

FILED

2022 OCT -7 AM 9:33

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

CATHY S. GATSON, CLERK
KANAWHA COUNTY CIRCUIT COURT

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

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 MOTION OF RECEIVER FOR ENTRY OF ORDER
AUTHORIZING SALE OF CERTAIN REAL ESTATE FREE AND
CLEAR OF LIENS, CLAIMS AND ENCUMBRANCES**

By motion of September 14, 2022, the Receiver sought permission of the Court to sell certain tracts of real estate in Muhlenberg County, Kentucky and Randolph County, Illinois, free and clear of liens, claims, and encumbrances. The Receiver listed the tracts proposed to be sold via auction in Figures 1 & 2 to its motion and represented that the proposed sale constitutes fair market value for Receivership Estate assets.

The Receiver represents that it has performed a commercially reasonable search for liens and encumbrances on the tracts listed in Figures 1 & 2 and that the tracts in Kentucky are potentially subject to liens held by Appalachian Headwaters, Inc., and that all tracts may be potentially subject to any statutory tax liens for real property taxes owed to the taxing authorities of the counties in which the real property lies. The Receiver advised the Court that it has reached an agreement with Appalachian Headwaters, Inc. with respect to its claims against the relevant real property in Kentucky and that Appalachian Headwaters, Inc. does not object to the

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motion. The Receiver further represents that the purchasers will pay the County Taxing Authorities the balance owed—if any—on real property taxes for property held in the name of ERP Environmental Fund, Inc. or ERP Mineral Reserves LLC at or after closing.

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 tracts of real property listed in Figures 1 & 2 of the Receiver's motion filed on September 14, 2022, the Court finds that the Receiver has undertaken a commercially reasonable review of liens and encumbrances and has notified all lienholders of the pending Motion. Accordingly, the Receiver may sell the real property free and clear of all liens and encumbrances. Furthermore, the Receiver is authorized to execute any documents necessary to effectuate the sale of the listed properties with one or more auctioneers, agents, or brokers, of the Receiver's choosing.

ENTERED this 10th day of October, 2022.


CHRISTOPHER WILKES
Presiding Judge

Date: 10/17/22
Certified copies sent to:
— Council of record C. Hunter
— Parties J. Thompson
— Other (please indicate) T. Davis
By: B. Bales
— certified/tat class mail
— fax
— hand delivery
— interdepartmental
Other (specify accomplishment)
Deputy Circuit Clerk