

ESTTA Tracking number: **ESTTA679732**

Filing date: **06/23/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92061257
Party	Defendant Heartland Energy Group, Ltd.
Correspondence Address	AMBER N DAVIS BEUSSE WOLTER SANKS & MAIRE PA 390 N ORANGE AVENUE, SUITE 2500 ORLANDO, FL 32801 UNITED STATES adavis@iplawfl.com, kwimberly@iplawfl.com, bmahan@iplawfl.com
Submission	Reply in Support of Motion
Filer's Name	Amber N. Davis
Filer's e-mail	adavis@iplawfl.com, kwimberly@iplawfl.com, bmahan@iplawfl.com
Signature	/s/ Amber N. Davis
Date	06/23/2015
Attachments	Reply to Opposition to Motion to Suspend (062315).pdf(3567126 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
TRADEMARK TRIAL AND APPEAL BOARD**

**FLUID ENERGY GROUP, LTD.,**

**Petitioner,**

v.

**Cancellation No. 92061257  
Registration No. 4224628**

**HEARTLAND ENERGY GROUP, LTD.**

**Registrant.**

\_\_\_\_\_ /

**REPLY TO OPPOSITION TO MOTION TO SUSPEND PROCEEDINGS**

COMES NOW, Registrant, HEARTLAND ENERGY GROUP, LTD., (“HEG” or “Registrant”) by and through its undersigned hereby replies to Petitioner’s Response in Opposition to HEG’s Motion for Suspension of the above-styled cancellation proceeding.

As found in TBMP §510.02(a) and 37 C.F.R. 2.117(a), whenever it comes to the attention of the Board that a party or parties to a case pending before it are involved in a civil action which may have a bearing on the Board case, proceedings before the Board may be suspended until final determination of the civil action. Moreover, TBMP §510.01 cites to the Board’s inherent power to schedule the disposition of the cases on its docket and to stay proceedings upon its own initiative, upon motion, or upon stipulation of the parties. Petitioner argues that because the arbitration is not a civil proceeding, this section does not apply. Petitioner is wrong. While the most common request is to suspend the proceeding pending the outcome of a civil action in Federal Court, the Board may also, in its discretion suspend the proceeding for actions in state

court<sup>1</sup>, for other Board proceedings<sup>2</sup>, for a foreign action<sup>3</sup> between the parties, for another proceeding in which only one party is involved<sup>4</sup> and most importantly pending the final ruling in an arbitration proceeding<sup>5</sup>.

Similar to the *Michael Farah v. Topiclear Beauty Products, Inc.* case, the parties in the instant case had an agreement which governed trademark (as well as patent) ownership. In the arbitration proceeding, HEG is arguing that it is the true and rightful owner of the ENVIRO-SYN® mark and that its licensee, Petitioner, is attempting to usurp the mark as its own, confuse consumers and infringe on HEG's ENVIRO-SYN® registration. As found in the Amended Counterclaim at paragraphs 21-23, 70-72 and 113-132, HEG first used the mark well before it began negotiating the manufacturing and license agreements entered into between the parties and well before Petitioner's filing date in the United States as well as its foreign filing date. More importantly, Petitioner was well aware of the filing at least as early as December 22, 2011 when Stephen Rowley, the Vice President of HEG and at the time the owner of Heartland Solutions, Inc., a related company, forwarded a copy of the filing to Darren Thatcher and Clay Purdy who

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<sup>1</sup> See *Mother's Restaurant Inc. v. Mama's Pizza, Inc.*, 723 F.2d 1566, 221 USPQ 394, 395 (Fed. Cir. 1983) (noting stay based in part on state court infringement action); *Professional Economics Incorporated v. Professional Economic Services, Inc.*, 205 USPQ 368, 376 (TTAB 1979) (decision of state court, although not binding on the Board, was considered persuasive on the question of likelihood of confusion); *Argo & Co. v. Carpetsheen Manufacturing, Inc.*, 187 USPQ 366, 367 (TTAB 1975) (state court action to determine ownership of applicant's mark and authority of applicant to file application).

<sup>2</sup> Cf. *The Tamarkin Co. v. Seaway Food Town Inc.*, 34 USPQ2d 1587, 1592 (TTAB 1995) (suspended pending outcome of ex parte prosecution of opposer's application).

<sup>3</sup> See *Marie Claire Album S.A. v. Kruger GmbH & Co. KG*, 29 USPQ2d 1792, 1793-94 (TTAB 1993) (opposition suspended pending decision of German court on validity of foreign registration which is the basis of the U.S. application involved in the opposition).

<sup>4</sup> See *Argo & Co. v. Carpetsheen Manufacturing, Inc.*, 187 USPQ 366, 367 (TTAB 1975) (state court action between applicant and third party to determine ownership of applicant's mark).

<sup>5</sup> See *Michael Farah v. Topiclear Beauty Products, Inc.*, 2003 TTAB LEXIS 405 (TTAB 2003) (suspending proceeding pending binding arbitration because the arbitration would likely decide the effects of an agreement entered into between the parties, whether the applicant was the owner of the mark as the time it was filed and whether the assignee is now the proper owner).

are the Petitioner's CEO and COO, respectively, and who are both Counterclaim Respondents in the arbitration proceeding. A true and correct copy of such email correspondence is attached hereto as Exhibit "A".

Based on the foregoing and contrary to Petitioner's assertions, the pending arbitration will determine who owns the trademark and whether Petitioner has infringed. Although the decision by the arbitration panel may not be binding on the TTAB, it still involves issues that are in common with those in this proceeding, and it makes little sense to force the parties to litigate the same issues in two different forums. Moreover, what Petitioner also failed to mention in its Response in Opposition is that it filed a civil action in Canada, which is currently stayed pending phase 1 of the arbitration and will likely be re-opened either after phase 1 or after phase 2 depending on the determination by the ICC Panel. True and correct copies of the Stay Orders in the Canadian Proceeding are attached hereto as Composite Exhibit "B." The decision by the ICC as well as the decision in the Alberta Courts (should the Petitioner re-open the case) will have a direct bearing on the issues involved in the cancellation proceeding before the Board making a stay necessary in the instant case.

WHEREFORE, Registrant, Heartland Energy Group, Ltd., respectfully requests suspension of the subject Cancellation Proceeding No. 92061257 until the pending arbitration referenced above is terminated.

DATED this 23<sup>rd</sup> day of June, 2015.

Respectfully Submitted,

BEUSSE WOLTER SANKS & MAIRE, P.A.  
390 N. Orange Avenue, Suite 2500  
Orlando, Florida 32801  
Telephone: (407) 926-7700  
Facsimile: (407) 926-7720  
E-mail: [adavis@iplawfl.com](mailto:adavis@iplawfl.com)

E-mail: [kwimberly@iplawfl.com](mailto:kwimberly@iplawfl.com)  
Attorneys for Registrant

By: /s/ Amber N. Davis  
Amber N. Davis  
Florida Bar No.: 0026628  
Kevin W. Wimberly  
Florida Bar No.: 0057977

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been mailed via U.S. Mail and Electronic mail this 23<sup>rd</sup> day of June, 2015 to: Benjamin Natter, Esquire, NATTER & NATTER, 501 Fifth Avenue, Suite 808, New York, New York 10017.

/s/ Amber N. Davis  
Attorney

# EXHIBIT “A”

## Collins, Allan

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**From:** Stephen Rowley <stephenrowley@sbcglobal.net>  
**Sent:** Thursday, December 22, 2011 8:27 AM  
**To:** Timothy Steffens  
**Cc:** Darren Thatcher; Clay Purdy  
**Subject:** Re: 052816-ENVIRO-SYN Serial number 85500596: Received Your Trademark/Service Mark Application, Principal Register

Thanks Tim. Merry Christmas.

Steve Rowley  
Heartland Solutions, Inc.  
P: 816.867.2054  
F: 816.867.2055  
M: 816.550.5591

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**From:** Timothy Steffens <TSteffens@Polsinelli.com>  
**To:** Stephen Rowley <stephenrowley@sbcglobal.net>  
**Cc:** Timothy Steffens <TSteffens@Polsinelli.com>; Jim Stipek <JStipek@Polsinelli.com>  
**Sent:** Wed, December 21, 2011 11:01:00 AM  
**Subject:** FW: 052816-ENVIRO-SYN Serial number 85500596: Received Your Trademark/Service Mark Application, Principal Register

Steve,

I completed and submitted the ENVIRO-SYN trademark application today. Please note that it will take approximately 4 to 6 months before the application is assigned to an examining attorney and we receive any response from the USPTO. We will keep you informed of any progress as we are notified.

We recommend that your use of the mark be accompanied by a <sup>TM</sup> or <sup>SM</sup> designation as appropriate in order to advise the public that you are claiming trademark rights in the mark. While use of the foregoing is not required, it is a best practice. Please note that you cannot use the familiar registration symbol (®) or any other legend claiming that your mark is registered until the application actually proceeds to registration. Please let us know if you have any questions about this.

Recently, certain companies have taken to scouring the USPTO's records and sending solicitations for various services to recent trademark applicants. We have recently seen companies sending solicitations asking our clients to subscribe to less than reputable trademark monitoring services or to subscribe to register their trademarks on certain internet databases (which really have no effect and are just a waste of money). These solicitations are designed to look like "official" correspondence from the USPTO or some other governmental or international body. Please note that, while our firm is designated to receive any official correspondence regarding your trademark application from the USPTO so that we can be sure to make any necessary responses, you may still receive these unofficial solicitations.

If you happen to receive any solicitation or other correspondence relating to your trademark application and you have any questions about it (e.g., whether it is legitimate or not), please let me know and we will review it. You may also discuss this with your accounting (or similar department) so that they do not automatically pay these invoices (which is what these companies are hoping for).

Finally, please note that it is the responsibility of the trademark owner to detect applications for and the use of other marks in commerce that could lead to confusion in the marketplace or abandonment of the trademark. Our firm, in connection

with outside vendors, offers trademark monitoring services for this purpose if you are interested. Please let us know if you would like additional information regarding these services.

If in the meantime you need any further assistance or have any questions, please don't hesitate to contact me. Also, let me know if you want to file any additional applications to broaden the goods listed in any of your previous registrations as discussed in my previous email (e.g., Rack Envy)

Thanks,  
Tim

---

**From:** teas@uspto.gov [mailto:teas@uspto.gov]  
**Sent:** Wednesday, December 21, 2011 9:21 AM  
**To:** uspt@polsinelli.com  
**Subject:** 052816-ENVIRO-SYN Serial number 85500596: Received Your Trademark/Service Mark Application, Principal Register

**MARK:** ENVIRO-SYN (Standard Characters, mark.jpg)  
The literal element of the mark consists of ENVIRO-SYN.  
The mark consists of standard characters, without claim to any particular font, style, size, or color.

We have received your application and assigned serial number '85500596' to your submission. The summary of the application data, *bottom below*, serves as your official filing receipt.

In approximately 3 months, an assigned examining attorney will review your application to determine if all legal requirements are met. Currently, your mark is **not** registered and is considered a "pending" application. The overall process from the time of initial filing to registration or final refusal can take 13-18 months or even longer, depending on many factors; e.g., the correctness of the original filing and the type of application filed. It is **CRITICAL** that you check the status of your application **at least every 3 - 4 months** and promptly contact the Office if a letter (an "Office action") or notice has issued for your application that you did not receive or do not understand. To check the status, please use <http://tarr.uspto.gov>. Do **not** submit status requests to [TEAS@uspto.gov](mailto:TEAS@uspto.gov). Failure to respond timely to any Office action or notice may result in the abandonment of your application, requiring you to pay an additional fee to have your application revived even if you did not receive the Office action or notice.

Please view all incoming and outgoing correspondence at <http://portal.uspto.gov/external/portal/tow>. If your status check reveals an issued Office action or notice that you did not receive, immediately view the action/notice through the USPTO website. The USPTO does not extend filing deadlines due to a failure to receive USPTO mailings/e-mailings. You must ensure that you update your record if your mail and/or e-mail address changes, using the form available at <http://www.uspto.gov/teas/eTEASpageE.htm>.

If you discover an error in the application data, you may file a Voluntary Amendment, at <http://www.uspto.gov/teas/eTEASpageB2.htm>. Do **not** submit any proposed amendment to [TEAS@uspto.gov](mailto:TEAS@uspto.gov), because the technical support team may not make any data changes. **NOTE:** You must wait approximately 7-10 days to submit any Voluntary Amendment, to permit initial upload of your serial number into the USPTO database. The acceptability of any Voluntary Amendment will only be determined once regular examination begins, since the assigned examining attorney must decide whether the change proposed in the amendment is permissible. **Not all errors may be corrected;** e.g., if you submitted the wrong mark, if the proposed correction would be considered a material alteration to your original filing, it will not be accepted, and your only recourse would be to file a new application (with **no** refund for your original filing).

Since your application filing has already been assigned a serial number, please do **not** contact [TEAS@uspto.gov](mailto:TEAS@uspto.gov) to request cancellation. The USPTO will only cancel the filing and refund your fee if upon review we determine that the application did not meet minimum filing requirements. **The fee is a processing fee that the USPTO does not refund, even if your mark does not proceed to registration. NOTE:** The only "exception" to the above is if you inadvertently file duplicate applications specifically because of a *technical glitch* and not merely a misunderstanding or mistake; *i.e.*, if you believe that the **first** filing did not go through because no confirmation was received and then immediately file again, only to discover later that both filings were successful, then the technical support team at [TEAS@uspto.gov](mailto:TEAS@uspto.gov) can mis-assign and refund one of the filings.

**WARNING:** You may receive unsolicited communications from companies requesting fees for trademark related services, such as monitoring and document filing. Although solicitations from these companies frequently display customer-specific information, including USPTO serial number or registration number and owner name, companies who offer these services are not affiliated or associated with the USPTO or any other federal agency. The USPTO does not provide trademark monitoring or any similar services. For general information on filing and maintenance requirements for trademark applications and registrations, including fees required by law, please consult the USPTO website.

**APPLICATION DATA: Trademark/Service Mark Application, Principal Register**

The applicant, Heartland Solutions, Inc., a corporation of Missouri, having an address of  
P.O. Box 543  
Grain Valley, Missouri 64029  
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 001: Synthetic replacement for acids used in dissolving and removing mineral deposits

In International Class 001, the mark was first used by the applicant or the applicant's related company or licensee at least as early as 12/02/2011, and first used in commerce at least as early as 12/02/2011, and is now in use in such commerce. The applicant is submitting one specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services, consisting of a(n) product label showing use of the mark.

Specimen-1 [SPE0-676454150-143602391\_.\_ENVIRO-SYN\_Heartland\_LABEL\_for\_USPS\_12-19-11.pdf]

**The applicant's current Attorney Information:**

Timothy D. Steffens and Ari M. Bai, Yu Cai, Corey M. Casey, Elton F. Dean, III, Brian B. Diekhoff, Derek D. Donahoe, Kate J. Doty, Gregory P. Durbin, Taryn A. Elliott, Robert O. Enyard, Jr., Jeffrey E. Fine, Christopher L. Hines, Kimberly A. Honeycutt, Gary E. Hood, S. Wade Johnson, Jeffrey H. Kass, J. Morgan Kirley, Anne L. Kleindienst, Gregory M. Kratofil, Jr., Carla M. Lee, Joshua M. McCaig, Tara A. Nealey, Gregory W. O'Connor, Jay E. Pietig, Andrea M. Porterfield, Rebecca C. Riley-Vargas, Marcia J. Rodgers, Kelley A. Schneiders, Teddy C. Scott, Matthew J. Smith, James M. Stipek, Richard P. Stitt, Karin E. Sullivan, Lawrence A. Swain, Tracey S. Truitt, Michael A. Williamson, Spencer R. Wood and Patrick C. Woolley of Polsinelli Shughart PC

Suite 1000

700 West 47th Street  
Kansas City, Missouri 64112  
United States

The attorney docket/reference number is 052816-Enviro-Syn.

The applicant's current Correspondence Information:

Timothy D. Steffens  
Polsinelli Shughart PC  
Suite 1000  
700 West 47th Street  
Kansas City, Missouri 64112  
816-753-1000(phone)  
816-753-1536(fax)  
uspt@polsinelli.com (authorized)

A fee payment in the amount of \$325 will be submitted with the application, representing payment for 1 class(es).

#### **Declaration**

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

#### **Declaration Signature**

Signature: /Timothy D. Steffens/ Date: 12/21/2011  
Signatory's Name: Timothy D. Steffens  
Signatory's Position: Attorney of record, Missouri bar member

---

Thank you,

The TEAS support team  
Wed Dec 21 10:20:53 EST 2011  
STAMP: USPTO/BAS-67.64.54.150-20111221102053521350-85500596-  
49045ff903917b64a3ed0b2d4e89c76fcea-DA-9641-20111221101618652493

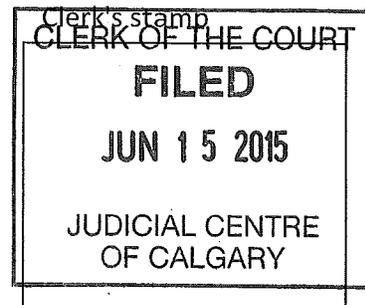
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**COMPOSITE  
EXHIBIT “B”**



[RULES 3.68, 3.72]

COURT FILE NUMBER 1401-09170

COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL CENTRE CALGARY

PLAINTIFF FLUID ENERGY GROUP LTD.

DEFENDANTS JOHN MACDONALD, STEPHEN ROWLEY,  
HEARTLAND ENERGY GROUP LTD., a corporation  
incorporated in Seychelles, HEARTLAND ENERGY  
GROUP LTD., a corporation incorporated in  
Nevada, ENVIRONMENTAL MANUFACTURING  
SOLUTIONS LLC, and MUD MASTER DRILLING  
FLUID SERVICES LTD.

DOCUMENT **ORDER: STAY APPLICATION**

ADDRESS FOR SERVICE AND CONTACT  
INFORMATION OF PARTY FILING THIS  
DOCUMENT **JENSEN SHAWA SOLOMON DUGUID HAWKES LLP**  
Barristers  
800, 304 - 8 Avenue SW  
Calgary, Alberta T2P 1C2

Carsten Jensen, Q.C.  
Andrew Wilson  
Phone: 403 571 1058  
Fax: 403 571 1528  
File: 13062-001

**DATE ON WHICH ORDER WAS PRONOUNCED:** March 31, 2015

**LOCATION OF HEARING OR TRIAL:** Calgary

**NAME OF JUDGE WHO MADE THIS ORDER:** Justice K.M. Eidsvik

UPON THE APPLICATION of the Defendants Heartland Energy Group, Ltd. (a Seychelles Corporation), Heartland Energy Group, Ltd. (a Nevada Corporation) and John MacDonald for a permanent stay of Queen's Bench action number 1401-09170 (the "Action"), or alternatively a

temporary stay of the Action; AND UPON the Application of Mud Master Drilling Fluid Services Ltd. for a temporary stay of the Action; AND UPON Hearing counsel for the various Applicants and counsel for the Respondent Fluid Energy Group Ltd.; IT IS HEREBY ORDERED THAT:

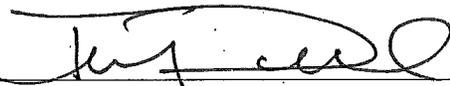
1. Court of Queen's Bench Action Number 1401-09170 is temporarily stayed until the completion of "Phase I" of the ICC Arbitration, Case No. 20282/RD;
2. The Applications of Heartland Energy Group, Ltd. (a Seychelles Corporation), Heartland Energy Group, Ltd. (a Nevada Corporation) and John MacDonald for a permanent stay of Queen's Bench Action number 1401-09170 is adjourned *sine die*;
3. The Applicant Mud Master Drilling Fluid Services Ltd. shall have costs of a one half-day contested application where a brief was required, as set out in Schedule C to the Alberta *Rules of Court*, payable forthwith;
4. The determination of the costs of this application as between Fluid Energy Group Ltd. and all Defendants other than Mud Master Drilling Fluid Services Ltd. is deferred until the hearing of the permanent stay application and the application to set aside service *ex juris*.
5. This order can be consented to in counterparts and by electronic transmission.



JUSTICE K.M. EIDSVIK

CONSENTED TO this 8 day of May, 2015.

BURNET, DUCKWORTH & PALMER LLP



Per: Trevor McDonald  
Counsel for the Plaintiff, Fluid Energy Group Ltd.

CONSENTED TO this \_\_\_ day of May, 2015.

BRYAN & COMPANY LLP

Per: \_\_\_\_\_  
David Corrigan Q.C.  
Counsel for Defendant, Mud Master Drilling Fluid Services Ltd.

temporary stay of the Action; AND UPON the Application of Mud Master Drilling Fluid Services Ltd. for a temporary stay of the Action; AND UPON Hearing counsel for the various Applicants and counsel for the Respondent Fluid Energy Group Ltd.; IT IS HEREBY ORDERED THAT:

1. Court of Queen's Bench Action Number 1401-09170 is temporarily stayed until the completion of "Phase I" of the ICC Arbitration, Case No. 20282/RD;
2. The Applications of Heartland Energy Group, Ltd. (a Seychelles Corporation), Heartland Energy Group, Ltd. (a Nevada Corporation) and John MacDonald for a permanent stay of Queen's Bench Action number 1401-09170 is adjourned *sine die*;
3. The Applicant Mud Master Drilling Fluid Services Ltd. shall have costs of a one half-day contested application where a brief was required, as set out in Schedule C to the Alberta *Rules of Court*, payable forthwith;
4. The determination of the costs of this application as between Fluid Energy Group Ltd. and all Defendants other than Mud Master Drilling Fluid Services Ltd. is deferred until the hearing of the permanent stay application and the application to set aside service *ex juris*.
5. This order can be consented to in counterparts and by electronic transmission.

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JUSTICE K.M. EIDSVIK

CONSENTED TO this \_\_\_\_ day of May, 2015.

BURNET, DUCKWORTH & PALMER LLP

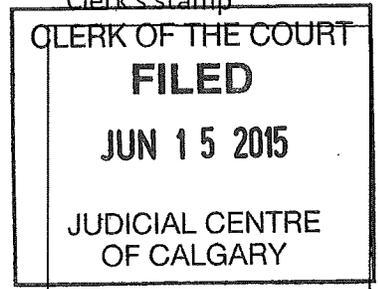
Per: \_\_\_\_\_  
Trevor McDonald  
Counsel for the Plaintiff, Fluid Energy Group  
Ltd.

CONSENTED TO this 8<sup>th</sup> day of May, 2015.

BRYAN & COMPANY LLP

Per: \_\_\_\_\_  
David Corrigan Q.C.  
Counsel for Defendant, Mud Master Drilling  
Fluid Services Ltd.

Clerk's stamp



[RULE 11.31]

COURT FILE NUMBER	1401-09170
COURT OF QUEEN'S BENCH OF ALBERTA JUDICIAL CENTRE	CALGARY
PLAINTIFF	FLUID ENERGY GROUP LTD.
DEFENDANTS	JOHN MACDONALD, STEPHEN ROWLEY, HEARTLAND ENERGY GROUP LTD., a corporation incorporated in Seychelles, HEARTLAND ENERGY GROUP LTD., a corporation incorporated in Nevada, ENVIRONMENTAL MANUFACTURING SOLUTIONS LLC, and MUD MASTER DRILLING FLUID SERVICES LTD.
DOCUMENT	<b><u>ORDER: CONTEMPT</u></b>
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	<b>JENSEN SHAWA SOLOMON DUGUID HAWKES LLP</b> Barristers 800, 304 - 8 Avenue SW Calgary, Alberta T2P 1C2  Carsten Jensen, Q.C. Andrew Wilson Phone: 403 571 1058 Fax: 403 571 1528 File: 13062-001
<b>DATE ON WHICH ORDER WAS PRONOUNCED:</b>	<u>March 31, 2015</u>
<b>LOCATION OF HEARING OR TRIAL:</b>	<u>Calgary</u>
<b>NAME OF JUDGE WHO MADE THIS ORDER:</b>	<u>Justice K.M. Eidsvik</u>

UPON THE APPLICATION of the Plaintiff Fluid Energy Group Ltd. for an order finding John MacDonald and Heartland Energy Group Ltd. (a corporation incorporated in Seychelles) in

contempt of this Honourable Court; AND UPON Hearing counsel for the Applicant and counsel for the Respondents; IT IS HEREBY ORDERED THAT:

1. The application by Fluid Energy Group Ltd. for an order finding John MacDonald and Heartland Energy Group Ltd. (a corporation incorporated in Seychelles) in contempt of this Honourable Court is dismissed.
2. John MacDonald and Heartland Energy Group Ltd. (a corporation incorporated in Seychelles) shall have one set of costs of a one half-day contested application where a brief was required, as set out in Schedule C to the Alberta *Rules of Court*, payable forthwith.



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JUSTICE K.M. EIDSVIK

CONSENTED TO this 8 day of May, 2015.

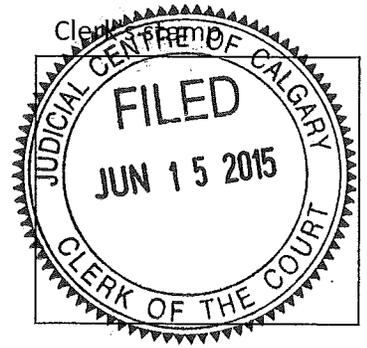
BURNET, DUCKWORTH & PALMER LLP



Per: Trevor McDonald  
Counsel for the Plaintiff, Fluid Energy Group  
Ltd.

I hereby certify this to be a true copy of  
the original order  
Dated this 15 day of June 2015  
[Signature]  
for Clerk of the Court

[RULE 11.31]



COURT FILE NUMBER 1401-09170

COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL CENTRE CALGARY

PLAINTIFF FLUID ENERGY GROUP LTD.

DEFENDANTS JOHN MACDONALD, STEPHEN ROWLEY,  
HEARTLAND ENERGY GROUP LTD., a corporation  
incorporated in Seychelles, HEARTLAND ENERGY  
GROUP LTD., a corporation incorporated in  
Nevada, ENVIRONMENTAL MANUFACTURING  
SOLUTIONS LLC, and MUD MASTER DRILLING  
FLUID SERVICES LTD.

DOCUMENT **ORDER: SERVICE EX JURIS**

ADDRESS FOR SERVICE AND CONTACT  
INFORMATION OF PARTY FILING THIS  
DOCUMENT **JENSEN SHAWA SOLOMON DUGUID HAWKES LLP**  
Barristers  
800, 304 - 8 Avenue SW  
Calgary, Alberta T2P 1C2

Carsten Jensen, Q.C.  
Andrew Wilson  
Phone: 403 571 1058  
Fax: 403 571 1528  
File: 13062-001

**DATE ON WHICH ORDER WAS PRONOUNCED:** March 31, 2015

**LOCATION OF HEARING OR TRIAL:** Calgary

**NAME OF JUDGE WHO MADE THIS ORDER:** Justice K.M. Eidsvik

UPON THE APPLICATION of the Defendants Environmental Manufacturing Solutions LLC and Stephen Rowley to set aside the order for service *ex juris* pronounced against them on September 19, 2014 in action number 1401-09170 (the "Action") AND UPON Hearing counsel

for the Applicants and counsel for the Respondent Fluid Energy Group Ltd.; IT IS HEREBY ORDERED THAT:

1. The application by Environmental Manufacturing Solutions LLC and Stephen Rowley to set aside the order for service *ex juris* is adjourned *sine die*.
2. The determination of the costs of this application shall be deferred until the full hearing of the application.



JUSTICE K.M. EIDSVIK

CONSENTED TO this 8 day of May, 2015.

BURNET, DUCKWORTH & PALMER LLP



Per: Trevor McDonald  
Counsel for the Plaintiff, Fluid Energy Group Ltd.