

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA
BUSINESS COURT DIVISION

**HAROLD D. WARD, Director, Division of
Mining and Reclamation, West Virginia
Department of Environmental Protection**

**CLERK OF COURT
KANAWHA COUNTY CIRCUIT COURT**

Plaintiff,

v.

**Civil Action No. 20-C-282
Presiding Judge: Christopher C. Wilkes
Resolution Judge: James H. Young, Jr.**

ERP ENVIRONMENTAL FUND, INC.,

Defendant.

**ORDER GRANTING AMENDED MOTION OF RECEIVER FOR ENTRY OF ORDER
AUTHORIZING SALE CERTAIN PIECES OF EQUIPMENT FREE AND
CLEAR OF LIENS, CLAIMS AND ENCUMBRANCES**

By motion of December 22, 2021, the Special Receiver sought permission of the Court to sell a Caterpillar 993K Front End Loader, Serial No. 29K00308 (ERP Asset 208, Company No. 21556) (referred to hereinafter as "End Loader"), which is located at the Hill Fork Mine in Boone County, free of all liens, claims, and encumbrances.

The Special Receiver represents that it has performed a commercially reasonable search for liens and encumbrances on the End Loader and that the End Loader is potentially subject to liens held by Appalachian Headwaters, Inc., Cramer Security & Investigations, and the Boone County Taxing Authorities. The Special Receiver advised the Court that it has reached an agreement with Appalachian Headwaters, Inc., Cramer Security & Investigations, and the Boone County Taxing Authorities with respect to their claims against the End Loader and that none of the aforementioned parties objects to the motion.

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Having reviewed the motion and heard such parties as desired to be heard, the

Court hereby GRANTS the motion and FINDS and ORDERS as follows:

As to the End Loader listed in the Special Receiver's *Motion Of Receiver For Entry Of Order Authorizing Sale of Certain Equipment Free And Clear Of Liens, Claims And Encumbrances* filed by letter dated December 15, 2021, the Court finds that the Special Receiver has undertaken a commercially reasonable review of liens and encumbrances and has notified all lienholders of the pending Motion. Accordingly, the Special Receiver may sell the Excavator free and clear of all liens and encumbrances.

ENTERED this 3 day of January, 2021.



CHRISTOPHER WILKES
Presiding Judge

Date: 1/3/22
Certified copies sent to:
____ counsel of record Andy Wilkes
____ parties B. Bails
____ other K. Barnett
(please indicate) L. Monys
By: C. Gatson
____ certified/1st class mail C. Hume
____ fax
____ hand delivery
____ interdepartmental
Other method accomplished:

Deputy Circuit Clerk

STATE OF WEST VIRGINIA
COUNTY OF KANAWHA, SS
I, CATHY S. GATSON, CLERK OF CIRCUIT COURT OF SAID COUNTY
AND IN SAID STATE, DO HEREBY CERTIFY THAT THE FOREGOING
IS A TRUE COPY FROM THE RECORDS OF SAID COURT
GIVEN UNDER MY HAND AND SEAL OF SAID COURT THIS 3
DAY OF Jan 2022
C. Gatson CLERK
CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA