

**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**

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 SUBORDINATION AGREEMENT**

By motion of August 23, 2023, the Receiver sought permission of the Court to enter into a subordination agreement with a solar developer whereby the Receiver agrees to subordinate ERP's rights to use the surface to mine coal it owns in Randolph County, Illinois for a period of 50 years in exchange for a payment of \$400,000. The Receiver listed the tracts proposed to be subject to the subordination agreement in Attachment 1 to its motion and stated that the consideration for the subordination agreement represented fair market value for Receivership Estate assets.

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 Attachment 1 of the Receiver's motion filed by letter dated August 23, 2023, the Court hereby authorizes the Receiver to enter into the subordination agreement referenced in the Receiver's motion. Furthermore, the Special Receiver is authorized to execute any documents necessary to effectuate the subordination agreement.

FILED
2023 SEP -7 AM 9:27
CATHY S. GATSON, CLERK
KANAWHA COUNTY CIRCUIT COURT
RC

291-29

The Clerk shall enter the foregoing and forward attested copies hereof to all counsel, and to the Business Court Central Office at Business Court Division, 380 West South Street, Suite 2100, Martinsburg, West Virginia, 25401.

ENTERED this 6th day of September, 2023.


CHRISTOPHER WILKES
Presiding Judge

9/8/23
Date: 9/8/23
Certified copies sent to:
☒ counsel of record
☒ parties Bus Ct
☒ other (please indicate)
By: ☒ certified/1st class mail
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H. Cavender
Deputy Circuit Clerk
Robert McClusky
Christopher Hunter
Stephen Thompson
Timothy Dixon
Benjamin Bailaf
Kevin Barrett
Maggie Burrus
4879-7763-3914.v1