now indicate that FairWest's cash flow from operations is negative. In light of this and the position taken by the ERCB in respect of the Successful Bid, FairWest has been advised by SGI, its debtor-in-possession lender (the "**DIP Lender**") that it will only continue to provide funding to FairWest until July 16, 2013. Over the course of the next couple weeks, the DIP Lender has advised that it will consider its alternatives and determine whether it can continue to support FairWest's restructuring.

25. Based on the Cash Flows, it is anticipated that FairWest will require advances in the aggregate amount of \$1,764,179 under credit facility dated as of December 10, 2012 between the DIP Lender and FairWest, as amended by amending letters dated January 8, 2013, February 7, 2013, March 14, 2013, April 23, 2013 and May 27, 2013 (the "**Commitment Letter**"). The Commitment Letter currently provides for borrowings in the maximum amount of \$1,765,000. As a result, FairWest does not require an increase in the borrowings available under the Commitment Letter in order to continue its operations and meet its post-filing obligations in the ordinary course.

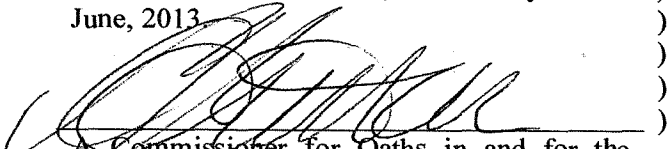
26. On June 27, 2013, FairWest and the DIP Lender amended the Commitment Letter by (i) extending the Maturity Date (as defined in the Commitment Letter) from July 3, 2013 to July 16, 2013; and


(ii) replacing the Cash Flow Forecast attached as Schedule "A" to the Commitment Letter with the updated Cash Flows (the "**Amending Letter**"). A copy of the Amending Letter is attached hereto as Exhibit "A".

27. I verily believe that FairWest has been acting in good faith and with due diligence in these proceedings and believe it is in the best interests of FairWest and its stakeholders to extend the Stay Period so that FairWest can continue its restructuring efforts.

28. I swear this Affidavit in support of FairWest's Application for the relief set out in paragraph 2 of this Affidavit, and for no other or improper purpose.

SWORN BEFORE ME at the City of Calgary )  
in the Province of Alberta, this 28<sup>th</sup> day of )  
June, 2013. )

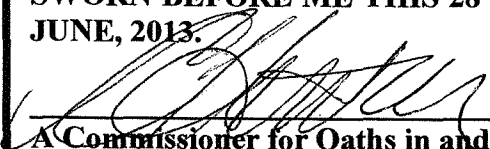
  
A Commissioner for Oaths in and for the  
Province of Alberta

  
MARION MACKIE

**CAROLE J. HUNTER**  
Barrister & Solicitor

**THIS IS EXHIBIT "A" REFERRED TO IN  
THE AFFIDAVIT OF MARION MACKIE.**

**SWORN BEFORE ME THIS 28<sup>TH</sup> DAY OF  
JUNE, 2013.**

  
\_\_\_\_\_  
**A Commissioner for Oaths in and for the  
Province of Alberta**

**CAROLE J. HUNTER**  
**Barrister & Solicitor**





**SUPREME  
GROUP**

10457 - 184 STREET NW EDMONTON, ALBERTA T5B 1B1 CANADA  
PHONE 780-483-3278 FAX 780-486-2113 TOLL FREE 1-800-640-1723

**GENERATIONS OF TRUSTED STEEL EXPERTISE**

June 27, 2013

FairWest Energy Corporation  
800, 407 - 2 Street SW  
Calgary, Alberta  
T2P 2Y3

Attention: Mr. Douglas O. McNichol

Dear Sirs:

We refer to the commitment letter dated December 10, 2012, as amended by an amending letter dated January 8, 2013, as further amended by an amending letter dated February 6, 2013, as further amended by an amending letter dated March 12, 2013, as further amended by an amending letter dated April 23, 2013, and as further amended by an amending letter dated May 27, 2013 (the "Commitment Letter") between Supreme Group Inc. (the "DIP Lender") and FairWest Energy Corporation (the "Borrower"). Capitalized terms used and not otherwise defined herein have the meanings given to such terms in the Commitment Letter.

Subject to the terms and conditions hereof, we confirm our agreement to amend the Commitment Letter by:

1. extending the Maturity Date from July 3, 2013 until July 16, 2013; and
2. replacing the Cash Flow Forecast attached as Schedule "A" to the Commitment Letter with the Cash Flow Forecast attached as Schedule "A" hereto.

All other terms and conditions outlined in the Commitment Letter shall remain in full force and effect, unamended and binding upon the parties.

The Borrower covenants and agrees that upon execution of this amending letter and upon the Court's approval of the amendments, the amendment fee of \$5,000.00 shall be earned by and payable to the DIP Lender.

The DIP Lender reserves all of its rights and remedies at any time and from time to time in connection with any or all breaches, defaults or Events of Default now existing or hereafter arising under the Commitment Letter or any other agreement delivered by the Borrower to the DIP Lender, and whether known or unknown, and this amending agreement shall not be construed as a waiver of any such breach, default or Event of Default.

*[Remainder of Page Intentionally Left Blank]*



[WWW.SUPREMEGROUP.COM](http://WWW.SUPREMEGROUP.COM)



**SUPREME  
GROUP**

**GENERATIONS OF TRUSTED STEEL EXPERTISE**

**SUPREME GROUP INC.**

Per: 

Name: James Joosse

Title: Corporate Counsel

We acknowledge and accept the terms and conditions of this amending agreement  
on this \_\_ day of June, 2013.

**FAIRWEST ENERGY CORPORATION**

Per: 

Name:

Title:



[WWW.SUPREMEGROUP.COM](http://WWW.SUPREMEGROUP.COM)