

**ALBERTA SECURITIES COMMISSION**  
**VARIATION OF CEASE TRADE ORDER**

**Citation: Mahalo Energy Ltd., Re, 2010 ABASC 369**

**Date: 20100813**

**Mahalo Energy Ltd.**

**Background**

Mahalo Energy Ltd. (the **Filer**) has made an application to the Executive Director of the Alberta Securities Commission (the **Executive Director**) for an order to vary a cease trade order dated 22 June 2010 (the **Cease Trade Order**).

Pursuant to subsection 17(2) of the *Securities Act* (Alberta) (the **Act**), the Executive Director has made an Authorization Order dated November 3, 2009 (the **Authorization**), which includes authorizing the undersigned to revoke or vary certain orders issued under section 33.1 of the Act.

**Representations**

The Filer has represented to the undersigned that:

1. The Filer was incorporated under the *Business Corporations Act* (Alberta) on April 21, 2004.
2. The Filer's head office is located in Calgary, Alberta.
3. The Filer is currently a reporting issuer in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario and Québec.
4. The authorized share capital of the Filer consists of an unlimited number of common shares (**Common Shares**) and an unlimited number of preferred shares of which 59,298,030 Common Shares and nil preferred shares are issued and outstanding as of the date hereof.
5. On May 22, 2009 the Filer was granted protection from its creditors under the *Companies' Creditors Arrangement Act* (the **CCAA**) pursuant to an initial order granted by the Court of Queen's Bench of Alberta on May 22, 2009, which order has been extended several times (the **Initial Order**). Alger & Associates Inc. were appointed as monitor under the CCAA. All proceedings against the Filer were stayed pursuant to the Initial Order, the purpose of which is to allow the Filer time to solicit and implement a Court approved plan of arrangement.
6. On July 2, 2009, the Common Shares were delisted from trading on the TSX Venture Exchange (the **TSX-V**) for failure to meet minimum listing requirements and the Common Shares began trading on the NEX board of the TSX-V under the symbol "CBM".
7. The Cease Trade Order was issued due to the failure of the Filer to file its audited annual financial statements, related management's discussion and analysis and certifications for the year ended December 31, 2009 (the **Annual Filings**) and interim unaudited financial

statements, management's discussion and analysis and certifications for the period ended March 31, 2010 (the **Interim Filings**).

8. The Filer is also subject to cease trade orders (the **Other Cease Trade Orders**) from each of British Columbia, Manitoba, Ontario and Québec Securities Commissions for failure to file required filings under applicable securities laws. The Filer has applied for and expects to be granted concurrently with this partial revocation order, partial revocations of the Other Cease Trade Orders to permit the Proposed Transaction (defined below).
9. The Filer has, after a solicitation process, signed a letter of intent with Alpine Capital Corp. (**Alpine**) to cancel its existing securities and issue new securities as part of a CCAA plan of arrangement. The Common Shares, and other securities in the capital of the Filer, have no value as a result of the Filer's insolvency.
10. The Filer wishes to conclude a formal investment agreement (the **Investment Agreement**) with Alpine and up to 13 investors identified by Alpine (the **New Investors**). Alpine and the New Investors will rely on the accredited investor exemption under section 2.3 of National Instrument 45-106 *Prospectus and Registration Exemptions (NI 45-106)* to complete the Investment Agreement. Alpine, the New Investors and certain unsecured creditors will sign acknowledgements that the Filer's securities are currently subject to the Cease Trade Order and the Other Cease Trade Orders.
11. Alpine and 11 of the New Investors are at arms-length to the Filer. Two of the potential New Investors are currently directors of the Filer.
12. Alpine and the New Investors will, subject to certain conditions including the Filer being deemed to have ceased to be a reporting issuer and the revocation of the Cease Trade Order, subscribe for newly created class A shares (the **Class A Shares**) for cash consideration, as part of a transaction to be implemented pursuant to a CCAA plan of arrangement (the **Plan**).
13. According to the Plan, certain secured creditors will settle their claims for a cash payment, unsecured creditors will settle their claims for a cash payment, up to 35 unsecured creditors will in addition be issued newly created class B shares (the **Class B Shares**) as part of the settlement of their claims, the existing Common Shares will be redeemed for nil and cancelled, and all other securities of the Filer (other than the Class A Shares and Class B Shares) will be cancelled (the **Proposed Transaction**). Unsecured creditors will be issued securities under section 2.14 of NI 45-106.
14. If the Plan is approved by 2/3 in value and 1/2 in number of creditors present in person or by proxy at a creditors' meeting, a sanction order will be sought, which will provide, among other terms, that the Proposed Transaction, including the following trades, be completed as part of the Plan, subject to the conditions of the Investment Agreement and the Plan:
  - (a) the Filer will create two new classes of shares, being the Class A Shares and the Class B Shares;

- (b) cash consideration for the Class A Shares will be received by the Monitor on the Filer's behalf;
  - (c) the Class A Shares will be issued by the Filer to the New Investors in consideration of such payment;
  - (d) the Class B Shares will be issued to up to 35 unsecured creditors in connection with the settlement of their claims, and upon such issuance, the Class A Shares and Class B Shares will be held by less than 50 holders; and
  - (e) the Filer will redeem all of its issued and outstanding Common Shares for nil consideration and cancel them and will cancel all other securities for no consideration.
15. The Filer's securities, including the Class A Shares and the Class B Shares issued under the Proposed Transaction as permitted by this partial revocation order, will remain subject to the Cease Trade Order and the Other Cease Trade Orders.
16. The Filer's SEDAR and SEDI profiles are up to date.
17. The Filer intends to subsequently apply for an order to cease to be a reporting issuer in all jurisdictions in which it is a reporting issuer and will apply for full revocations of the Cease Trade Order and the Other Cease Trade Orders.

**Decision**

The undersigned, being of the opinion that it would not be prejudicial to the public interest to do so, orders under the Authorization that the Cease Trade Order is varied to permit the Proposed Transaction.

13 August 2010

*“original signed by”*

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Blaine Young  
Associate Director, Corporate Finance