

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF COLORADO**

<i>In re:</i> CLINE MINING CORPORATION, Debtor in a Foreign Proceeding.	Chapter 15 Case No. 14-____ (____) (Joint Administration Requested)
<i>In re:</i> NEW ELK COAL COMPANY LLC, Debtor in a Foreign Proceeding.	Chapter 15 Case No. 14-____ (____) (Joint Administration Requested)
<i>In re:</i> NORTH CENTRAL ENERGY COMPANY, Debtor in a Foreign Proceeding.	Chapter 15 Case No. 14-____ (____) (Joint Administration Requested)

**MOTION FOR ORDER SPECIFYING FORM
AND MANNER OF SERVICE OF NOTICE**

FTI Consulting Canada Inc. is the court-appointed monitor (the “**Monitor**”) and authorized foreign representative of Cline Mining Corporation, New Elk Coal Company LLC, and North Central Energy Company (collectively, the “**Cline Debtors**”) ¹ in a proceeding (the “**Canadian Proceeding**”) under *Canada's Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, pending before the Ontario Superior Court of Justice, Commercial List (the “**Ontario Court**”).

¹ The last four digits of the United States Tax Identification Numbers, or similar foreign identification numbers, as applicable, for the Cline Debtors follow in parentheses: Cline Mining Corporation (6094); New Elk Coal Company LLC (0615); and North Central Energy Company (N/A).

The Monitor has commenced these chapter 15 cases ancillary to the Canadian Proceeding by filing *Verified Petitions for Recognition of Foreign Proceeding and Related Relief* (collectively, the “**Chapter 15 Petitions**”), with accompanying documentation, pursuant to sections 1504 and 1515 of title 11 of the United States Code (as amended, the “**Bankruptcy Code**”). The Monitor has also filed an *Ex Parte Application for Temporary Restraining Order and, after Notice and a Hearing, a Preliminary Injunction, Pursuant to Sections 1519 and 105(a) of the Bankruptcy Code* seeking certain provisional relief pending the disposition of the Chapter 15 Petitions (the “**Provisional Relief Motion**”).

The Monitor makes this Motion pursuant to sections 105(a), 1514, and 1515 of the Bankruptcy Code and Rules 1007, 1011, 2002, 9007, and 9008 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”) for an order in the form annexed hereto as Exhibit A (the “**Proposed Order**”) (i) approving notice of the Chapter 15 Petitions and the Provisional Relief Motion in the form annexed thereto as Exhibit 1 (the “**Notice**”), (ii) specifying the manner of service of the Notice, and (iii) scheduling a hearing to consider the Chapter 15 Petitions.

In support thereof, the Monitor respectfully represents as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and section 1501 of the Bankruptcy Code. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(P). Venue is proper in this District pursuant to 28 U.S.C. §§ 1410(1) and (3). The statutory predicates for the relief requested herein are sections 105(a), 1514, and 1515 of the Bankruptcy Code and Bankruptcy Rules 1007, 1011, 2002, 9007, and 9008.

BACKGROUND

2. The Court is respectfully referred to the Chapter 15 Petitions for a description of the Canadian Proceeding and the Cline Debtors' activities, business, corporate organization, capital structure, and circumstances leading to the filing of the Canadian Proceeding.

3. The principal purpose of the Canadian Proceeding is to facilitate a process for the court supervised consensual recapitalization of the Cline Debtors (the "**Plan**"). By its Initial Order dated December, 3, 2014, the Ontario Court authorized the Cline Debtors to submit the Plan, and by its Meetings Order dated December 3, 2014, the Ontario Court directed the Cline Debtors convene meetings of affected creditors to vote to approve the Plan. Further, by its Claims Procedure Order dated December 3, 2014, the Ontario Court established a procedure for the identification, submission and determination of claims proposed to be affected by the Plan.

4. Cline and New Elk are defendants in a class action lawsuit captioned *Gerard, Jr. et al v. New Elk Coal Company, LLC et al*, 1:13-cv-00277-RM-KMT (the "**WARN Act Class Action**"). No class has yet been certified in the WARN Act Class Action, and the named plaintiffs are represented by Karp Neu Hanlon, P.C. ("**Proposed Class Counsel**").

RELIEF REQUESTED

5. Bankruptcy Rule 2002(q)(1) provides that 21 days' notice of a hearing on a petition for recognition of a foreign proceeding must be given to "the debtor, all persons or bodies authorized to administer foreign proceedings of the debtor, all entities against whom provisional relief is being sought under §1519 of the [Bankruptcy] Code, all parties to litigation pending in the United States in which the debtor is a party at the time of the filing of the petition, and such other entities as the court may direct." Fed. R. Bankr. P. 2002(q)(1). Bankruptcy Rules

2002(m) and 9007, in turn, provide that when notice is to be given under the Bankruptcy Rules, the court may enter orders designating the form and manner in which such notice shall be given. Fed. R. Bankr. P. 2002(m) and 9007.

6. The Monitor respectfully requests that the Notice be approved by this Court pursuant to Bankruptcy Rules 2002(m) and 9007, and that it be permitted to serve the Notice (i) by United States mail, first-class postage prepaid or by overnight courier, or by email, upon all known creditors and all other parties against whom relief is sought (or their counsel), including any such parties that have addresses outside the United States, in accordance with Bankruptcy Rules 1010 and 7004(a) and (b) on or before December 8, 2014, (ii) upon the plaintiffs in the WARN Act Class Action by United States mail, first-class postage prepaid or by overnight courier, and email, to Proposed Class Counsel on or before December 8, 2014, and (iii) by publication of the Notice in *The Wall Street Journal* (U.S. Edition) on or before December 10, 2014. The Monitor requests that the foregoing be approved as adequate and sufficient form and manner of notice of the Chapter 15 Petitions. In particular, the Monitor requests that service of the Notice to Proposed Class Counsel be approved as adequate and sufficient notice to plaintiffs in the WARN Act Class Action given that the class is currently uncertified and the members thereof have not been identified, and their identification would be burdensome to the Cline Debtors.

7. The Monitor respectfully requests that if any party files a notice of appearance in this case, the Monitor shall serve the Notice and subsequent notices upon such party within ten (10) days of the filing of such notice of appearance if such documents have not already been served on such party (or its counsel).

8. The Monitor respectfully requests that the Court also require that objections or responses, if any, to the Provisional Relief Motion or the Chapter 15 Petitions must be made pursuant to the Bankruptcy Code, the local rules of the Court, and the Bankruptcy Rules, including, without limitation, Rule 1011 of the Federal Rules of Bankruptcy Procedure, in writing describing the basis therefor, which objection or response must be filed with the United States Bankruptcy Court for the District of Colorado electronically by registered users of the court's ECF System and served upon counsel for the Monitor so as to be received by: (i) in the case of the Provisional Relief Motion, December 12, 2014, at 4:00 p.m. (MT), and (ii) in the case of the Chapter 15 Petitions, January 7, 2015, at 4:00 p.m. (MT). Notices to counsel for the Monitor should be addressed to Allen & Overy LLP, 1221 Avenue of the Americas, New York, New York 10020, Attention: Ken Coleman and Jonathan Cho.

9. The Monitor respectfully requests that a hearing to consider the Chapter 15 Petitions be scheduled at a time convenient for the Court and the parties, in accordance with Bankruptcy Rule 2002(q).

10. The Monitor respectfully requests that the Court waive the requirements of section 1514(c) of the Bankruptcy Code, which provides that when "a notification of commencement of a case is to be given to foreign creditors, such notification shall (1) indicate the time period for filing proofs of claim and specify the place for filing such proofs of claim; [and] (2) indicate whether secured creditors need to file proofs of claim" 11 U.S.C. § 1514(c). The claims process for the Cline Debtors has been established pursuant to the Claims Procedure Order of the Ontario Court dated December 3, 2014, and ample notice of all relevant bar dates and related requirements will be provided in the Canadian Proceedings.

11. The Monitor requests that the Court grant this Motion without notice to creditors. The Monitor will serve notice of the signed order in accordance with the procedures set forth in this Motion. In light of the nature of the relief requested, the Monitor submits and requests that this Court hold that no further notice is required.

12. No previous Motion for the relief sought herein has been made by the Monitor to this or any other court.

WHEREFORE, the Monitor respectfully requests (i) entry of an order in the form of the Proposed Order approving the form and manner of service of the Notice, (ii) waiver of the requirements of section 1514(c) of the Bankruptcy Code, and (iii) such other and further relief as is appropriate under the circumstances.

Dated: Denver, Colorado
December 3, 2014

ALLEN & OVERY LLP

/s/ Ken Coleman
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*Attorneys for FTI Consulting Canada Inc., as
Monitor and Foreign Representative of the
Cline Debtors*

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF COLORADO**

In re:

CLINE MINING CORPORATION, *et al.*,¹

Debtors in a Foreign Proceeding.

Chapter 15

Case No. 14-____ (___)

(Joint Administration Requested)

ORDER SPECIFYING FORM AND MANNER OF SERVICE OF NOTICE

FTI Consulting Canada Inc. is the court-appointed monitor (the “**Monitor**”) and authorized foreign representative of Cline Mining Corporation, New Elk Coal Company LLC, and North Central Energy Company in a proceeding (the “**Canadian Proceeding**”) under Canada's *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, pending before the Ontario Superior Court of Justice, Commercial List.

The Monitor has commenced these chapter 15 cases ancillary to the Canadian Proceeding by filing *Verified Petitions for Recognition of Foreign Proceeding and Related Relief* (collectively, the “**Chapter 15 Petitions**”), with accompanying documentation, pursuant to sections 1504 and 1515 of title 11 of the United States Code (as amended, the “**Bankruptcy Code**”). The Monitor has also filed an *Ex Parte Application for Temporary Restraining Order and, after Notice and a Hearing, a Preliminary Injunction, Pursuant to Sections 1519 and 105(a) of the Bankruptcy Code* seeking certain provisional relief pending the disposition of the Chapter 15 Petitions (the “**Provisional Relief Motion**”).

By its *Motion for Order Specifying Form and Manner of Service of Notice* (the “**Motion**”), the Monitor requested entry of an order pursuant to sections 105(a), 1514, and

¹ The last four digits of the United States Tax Identification Numbers, or similar foreign identification numbers, as applicable, for the Cline Debtors follow in parentheses: Cline Mining Corporation (6094); New Elk Coal Company LLC (0615); and North Central Energy Company (N/A).

1515 of the Bankruptcy Code and Rules 1007, 1011, 2002, 9007, and 9008 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”) (i) approving notice of the Chapter 15 Petitions and the Provisional Relief Motion in the form annexed hereto as Exhibit 1 (the “**Notice**”), (ii) specifying the manner of service of the Notice, and (iii) scheduling a hearing to consider the Chapter 15 Petitions.²

The Court having found that (i) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and section 1501 of the Bankruptcy Code, (ii) this is a core proceeding pursuant to 28 U.S.C. § 157(b), and (iii) venue is proper in this district pursuant to 28 U.S.C. § 1410(1) and (3), and after due deliberation and good and sufficient cause appearing for approval of the Motion,

NOW, THEREFORE, IT IS HEREBY ORDERED AS FOLLOWS:

ORDERED, that the Motion is approved; and it is further

ORDERED, that the form of the Notice is hereby approved; and it is further

ORDERED, that copies of the Notice shall be served by the Monitor (i) by United States mail, first-class postage prepaid or by overnight courier, or by email, upon all known creditors and all other parties against whom relief is sought (or their counsel), including any such parties (or counsel) that have addresses outside the United States, in accordance with Bankruptcy Rules 1010 and 7004(a) and (b) on or before December 8, 2014, (ii) upon the plaintiffs in the WARN Act Class Action by United States mail, first-class postage prepaid or by overnight courier, and email, to Proposed Class Counsel on or before December 8, 2014, and (iii) by publication of the Notice in *The Wall Street Journal* (U.S. Edition) on or before December 10, 2014; and it is further

² Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Motion.

ORDERED, that if any party files a notice of appearance in this case, the Monitor shall serve the Notice and subsequent notices upon such party within ten (10) days of the filing of such notice of appearance if such documents have not already been served on such party (or its counsel); and it is further

ORDERED, that all notice requirements specified in section 1514(c) of the Bankruptcy Code are hereby waived; and it is further

ORDERED, that objections or responses to the Chapter 15 Petitions must be made pursuant to the Bankruptcy Code, the local rules of the Court, and the Bankruptcy Rules, including, without limitation, Rule 1011 of the Federal Rules of Bankruptcy Procedure, in writing describing the basis therefor, which objection or response must be filed with the United States Bankruptcy Court for the District of Colorado electronically by registered users of the court's ECF System and served upon counsel for the Monitor so as to be received by: (i) in the case of the Provisional Relief Motion, December 12, 2014, at 4:00 p.m. (MT), and (ii) in the case of the Chapter 15 Petitions, January 7, 2015, at 4:00 p.m. (MT). Notices to counsel for the Monitor should be addressed to Allen & Overy LLP, 1221 Avenue of the Americas, New York, New York 10020, Attention: Ken Coleman and Jonathan Cho; and it is further

ORDERED, that a hearing to consider the Chapter 15 Petitions is scheduled for _____, 2015, at __:__.m. (MT); and it is further

ORDERED, that service of the Notice in accordance with this Order is hereby approved as adequate and sufficient notice and service on all interested parties; and it is further

ORDERED, that service of this Order as provided in the Motion shall constitute adequate and sufficient service and notice; and it is further

ORDERED, that this Court shall retain jurisdiction with respect to any and all matters relating to the interpretation or implementation of this Order.

Dated: Denver, Colorado
December __, 2014

United States Bankruptcy Judge

EXHIBIT 1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF COLORADO

<i>In re:</i>	Chapter 15
CLINE MINING CORPORATION, <i>et al.</i> ,	Case No. 14-____ (____)
Debtors in a Foreign Proceeding.	(Jointly Administered)

**NOTICE OF FILING AND HEARING ON PETITIONS SEEKING RECOGNITION OF
FOREIGN PROCEEDING PURSUANT TO CHAPTER 15 OF
THE UNITED STATES BANKRUPTCY CODE**

PLEASE TAKE NOTICE that on December 3, 2014, FTI Consulting Canada Inc., the court-appointed monitor (the “**Monitor**”) and authorized foreign representative of Cline Mining Corporation, New Elk Coal Company LLC, and North Central Energy Company (collectively, the “**Cline Debtors**”) in a proceeding (the “**Canadian Proceeding**”) under Canada's *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, pending before the Ontario Superior Court of Justice, Commercial List (the “**Ontario Court**”), filed petitions (the “**Chapter 15 Petitions**”) with the United States Bankruptcy Court for the District of Colorado (the “**Bankruptcy Court**”) under chapter 15 of title 11 of the United States Code (as amended, the “**Bankruptcy Code**”) commencing cases ancillary to the Canadian Proceeding and seeking: (i) recognition of the Canadian Proceeding as a “foreign main proceeding” and relief in aid thereof and (ii) enforcement in the United States of the Initial Order, Claims Procedure Order, and Meetings Order of the Ontario Court.

PLEASE TAKE FURTHER NOTICE that on December 3, 2014, the Monitor filed with the Bankruptcy Court an *Ex Parte Application for Temporary Restraining Order and, after Notice and a Hearing, a Preliminary Injunction, Pursuant to Sections 1519 and 105(a) of the Bankruptcy Code* (the “**Provisional Relief Motion**”).

PLEASE TAKE FURTHER NOTICE that on December 3, 2014, the Bankruptcy Court entered a temporary restraining order (the “**TRO**”) (i) staying execution against the Cline Debtors’ assets in the United States and (ii) applying sections 362 and 365(e) of the Bankruptcy Code in these cases.

PLEASE TAKE FURTHER NOTICE that hearings have been scheduled before the Honorable _____ at the United States Bankruptcy Court for the District of Colorado, Custom House, 721 19th St., Denver, Colorado 80202, in Courtroom ____, (i) for _____, 2014, at ____:__ p.m. (MT), to consider the Provisional Relief Motion and the extension of the relief provided in the TRO until the disposition of the Chapter 15 Petitions (the “**Provisional Relief Hearing**”); and (ii) for _____, 2015, at ____:__ p.m. (MT), to consider the Chapter 15 Petitions (the “**Recognition Hearing**”).

PLEASE TAKE FURTHER NOTICE that objections or responses, if any, to the Provisional Relief Motion or the Chapter 15 Petitions must be made pursuant to the Bankruptcy Code and the Local and Federal Rules of Bankruptcy Procedure, in writing and setting forth the basis therefor, filed with the Bankruptcy Court electronically by registered users of the court’s ECF System, and served upon counsel for the Monitor so as to be received by: (i) in the case of the Provisional Relief Motion, December 12, 2014, at 4:00 p.m. (MT), and (ii) in the case of the Chapter 15 Petitions, January 7, 2015, at

4:00 p.m. (MT). Notices to counsel for the Monitor should be addressed to Allen & Overy LLP, 1221 Avenue of the Americas, New York, NY 10020, Attention: Ken Coleman and Jonathan Cho.

PLEASE TAKE FURTHER NOTICE that if no response or objection is timely filed and served as provided above, the Bankruptcy Court may grant the recognition and relief requested in the Provisional Relief Motion and the Chapter 15 Petitions without further notice or hearing.

PLEASE TAKE FURTHER NOTICE that the Provisional Relief Hearing and the Recognition Hearing may be adjourned from time to time without further notice other than an announcement in open court at such hearings of the adjourned date or dates or any adjourned hearing.

Copies of the Chapter 15 Petitions, the Provisional Relief Motion, the TRO, and other filings in these cases are presently available (1) on the Bankruptcy Court's Electronic Case Filing System, which can be accessed from the Bankruptcy Court's website at <https://ecf.cod.uscourts.gov> (a PACER login and a password are required to retrieve a document), (2) from the Monitor through its website at <http://cfcanada.fticonsulting.com/cline>, and/or (3) upon written request to the Monitor's counsel addressed to:

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New York, New York 10020
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Attention: Mark Nixdorf
mark.nixdorf@allenoverly.com

Dated: Denver, Colorado
December 3, 2014

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