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COURT FILE NO. 2001-05482  
COURT COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL CENTRE CALGARY

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, RSC 1985, c C-36, as amended  
AND IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF JMB CRUSHING SYSTEMS INC. and 2161889 ALBERTA LTD.

AND IN THE MATTER OF A PLAN OF ARRANGEMENT OF JMB CRUSHING SYSTEMS INC. and MANTLE MATERIALS GROUP, LTD. UNDER THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, RSC 1985, c C-36, as amended, and the *BUSINESS CORPORATIONS ACT*, SBC 2002, c 57, as amended

APPLICANTS JMB CRUSHING SYSTEMS INC., 2161889 ALBERTA LTD., MANTLE MATERIALS GROUP, LTD. and 2324159 ALBERTA INC.

DOCUMENT **AFFIDAVIT OF TYLER PELL**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT **Gowling WLG (Canada) LLP**  
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Attn: **Tom Cumming/Caireen E. Hanert/Stephen Kroeger**  
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File No.: A163514

**AFFIDAVIT OF TYLER PELL**  
**sworn March 22, 2021**

I, **TYLER PELL**, of the City of Beaumont, in the Province of Alberta, **MAKE OATH AND SAY THAT:**

1. I am the Aggregate Resources Manager of the Applicant JMB Crushing Systems Inc. (“**JMB**”). As such, I have personal knowledge of the matters herein deposed to, except

J.P.

- 2 -

where stated to be based upon information and belief, in which case I verily believe same to be true.

2. In preparing this Affidavit, I have consulted with legal, financial and other advisors of the Applicants and members of the Applicants' management team. I have also reviewed the business records of the Applicants relevant to these proceedings and have satisfied myself that I am possessed of sufficient information and knowledge to swear this Affidavit.
3. I am authorized to swear this Affidavit as a corporate representative of the JMB.
4. I make this Affidavit in support of relief sought by JMB, 2161889 Alberta Ltd. ("**216**"), Mantle Materials Group, Ltd. ("**Mantle**") and 2324159 Alberta Inc. in the within proceedings and summarized in paragraph 6 of the Affidavit of Byron Levkulich sworn March 4, 2021.

#### **JMB and My Role at JMB**

5. I have over 25 years experience in the environmental services industry and my focus during my professional life has been on natural resource development, environmental evaluation and environmental management in the Province of Alberta on both public and private lands. I am also a Registered Professional Forest Technologist in good standing with the Association of Alberta Forest Management Professionals.
6. JMB's business is the extraction, processing, transportation and sale of gravel, sand, and other aggregates in Alberta. JMB depends on its interest in and access to aggregate pits located on both public Crown lands and privately owned lands across Alberta. JMB and 216 hold interests in public lands pursuant to dispositions ("**Dispositions**") granted by Alberta Environment and Parks ("**AEP**") pursuant to the *Public Lands Act*, RSA 2000, c P-4 (the "**PLA**"). These Dispositions consist principally of surface material leases ("**SMLs**").
7. JMB also has access to privately owned lands pursuant to aggregate royalty agreements (each, a "**Royalty Agreement**") with landowners. The extraction and processing of aggregate from privately owned lands is a regulated activity under the *Environmental*



- 3 -

*Protection and Enhancement Act*, RSA 2000, c E-12, the *Conservation and Reclamation Regulation*, AR 115/93 and the other regulations and instruments issued thereunder pertaining to aggregate pits, including the *Code of Practice for Pits* (collectively, the “**EPEA**”). The EPEA requires operators of aggregate pits on privately owned land obtain a registration for each such aggregate pit from the AEP (an “**EPEA Registration**”).

8. Attached hereto as **Exhibit “A”** is a list of the active and inactive aggregate pits in respect of which JMB and 216 hold Dispositions or EPEA Registrations.
9. I was hired by JMB in October 2018 as Aggregate Resource Manager. In my role I am responsible for all matters relating to the administration of JMB’s and 216’s secured and contracted aggregate sources. I am also responsible for bringing JMB and 216 into compliance with the EPEA, the PLA and other relevant regulatory legislation, which requires preparing Updated Activities Reports (“**UAP**”), five-year plans, and regulatory submissions, and reporting to the AEP. Since I joined JMB, my role has required me to be in regular and frequent communication with the AEP.
10. I have developed a professional rapport with various AEP staff, and in general I am known as a professional who is well respected for my consultative approaches with all stakeholders, including the AEP. I have shown that I am reasonable to work with and genuine in my approach when dealing with regulatory matters.
11. Prior to the commencement of proceedings under the *Companies’ Creditors Arrangement Act* (the “**CCAA Proceedings**”) for JMB and 216, I was in the process of preparing of addressing the requirements of two separate UAP applications for certain JMB private land pits:
  - (a) Shankowski Pit – EPEA Registration Number 308161-00-00; and
  - (b) MacDonald Pit – EPEA Registration Number 293051-00-00.
12. The process of preparing and submitting UAPs requires regular communication with the AEP in order to ensure that all concerns of the AEP with respect to these aggregate pits are addressed by the UAPs. However, before the UAPs for the Shankowski Pit and the

- 4 -

MacDonald Pit were approved by the AEP, JMB and 216 commenced the CCAA Proceedings. I informed Stephen Abioye, WA/EPEA Approvals Team Lead at the AEP, of this development on May 21, 2020 by email. Mr. Abioye subsequently suggested that JMB withdraw the UAP applications pending the outcome of the CCAA Proceedings. Accordingly, on May 22, 2020, I withdrew the UAP applications.

### **Original Purchase Agreement**

13. Under the amended and restated asset purchase agreement dated September 28, 2020 (the “**Original Purchase Agreement**”) between JMB and 216 as vendors and Mantle as purchaser, Mantle was to acquire the core assets of JMB and 216 (the “**Core Assets**”, and such transaction, the “**Original Transaction**”), which included the following:
  - (a) ten out of eleven of 216’s SMLs; and
  - (b) three out of seven of JMB’s Royalty Agreements and associated EPEA Registrations.
14. Under the PLA and EPEA, the assignment and transfer of Dispositions and EPEA Registrations requires the prior consent of the AEP. I am advised by Tom Cumming, counsel for JMB and 216, and believe that the Original Transaction could not be completed unless the AEP approved the assignment and transfers of the Dispositions and EPEA Registrations described above.
15. I am advised by Mr. Cumming and believe that immediately before October 1, 2020, FTI Consulting Canada Inc., the Monitor of JMB and 216 in the CCAA Proceedings (the “**Monitor**”) and JMB and 216 applied to the Court of Queen’s Bench of Alberta (the “**Court**”) for a series of Orders (the “**Original Orders**”) to implement the Original Transaction, including a sale approval and vesting order, a reverse vesting order, an assignment order and a plan sanction order. I am further advised by Mr. Cumming and believe that counsel for each of the AEP, the Monitor, JMB, 216 and Mantle were not able to agree upon the form of the Original Orders. However, on October 16, 2020, Justice Eidsvik granted the Original Orders.

**Discussions with the AEP**

16. Once the Original Orders were granted, it was my responsibility to make the necessary arrangements with the AEP to assign the Dispositions (the “**Assignments**”) and transfer the EPEA Registrations (the “**Transfers**”).
17. From October 20, 2020 to the end of November 2020, JMB’s counsel, Mantle and myself, on behalf of JMB and 216, prepared and submitted to the AEP applications to assign Dispositions and transfer EPEA registrations and attempted to determine and resolve issues relating to such assignments and transfers with the AEP. This unusually long, and ultimately ineffective, period of correspondence included the following:
  - (a) On October 20, 2020, I submitted to the AEP applications to approve assignments in favour of Mantle of SMLs included in the Core Assets;
  - (b) On October 22, 2020, I confirmed with the AEP that it had received the assignments and that I would be available for a call to discuss them on Monday October 26, 2020;
  - (c) On October 22, 2020, Mantle and I submitted additional information with respect to the assignments of the SMLs to the AEP;
  - (d) On October 23, 2020, JMB and Mantle requested a conference call with AEP to discuss the applications, which request was followed up on Monday October 26, 2020;
  - (e) On October 26, 2020, JMB, Mantle and the AEP had a call to discuss the assignments;
  - (f) On October 28, 2020, the AEP requested confirmation from me that I was acting as an agent for both JMB and Mantle, which confirmation was provided;
  - (g) On October 29, 2020, I submitted to the AEP assignments to 216 of SMLs and other Dispositions that were not included in the Core Assets;

- 6 -

- (h) Later on October 29, 2020, JMB and Mantle requested an update from the AEP and were advised that a letter had been prepared, but that they were waiting for responses from field representatives before it could be sent;
- (i) On October 30, 2020, JMB and Mantle requested a further update from the AEP and were advised that they were still working on a response and hoped to provide it that day or on Monday November 2, 2020;
- (j) On November 2, 2020, I requested an update from the AEP with respect to the field review;
- (k) On November 3, 2020, the AEP responded to indicate that they hoped to have an answer soon;
- (l) On November 3, 2020, Mr. Cumming called counsel for the AEP to request an update;
- (m) On November 4, 2020, the AEP responded to Mr. Cumming to indicate that the matter was still subject to field review;
- (n) On November 10, 2020, I contacted the AEP requesting an update, and the AEP responded to advise that the matter was still being reviewed by the field and that they hoped to have information on November 16, 2020;
- (o) On November 16, 2020, the AEP wrote to me to advise that the lands subject to certain SMLs and other Dispositions that had expired (and that were not included in the Core Assets) must be reclaimed, but did not address the applications to approve the assignments. The AEP required a response by 4:30 pm on November 30, 2020 (the “**November 16<sup>th</sup> Letter**”);
- (p) On November 18, 2020, the AEP advised that before the AEP would consider applications to approve the assignment of EPEA Registrations to Mantle (for Royalty Agreements included in the Core Assets) and 216 (for Royalty Agreements excluded from the Core Assets), the following steps must be taken:



- 7 -

- (i) the Reclamation Security that the AEP permitted to expire without being drawn upon must be replaced;
- (ii) JMB must provide a plan for the operation or reclamation of the pits subject to Royalty Agreements excluded from the Core Assets; and
- (iii) the consent of counterparties to the Royalty Agreements included in the Core Assets must be provided,

and the AEP required a response by 4:30 pm on December 30, 2020 (the “**November 18<sup>th</sup> Letter**”);

- (q) On November 19, 2020, Mr. Cumming responded to advise that the transaction was at risk and requested a meeting with the AEP (the “**November 19<sup>th</sup> Gowling Letter**”);
- (r) On November 23, 2020, the AEP advised that certain steps must be taken before the AEP would proceed to make a decision on the application to assign certain SMLs to Mantle, including, among other things:
  - (i) the payment of outstanding 2019 royalties in respect of such surface material leases in the amount of \$163,934.71;
  - (ii) the filing of returns in respect of such surface material leases and the payment of any royalties;
  - (iii) the surrender by Fiera Private Debt Fund VI LP and Fiera Private Debt Fund V LP (collectively, “**Fiera**”) of the conditional surrender of leases granted to Fiera as security; and
  - (iv) the provision of replacement letters of credit as Reclamation Security in respect of the surface material leases (the “**November 23<sup>rd</sup> Letter**”);
- (s) On November 25, 2020, a conference call was held between JMB, Mantle, the AEP and counsel for each of the AEP, JMB, Mantle, the Monitor, Fiera and ATB

- 8 -

Financial, during which JMB and Mantle advised the AEP that it would provide a proposal with respect to the issues raised by the AEP in the November 16<sup>th</sup> Letter, November 18<sup>th</sup> Letter and November 23<sup>rd</sup> Letter; and

- (t) On November 27, 2020, Mr. Cumming wrote to counsel for the AEP with the proposal that had been discussed on the November 25, 2020 conference call (the “**November 27<sup>th</sup> Gowling Letter**”).

Copies of the November 16<sup>th</sup> Letter, November 18<sup>th</sup> Letter, November 19<sup>th</sup> Gowling Letter, November 23<sup>rd</sup> Letter, and November 27<sup>th</sup> Gowling Letter are collectively attached as **Exhibit “B”**.

18. Despite the efforts of JMB, 216, Mantle and their counsel, no agreement could be reached with the AEP before the end of the year.
19. I am advised by Mr. Cumming and believe that on January 22, 2021 he sent a draft Reclamation Obligations Agreement (“**ROA**”) to the AEP for review and comment, a copy of which is attached hereto as **Exhibit “C”**. I am further advised by Mr. Cumming that while the AEP did not reject the ROA, it did not engage counsel to provide a response with respect to any concerns, or negotiate the terms of the ROA or any other prior proposal.
20. On February 3, 2021, in anticipation of the Original Transaction closing, I had a phone call with the AEP regarding certain pits to confirm the technical permitting tasks for ensuring that the pits were brought back into compliance with environmental legislation. On that call, the AEP advised me that in order to consider the applications to assign Dispositions and transfer EPEA Registrations, all compliance issues including the lapsed Reclamation Security would need to be addressed before the EPEA Registrations could be transferred to Mantle.
21. I am informed by Mr. Cumming and believe that on February 8, 2021, he made a further attempt to reconcile the AEP’s outstanding concerns by providing the AEP with an updated form of the ROA, a copy of which is attached hereto as **Exhibit “D”**. Mr. Cumming advised that the Original Transaction was in jeopardy and was required to close by February 12, 2021, because JMB has a time sensitive supply contract with the Municipal

- 9 -

District of Bonnyville (the “**MD**”). Thus proposal, like those before it, was rejected by the AEP. I am further advised by Mr. Cumming that later in February 2021 the MD extended the time for JMB to supply aggregate pursuant to the contract.

#### **Non-Compliance Letters and Written Plans**

22. On February 12, 2021, the deadline provided by Mr. Cumming to close the Original Transaction, the AEP sent JMB a Letter of Non-Compliance (the “**February 12<sup>th</sup> Letter**”) in respect of the following pits:
- (a) EPEA Registration No. 149949-00-00 in respect of the Megley Pit located at SE 35-58-16-4 (the “**Megley Pit**”);
  - (b) EPEA Registration No. 15048-03-00 in respect of the Buksa Pit located at NE 24-56-7-4 (the “**Buksa Pit**”);
  - (c) EPEA Registration No. 17395-01-00 in respect of the Havener Pit located at NW 16-56-7-4 (the “**Havener Pit**”);
  - (d) EPEA Registration No. 263318-00-00 in respect of the O’Kane Pit located at NE 10-57-6-4 (the “**O’Kane Pit**”);
  - (e) EPEA Registration No. 293318-00-00 in respect of the MacDonald Pit located at SE 34-56-7-4 (the “**MacDonald Pit**”);
  - (f) EPEA Registration No. 306490-00-00 in respect of the Kucy Pit located at NW 17, NE 18 & SE 19-63-9-4 (the “**Kucy Pit**”); and
  - (g) EPEA Registration No. 308161-00-00 in respect of the Shankowski Pit located at SW 21-56-7-4 (the “**Shankowski Pit**”).
23. In the February 12<sup>th</sup> Letter, the AEP advised JMB that on January 26, 2021, 119 days after the Original Orders were granted, the AEP conducted a review of the pits referred to in the paragraph above and determined that for one or all of the pits, JMB had failed to restore the required security, to submit the required 5-year report, to follow the Activities Plan



- 10 -

mining sequence with absence of reclamation noted on all pits, to comply to the boundary approved by the EPEA Registration and to report non-compliance issues to the Director (as that term is defined in the EPEA). As a result, the AEP demanded that JMB submit a written plan to resolve non-compliance identified in the February 12<sup>th</sup> Letter by February 18, 2021, which deadline was subsequently extended by agreement to February 26, 2021. Attached hereto as **Exhibit "E"** is a copy of the February 12<sup>th</sup> Letter.

24. On February 23, 2021, the AEP followed up with two letters of non-compliance to JMB and 216 (collectively, the "**February 23<sup>rd</sup> Letters**") in respect of the following pits:
  - (a) SML 930040 located at 08-23-061-07-W4M (Expired) ("**SML 930040**");
  - (b) SML 980116 located at SW-21-063-12-W4M (Expired) ("**SML 980116**");
  - (c) SML 120027 located at NW-20-074-08-W4M (Active) ("**SML 120027**"); and
  - (d) SML 060060 located at SW-13-065-18 W4M (the "**SML 060060**")
  
25. In February 23<sup>rd</sup> Letters, the AEP advised JMB and 216 that based on the review of the terms and conditions of the dispositions listed above that JMB and 216, among other things, caused, permitted, or allowed an undesirable excavation to exist on public land, caused, permitted, or allowed the creation of conditions likely to result in soil erosion on public land, and contravened one or more provisions of the dispositions. The AEP demanded that JMB and 216 (as applicable) submit a written plan to resolve the non-compliance issues identified in the February 23<sup>rd</sup> Letters by February 26, 2021. Attached hereto as **Exhibit "F"** are copies of the February 23<sup>rd</sup> Letters.
  
26. On February 24, 2021, on behalf of JMB, I provided the AEP with:
  - (a) a written plan to resolve the compliance issues in respect of the Buksa Pit, the Havener Pit, the Kucy Pit, the MacDonald Pit, the Megley Pit, and the O'Kane Pit; and
  - (b) a written plan to resolve the compliance issues with respect to the Shankowski Pit.



- 11 -

Collectively attached hereto as **Exhibit "G"** are copies of the written plans.

27. On February 26, 2021, on behalf of JMB, I provided the AEP with a written plan to resolve the compliance issues with respect to SML 930040, SML 980116 and SML 120027. JMB did not receive any comments from the AEP with respect to the written plans described above until March 19, 2021, when the AEP served environmental protection orders as set out below. Attached hereto as **Exhibit "H"** is a copy of the written plan.
28. On February 26, 2021, on behalf of 216, I provided the AEP with a written plan to resolve the compliance issues with respect to SML 060060. I also advised the AEP that 216 intended to market and assign SML 060060 to another crushing operator. The new operator would then replace 216's reclamation security and bring SML 060060 into compliance. Attached hereto as **Exhibit "I"** is a copy of the written plan.
29. On March 10, 2021, the AEP advised JMB and 216 in a series of emails that the proposed written plans contain conditional timelines and outcomes that do not provide the defined, timely and achievable commitments that the AEP requires to be satisfied that the non-compliances will be resolved. The AEP further advised that it would have to proceed with alternative regulatory measures to ensure these requirements were addressed. Attached hereto as **Exhibit "J"** are copies of the emails.

#### **The Environmental Protection Orders and Environmental Order**

30. Prior to denying the written plans, and without providing any feedback on the written plans, the AEP served an environmental protection order (an "**EPO**") on March 3, 2021 in respect of the MacDonald Pit (the "**MacDonald EPO**") on JMB, its current directors and a former director. A copy of the MacDonald EPO is attached hereto as **Exhibit "K"**.
31. On March 11, 2021, I had a conversation with the AEP, in which I was advised that JMB and 216 were going to be served with additional EPOs. On that date, I sent an email to the AEP to request an extension of time to submit the plan required by the MacDonald EPO and confirmation as to whether an UAP application and associated security would be required for the MacDonald Pit reclamation obligation and hauling of inventory. On March 12, 2021, the AEP responded that an UAP and associated financial securities for the EPOs

- 12 -

received to March 12, 2021, are not required to be submitted to the AEP in addition to the reclamation plan and confirming that my request for an extension of time is on behalf of JMB and its current directors. Attached hereto as **Exhibit "L"** is a copy of the email and the AEP response.

32. On March 11, 2021, the AEP served EPOs on JMB, its current directors and a former director with respect to the O'Kane Pit, the Buksa Pit, the Havener Pit, the Kucy Pit and the Megley Pit (collectively, the "**March 11<sup>th</sup> EPOs**") and served an EPO on 216, its current directors, two former directors, 541466 Alberta Ltd. (a former operator) and Robert Beaverford (a former holder of the SML) with respect to SML 060060 (the "**060 EPO**"). Attached hereto as **Exhibit "M" and "N"** are copies of the March 11<sup>th</sup> EPOs and the 060 EPO.
33. Prior to service of the Havener Pit EPO, I had begun the process of preparing and developing an UAP for the Havener Pit including soil analysis and mapping of the subject area.
34. The orders contained in the MacDonald EPO and March 11<sup>th</sup> EPOs are identical in their terms other than, in the case of the MacDonald EPO, the dates by which plans must be submitted and reclamation completed, and provide, among other things, for the following:
  - (a) JMB, its current directors and the former director are required to immediately suspend work at the respective pits and not remove any stockpiled materials;
  - (b) JMB, its current directors and the former director shall submit to the AEP Environmental Protection Officer and an inspector under the EPEA (an "**Inspector**") responsible for these matters, the name and qualifications of a consultant (the "**Consultant**") authorized to practice reclamation on private land, which Consultant will be retained by JMB, the current directors and former director to prepare and sign a reclamation and remedial plan;
  - (c) JMB, its current directors and the former director shall submit a written reclamation and remedial plan by May 20, 2021 with respect to the March 11<sup>th</sup> EPOs and March 27, 2021, for the MacDonald EPO (for each pit, a "**Plan**");



- 13 -

- (d) the Plans are required to be comprehensive and must be approved by the Inspector;
  - (e) JMB is required to submit progress reports on July 30, 2021, November 30, 2021, March 31, 2022 and July 29, 2022; and
  - (f) the reclamation is to be completed by September 20, 2022 under the MacDonald EPO, and by October 29, 2022 under the March 11<sup>th</sup> EPOs.
35. The deadline for submission of a Plan with respect to the MacDonald Pit has subsequently been extended to March 27, 2021 by agreement with the AEP. Attached hereto as **Exhibit "O"** is a copy of the amendment to the MacDonald EPO.
36. On March 12, 2021, I sent an email to the AEP submitting myself as the Consultant for the Buksa Pit, the Havener Pit, O'Kane Pit, the MacDonald Pit, the Megley Pit and the Kucy Pit. Attached hereto as **Exhibit "P"** is a copy of the email. The AEP has since approved me as the Consultant for the stated pits.
37. On March 12, 2021, the AEP served an Environmental Order pursuant to the *Water Act*, RSA 2000, c W-3 (the "**Water Act**") on 216, its current directors, its former directors, 541466 Alberta Ltd. and Robert W. Beaverford in respect of SML 060060 (the "**060 EO**"). Attached hereto as **Exhibit "Q"** is a copy of the 060 EO.
38. The 060 EO states, among other things, the following:
- (a) JMB is required immediately cease all unauthorized activities on the lands, including any work on, in or around the lake;
  - (b) JMB is required to submit for approval, the name and qualifications of a professional (the "**EO Consultant**") who is a member in good standing with a professional regulatory organization with experience in preparing a remedial plan and managing groundwater by March 19, 2021; and
  - (c) JMB is required to submit a comprehensive remedial plan to the Director by March 31, 2021, which plan must be approved by the Director.

- 14 -

39. On March 17, 2021, 216 submitted the name of an EO Consultant for approval. On March 18, 2021 the AEP approved 216's EO Consultant submission.
40. On March 19, 2021, the AEP agreed to extend the plan submission date for the 060 EPO and 060 EO to May 31, 2021.
41. On March 19, 2021, the AEP served EPOs on JMB, its current directors and a former director with respect to SML 980116, SML 120027 and SML 930040 (collectively, the "**March 19<sup>th</sup> EPOs**"). Collectively attached hereto as **Exhibit "R"** are copies of the March 19<sup>th</sup> EPOs.
42. The March 19<sup>th</sup> EPOs provide for the following:
  - (a) For SML 980116, JMB, its current directors and a former director shall not remove any stockpiled materials;
  - (b) For SML 930040, JMB, its current directors and a former director shall not remove any saleable aggregate materials;
  - (c) By March 26, 2021, JMB, its current directors and a former director submit to the Inspector the name and qualifications of a Consultant who will be retained by JMB, its current directors and a former director to prepare and sign a reclamation and remedial plan;
  - (d) JMB, its current directors and a former director will submit a plan by May 31, 2021;
  - (e) The plans are required to be comprehensive and must be approved by the Inspector;
  - (f) JMB is required to submit progress reports on July 30, 2021, November 30, 2021, March 31, 2022 and July 29, 2022; and
  - (g) The reclamation is to be completed by September 20, 2022 under the EPOs for SML 980116 and SML 930040, and by June 30, 2022 under the EPO for SML 120027.



- 15 -

43. On March 21, 2021, I sent an email to the AEP submitting myself as the Consultant for SML 980116, SML 120027 and SML 930040. Attached hereto as **Exhibit "S"** is a copy of the email.

#### **Issues with the Environmental Protection Orders**

44. The Original Orders were granted over 150 days ago. In a span of 16 days, the AEP has served nine EPOs and one EO on JMB and 216. Each of the EPOs requires a comprehensive plan as early as March 20, 2021 and no later than May 31, 2021.
45. In order to prepare a plan, careful consideration and significant work is required. In addition, it is necessary, given the number of plans required within a very compressed timeline, to retain external consultants.
46. The EO Consultant will be required to complete a field assessment in frost-free conditions before they are able to sign off on a plan. This is a due diligence requirement of the profession. In addition, further issues include:
- (a) the EO Consultant will be required to travel to the site and will only be able to do so if the weather conditions are appropriate; and
  - (b) the EO Consultant will need time to prepare the report.
47. Further, pursuant to the 060 EPO, the AEP has imposed a deadline of October 1, 2021 for completion of the physical reclamation work. As stated above, the reclamation plan has not been completed and at this time it is not possible to properly evaluate the time required to complete the physical reclamation. As a result, the SML 060060 sale is in jeopardy and will be lost if the AEP and JMB cannot agree to an extension of the timelines. On March 18, 2021, JMB emailed the AEP to inquire about an option to operate the pit subject to SML 060060 before the conclusion of the timelines in the 060 EPO and 060 EO. On March 18, 2021, the AEP responded and recommended that 216 put forward a request to the AEP for an amendment to or sublease of SML 060060. Attached hereto and marked as **Exhibit "T"** is a copy of JMB's email and the AEP's response.

- 16 -

48. In addition, there are inaccuracies in the MacDonald EPO and certain of the March 11<sup>th</sup> EPOs as follows:
- (a) MacDonald EPO – The AEP states that reclamation of the disturbed land on the MacDonald Pit has not occurred to date. From my review of JMB's records, reclamation has been completed on disturbed land that was included in the April 23, 2018, UAP submission for the MacDonald Pit to cover the area disturbed outside the registration boundary;
  - (b) Megley EPO – The AEP states that reclamation of the disturbed land on the Megley Pit has not occurred to date. From my review of JMB's records, some reclamation has been completed on disturbed land that was included inside the current registered boundary and some reclamation has occurred on some disturbed area outside the registered boundary;
  - (c) Kucy EPO – The AEP states that JMB failed to follow the Activities Plan mining sequence including not conducting reclamation. From my review of the current Kucy Pit Activities Plan, I believe the mining sequence was followed but not completed;
  - (d) Buksa EPO – The AEP states that JMB failed to comply to the boundary approved in the EPEA Registration. From my review of JMB's records, the current Buksa EPEA Registration covers all of the current disturbances and I believe there is no current contravention on file for failing to comply with the approved EPEA Registration Boundary; and
  - (e) O'Kane EPO – The AEP states that reclamation of the disturbed land on the O'Kane Pit has not occurred to date. From my review of JMB's records, some reclamation has been completed on disturbed land that was included inside the current registered boundary and reclamation has been completed on some disturbed area outside the registered boundary.
49. JMB, 216, Mantle and their counsel have attempted since October 16, 2020, to engage the AEP and resolve outstanding issues, but it was not until the February 12<sup>th</sup> Letter and




February 23<sup>rd</sup> Letters that JMB and 216 were advised of the full extent of non-compliance identified by the AEP.

- 50. Shortly after I began working for JMB, Resource Land Fund V, LP through its wholly owned subsidiary Canadian Aggregate Resources Corp., acquired a majority interest in JMB Crushing Systems Inc. as of November 21, 2018 through a series of transactions. Attached hereto as Exhibit “U” is a chart of the pre- and post-November 1, 2018 disturbances of native vegetation, disturbance of native topsoil or agriculture topsoil related to the Dispositions and EPEA Registrations of JMB and 216 (collectively the “Disturbances”), which demonstrates that the vast majority of the Disturbances occurred before November 1, 2018.
- 51. I was not physically present before the Commissioner of Oaths, but was connected to him by video technology and followed the process for remote commissioning.

SWORN BEFORE ME at the City of )  
 Beaumont, in the Province of Alberta, this )  
 22<sup>nd</sup> day of March, 2021. )

\_\_\_\_\_)  
 A Commissioner of Oaths in and for the )  
 Province of Alberta )

  
 \_\_\_\_\_  
**TYLER PELL**

THIS IS EXHIBIT "A" REFERRED TO IN  
THE AFFIDAVIT OF TYLER PELL  
SWORN BEFORE ME  
THIS 22<sup>ND</sup> DAY OF MARCH, 2021

---

A Commissioner for Oaths in and for the  
Province of Alberta

JP



**JMB Dispositions, 216 Dispositions, EPEA Registrations and Permits**

Holder	No.	Name
<b>Active 216 Dispositions</b>		
216	SML 080085	JLG 3
216	SML 110025	JLG 5
216	SML 110026	JLG 6
216	SML 110045	JLG 7
216	SML 110046	JLG 8
216	SML 110047	JLG 9
216	SML 120005	JLG 10
216	SML 120006	JLG 11
216	SML 120100	JLG 12
216	SML100085	JLG 4
<b>Inactive 216 Dispositions</b>		
216	SML 060060	SML 060060
216	DLO 170011	SML 060060 Access
216	DLO 200059	
216	DML 200017	
216	TFA 201094	
216	TFA 201290	
<b>EPEA Registrations for Active Royalty Agreements</b>		
JMB	308161-00-00	Shankowski
JMB	17395-01-00	Havener
<b>EPEA Registrations for Inactive Royalty Agreements</b>		
JMB	306490-00-00	Hoye / Kucy
JMB	293051-00-00	MacDonald
JMB	149949-00-00	Megley
JMB	263318-00-00	O'Kane
JMB	15048-03-02	Buksa
<b>Inactive JMB Dispositions</b>		
JMB	SML 120027	SML 120027 (Sand)
JMB	SML 930040	SML 930040
JMB	SML 980116	SML 980116 (Sand)
JMB	DML 120032	N/A

Holder	No.	Name
JMB	SME 150106	N/A
JMB	SME 200009	N/A
JMB	TFA 194837	

THIS IS EXHIBIT "B" REFERRED TO IN  
THE AFFIDAVIT OF TYLER PELL  
SWORN BEFORE ME  
THIS 22<sup>ND</sup> DAY OF MARCH, 2021

---

A Commissioner for Oaths in and for the  
Province of Alberta



Lands Division  
 5<sup>th</sup> floor, South Petroleum Plaza  
 9915 - 108 Street  
 Edmonton, Alberta, T6K 2G8  
[www.aep.alberta.ca](http://www.aep.alberta.ca)

File No: DML120032  
 SME200009  
 SML120027  
 SML930040  
 SML980116  
 SML060060

November 16, 2020

Mr. Tom Cumming  
 Gowling WLG  
 1600, 421 7th Avenue SW  
 Calgary, AB T2P 4K9  
[tom.cumming@gowlingwlg.com](mailto:tom.cumming@gowlingwlg.com)

JMB Crushing Systems Inc. and 2161889 Alberta Ltd.  
 PO Box 6977  
 Bonnyville, AB  
 T9N 2H4

Dear Sir:

**Re: JMB Crushing Systems Inc. and 2161889 Alberta Ltd. – Outstanding Reclamation Obligations**

Alberta Environment and Parks (AEP) has recently conducted a file review of *Public Lands Act* dispositions issued to JMB Crushing Systems Inc. and 2161889 AB Ltd. Departmental records show the dispositions listed below are inactive, at various stages of development and have associated outstanding reclamation obligations. Section 21(1)(f) of the *Public Lands Administration Regulation* requires that the disposition holder reclaim the lands subject to the disposition to equivalent land capability on expiration.

JMB Crushing Systems Inc. must immediately take measures to complete all end of life obligations for the lands subject to the dispositions listed below:

- DML120032
- SME200009 (expired September 19, 2020)
- SML120027
- SML930040 (expired July 28, 2013)
- SML980116 (expired on February 15, 2009)

2161889 AB Ltd. must immediately take measures to complete all end of life obligations for the lands subject to SML060060.

AEP expects a response no later than 4:30pm, November 30, 2020. If you have any questions regarding this matter, please contact Darrell Kentner at 780-778-7255.

Sincerely,

Darrell Kentner  
 Approvals Manager

Cc: David Pochailo, Approvals Manager  
 Joanne Sweeney, Aggregate Unit Team Lead  
 Shelly Currie, Continuations Unit Team Lead  
 Pantelis Kyriakakis, Associate [pkyriakakis@mccarthy.ca](mailto:pkyriakakis@mccarthy.ca)





Regulatory Assurance Division  
 Capital District – North Region  
 111, 4999 98 Avenue NW  
 Twin Atria Building  
 Edmonton, AB T6B 2X3  
 Telephone: 780-427-6296  
[www.aep.alberta.ca](http://www.aep.alberta.ca)

November 18, 2020

File No's: JMB Registered Pits

Mr. Tyler Pell  
[tylerpell@jmbcrush.com](mailto:tylerpell@jmbcrush.com)  
 Aggregate Resource Manager  
 JMB Crushing Systems Inc  
 PO Box 6977  
 Bonnyville AB T9N 2H4

Dear Mr. Pell,

Re: JMB Crushing System Inc. Registered Pits -- Advice Letter

With respect to your request to transfer certain *Environmental Protection and Enhancement Act* (EPEA) registrations from JMB Crushing Systems Inc. (JMB) to Mantle Materials Group Ltd (Mantle). Alberta Environment and Parks (AEP) has identified the following items that need to be resolved before AEP will consider your request to transfer these registrations:

1. Expired or Expiring Security Deposits

The following pits are currently registered to JMB Crushing Systems Inc., with their respective securities held:

- a. 15048-03-00 - Buksa Pit NE 24-056-07-W4M - \$50,442.14 expiring Dec. 12/20 – request to be transferred;
- b. 17394-00-00 – E 35-056-06-W4M – cash \$7,800.00;
- c. 17395-01-00 – Havener Pit NW 16-056-07-W4M - \$41,872.00 expired Mar. 9/20 – request to be transferred;
- d. 149949-00-00 – Megley Pit SE 35-058-16-W4M - \$\$74,683.81 expired Mar. 9/20;
- e. 263318-00-00 - O'Kane Pit NE 10-057-06-W4M - \$\$39,805.00 expired Mar. 9/20;
- f. 293051-00-00 – MacDonald Pit SE 34-056-07-W4M - \$16,695.00 expired Mar. 9/20
- g. 306490-00-00 – Kucy Pit NW 17, NE 18 & SE 19-063-09-W4M - \$31,872.25 expired Mar. 9/20; and
- h. 308161-00-00 – Shankowski Pit SW 21-056-07-W4M – \$180,120.57 expired Nov. 13/20 – request to be transferred.

The security posted for each of the registered pits listed above is either expired or expiring this month or in December.

The expired security puts JMB in contravention of section 3.2.2 – 3.3.2 of the *Code of Practice for Pits* (Code) and s.84 of the *Environmental Protection and Enhancement Act* (EPEA). AEP requires that every pit is in good standing prior to transfer, which includes having a security deposit in form and amount acceptable to AEP.

5/18

Also, pursuant to section 5.4 and 5.5 of the Guide to the Code of Practice for Pits (Guide), a new registration holder is required to provide security prior to a transfer becoming effective. The security will be calculated based on full cost of reclamation and must be in AEP's acceptable form. Also, all pits that are currently in contravention of the Code due to either pit's boundary exceedance or trespasses would require these contraventions to be resolved prior to AEP making a decision about the transfer.

2. JMB's Plan for Registered Pits not part of the request to transfer

With only the 3 (in bold writings above) out of these 7 registered pits proposed for the transfer, what is JMB's plan and timing as it relates to operation or reclamation of the remaining 4 registered pits?

3. Landowner Consent Required

Moreover, as a requirement for pit operators on private lands, a written landowner permission is needed pursuant to section 3.2.1 of the Code. Please, provide the documents confirming the new permission for Mantle to operate from the landowner for each of the registered pit proposed to be transferred.

Please note that AEP has received court documents that indicate that Jerry Shankowski, the private landowner associated with pit registration 308181-00-00, objects to the transfer of this registration to Mantle.

Please, report all contravention of the EPEA or *Water Act* to the provincial Environmental Hotline at 1-800-222-6514.

AEP expects a response no later than 4:30 p.m. on December 2, 2020. If you have any questions or concerns, please contact Stephen Abioye at 780-427-6451 or at [stephen.abioye@gov.ab.ca](mailto:stephen.abioye@gov.ab.ca).

Sincerely,



Muhammad Aziz  
Designated Director under the Act

cc: Valerie Collins, Regulatory Approval Center (RAC)  
Colette Strap, AEP  
Jon Eauwies, AEP  
Nathan Polturak, AEP  
Stephen Abioye, AEP





November 19, 2020

Via E-mail

Vivienne M Ball  
 Barrister and Solicitor  
 Environmental Law Team, Legal Services Division  
 Justice and Solicitor General, Government of Alberta  
 8th Floor, Oxbridge Place  
 9826 - 106 Street  
 Edmonton, AB T5K 2J6  
 Email: [Vivienne.Ball@gov.ab.ca](mailto:Vivienne.Ball@gov.ab.ca)

Tom Cumming  
 Direct +1 403 298 1938  
[tom.cumming@gowlingwlg.com](mailto:tom.cumming@gowlingwlg.com)  
 File no. T1020877

Melissa N. Burkett  
 Barrister & Solicitor  
 Legal Services Division, Civil Litigation  
 Justice and Solicitor General, Government of Alberta  
 Suite 1710, 639 5 Ave SW  
 Calgary, AB T2P 0M9  
 Email: [Melissa.Burkett@gov.ab.ca](mailto:Melissa.Burkett@gov.ab.ca)

Dear M. Ball and Ms. Burkett,

Re: **JMB Crushing Systems Inc. ("JMB") and 2161889 Alberta Ltd. ("216") proceedings under the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36 (as amended, the "CCAA")**

We are counsel for JMB and its subsidiary 216 in their proceedings under the *Companies' Creditors Arrangement Act* (the "CCAA", and such proceedings, the "CCAA Proceedings"). As you are aware, pursuant to an asset purchase agreement dated September 28, 2020 (as amended, the "APA") between JMB and 216 as vendors, and Mantle Materials Group, Ltd. ("Mantle") as purchaser, Mantle has agreed to purchase certain assets of JMB and 216 (such purchase and sale transaction being the "Transaction").

The majority of the shares in the capital of JMB was acquired by Canadian Aggregate Resources Corporation ("CARC") in November of 2018. CARC is a wholly owned subsidiary of Resource Land Holdings, LLC ("RLH"), a private equity fund based in Denver, Colorado. However, because of a combination of the general downturn in the oil and gas services industry and serious sustained mismanagement and accounting irregularities of the former owners of JMB and their management team, JMB was not financially viable. Notwithstanding that CARC made significant capital injections into JMB and 216, JMB could not be made financially viable. Further, JMB was unable to comply with its obligations to its principal lenders, ATB Financial ("ATB") and Fiera Private Debt Fund VI LP and Fiera Private Debt Fund V LP ("Fiera").

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As a result of their financial difficulties, JMB and 216 commenced the CCAA Proceedings and were given protection by the Court of Queen's Bench of Alberta (the "**Court**") under the CCAA pursuant to an Initial Order of the Honourable Madam Justice Eidsvik pronounced on May 1, 2020, as amended by an amended and restated Initial Order pronounced on May 11, 2020, under which FTI Consulting Canada Inc. was appointed as monitor (the "**Monitor**") of JMB and 216. Pursuant to the latter Order, a sale and investment solicitation process (the "**SISP**") under the direction and control of the Monitor was approved. Sequelra Partners was appointed as sale advisor under the SISP to market the assets of JMB and 216 and to administer the SISP.

Because of the economic dislocation caused by current COVID-19 health situation, many sale processes carried out in insolvency proceedings have failed to identify any buyers for businesses or assets. In an attempt to ensure that the property and assets of JMB and 216 were not simply abandoned as a result of a failed SISP, RLH incorporated Mantle, another wholly owned subsidiary, to make a bid to purchase that portion of the business and assets of JMB and 216 that were economically viable. Unfortunately, that was the only bid that was made for a substantial portion of the business and assets. RLH has committed to provide a limited amount of capital to Mantle in order to ensure that it is economically viable.

Under the APA, Mantle agreed to purchase a substantial portion of the assets of JMB and 216 (the "**Assets**"), including the following dispositions and agreements giving JMB and 216 the right to extract aggregate from certain lands:

- (a) surface material lease ("**SML**") 080085 in favour of 216 in respect of the lands on which a pit identified as JLG 3 is located;
- (b) SML 110025 in favour of 216 in respect of the lands on which a pit identified as JLG 5 is located;
- (c) SML 110026 in favour of 216 in respect of the lands on which a pit identified as JLG 6 is located;
- (d) SML 110045 in favour of 216 in respect of the lands on which a pit identified as JLG 7 is located;
- (e) SML 110046 in favour of 216 in respect of the lands on which a pit identified as JLG 8 is located;
- (f) SML 110047 in favour of 216 in respect of the lands on which a pit identified as JLG 9 is located;
- (g) SML 120005 in favour of 216 in respect of the lands on which a pit identified as JLG 10 is located;
- (h) SML 120006 in favour of 216 in respect of the lands on which a pit identified as JLG 11 is located;
- (i) SML 120100 in favour of 216 in respect of the lands on which a pit identified as JLG 12 is located;
- (j) SML100085 in favour of 216 in respect of the lands on which a pit identified as JLG 4;



- (k) an aggregate royalty agreement (a "**Royalty Agreement**") with 302016 Alberta Limited (the "**Buksa Agreement**") in respect of the extraction and processing of aggregate from lands in respect of which Registration No. 15048-03-02 (the "**Buksa Registration**") has been issued under the *Environmental Protection and Enhancement Act* (the "**EPEA**");
- (l) a Royalty Agreement with Gail Havener and Helen Havener (the "**Havener Agreement**") in respect of which Registration No. 17395-01-00 (the "**Havener Registration**") has been issued under the *EPEA*;
- (m) a Royalty Agreement with Jerry Shankowski and 945441 Alberta Ltd. (the "**Shankowski Agreement**") in respect of which Registration No. 308161-00-00 (the "**Shankowski Registration**") and together with the Buksa Registration and Havener Registration, the "**Registrations**") has been issued under the *EPEA*;
- (n) a Royalty Agreement with Lafarge Canada Inc. ("**Lafarge**", and such Royalty Agreement, the "**Moose River Agreement**") in respect of which Registration No. 15215-01-01 has been issued under the *EPEA*; and
- (o) a Royalty Agreement with Lafarge (the "**Oberg Agreement**") in respect of the lands subject to SML 100043, which SML is held by Lafarge;

(the SMLs listed in paragraphs (a) to (j) are referred to collectively as the "**SML Dispositions**").

As you are aware, on notice to Alberta Environment and Parks (the "**AEP**"), the Monitor, JMB and 216 made applications to the Court for the following Orders, which Orders were pronounced by Justice Eldsvik on October 16, 2020 (collectively, the "**Mantle Transaction Orders**"):

- (a) a sale approval and vesting order, approving the Transaction and vesting the Assets in Mantle free and clear of all claims;
- (b) a reverse vesting order (the "**RVO**"), vesting in 216 all of the liabilities of JMB that were not assumed by Mantle pursuant to the APA and all of the assets of JMB that were not acquired by Mantle;
- (c) an assignment order, assigning to Mantle certain agreements; and
- (d) a sanction order, sanctioning a plan of arrangement of JMB under the British Columbia *Business Corporations Act* and the *CCAA*.

The Transaction and the steps contemplated by the Mantle Transaction Orders are conditional, among other things, on the receipt of regulatory approvals. If the regulatory approvals are not obtained, or the requirement therefor is not waived by Mantle, the Transaction will not be completed. Because there are no other bids for the Assets, in those circumstances it is likely that the *CCAA* Proceedings will be terminated and JMB and 216 will simply cease any operations or activities.

Following the issuance of the Mantle Transaction Orders, the following has been submitted to Alberta Environment and Parks (the "**AEP**"):

- (i) by letter dated October 19, 2020, assignments to Mantle of the SML Dispositions (collectively, the "**SML Assignments**"); and





- (ii) by letter dated October 29, 2020, assignments to 216 of SML 120027 and DML 120032 (collectively, the "216 Assignments"),
- (collectively, the "Applications").

In addition, we anticipate filing the following with the AEP:

- (i) consents of JMB and Mantle to transfer the Registrations;
- (ii) applicable materials to satisfy the additional requirements to transfer the 216 Assignments pursuant to the November 2, 2020 Reply (as defined below); and
- (iii) request for letters of clearance for SME 150106 and SME 200009 in favor of JMB.

To date, notwithstanding many attempts to follow up with the AEP, the AEP has not provided a meaningful or helpful response. These attempts to follow up have consisted of the following:

- (a) on Tuesday October 20, 2020, we submitted the SML Assignments on behalf of JMB and Mantle;
- (b) on Thursday October 22, 2020, Tyler Pell of Mantle confirmed with Jane Fletcher that she had received the SML Assignments and requested a conference call to discuss the SML Assignments further. Jane stated that she would not be available for a call until Monday, October 26, 2020 and would follow up with a time;
- (c) later on October 22, 2020, Tyler Pell submitted Version 2 of Schedule A of the SML Assignments to the AEP and then submitted Version 3 of Schedule A of the SML Assignments to the AEP, but the designated contact for the AEP was on vacation;
- (d) on Friday October 23, 2020, Tyler Pell sent an email to Jane Fletcher with the AEP requesting a conference call to review submission and obtain answers to questions from counsel;
- (e) on Monday October 26, 2020, Tyler Pell sent a follow-up email to Jane Fletcher requesting a conference call;
- (f) later on October 26, 2020, Tyler Pell had a conference call with Jane Fletcher and members of JMB and 216's counsel to determine the status of the SML Applications and to further discuss the 216 Assignments;
- (g) on Wednesday October 28, 2020, Jane Fletcher emailed Tyler Pell to confirm that he was acting as agent for both JMB and Mantle in respect of the SML Assignments, which Tyler Pell confirmed;
- (h) on Thursday October 29, 2020, we submitted the 216 Assignments on behalf of JMB and 216;
- (i) later on Thursday October 29, 2020, Tyler Pell emailed Jane Fletcher for an update and she stated that she had a response letter to the submitted SML Assignments prepared, but was waiting on a response from the field representative;





- (j) on Friday October 30, 2020, Tyler Pell emailed Jane Fletcher requesting an update on the field review. Jane Fletcher responded that she is aware they are working on it and she hoped for a response either that day or on Monday November 2, 2020;
- (k) on Monday November 2, 2020, Tyler Pell emailed Jane Fletcher requesting an update on the field review;
- (l) on Tuesday November 3, 2020, Jane Fletcher responded to indicate that she hoped to have an answer soon;
- (m) on Tuesday November 3, 2020, the writer left messages for both Vivienne Ball, counsel with the Environmental Law Team of the Legal Services Division of Justice and Solicitor General of Alberta, and Jane Fletcher;
- (n) on Wednesday November 4, 2020, Jane Fletcher called the writer, but would only say that the matter was still subject to field review, and would provide no information with respect to the status of the matter or any concerns that the AEP might have;
- (o) on Thursday November 5, 2020, Vivienne Ball emailed the writer to indicate that she was advised that the writer spoke with Jane Fletcher and that she had responded to the writer's enquiry; and
- (p) on Tuesday November 10, 2020, Tyler Pell called Jane Fletcher and left message asking for an update, which Jane Fletcher responded to by email stating the field is still reviewing and hope to have information on November 18, 2020.

On Monday November 2, 2020 (the "**November 2, 2020 Reply**"), the Lands Division of the AEP wrote to the writer to indicate that it required the following to transfer the 216 Assignments:

- (i) payment of assignment fee in the amount of \$3,150.00;
- (ii) written verification from the taxing authorities that all taxes with respect to the 216 Assignments have been paid;
- (iii) confirmation that the balance in the accounts of the 216 Assignments are current;
- (iv) a security deposit for each 216 Assignment; and
- (v) discharge of any encumbrances registered against the 216 Assignments.

On Monday November 16, 2020 (the "**November 16, 2020 Reply**"), the Lands Division of the AEP also wrote to the writer, JMB and 216 to indicate that it has reviewed its file and required that:

- (i) JMB must remediate certain lands subject to dispositions, namely DML 120032, SME 200009 (expired September 19, 2020), SML 120027, SML 930040 (expired July 28, 2013) and SML 980116 (expired February 16, 2009); and
- (ii) 216 must remediate certain lands subject to SML 060060.

**In the November 16 Reply, the AEP did not provide any other feedback with respect to the Applications, including whether, if those steps were taken, the Applications would be granted.**





Further, the AEP imposed a time deadline for JMB and 216 to respond to the November 16, 2020 Reply by 4:30 pm on November 30, 2020.

On Wednesday November 18, 2020 (the "**November 18 Reply**"), the Regulatory Assurance Division of the AEP provided a letter to JMB with respect to certain pits currently registered to JMB and imposed a deadline for JMB to response to the November 18, 2020 Reply by 4:30 pm on December 2, 2020. The November 18 Reply does not indicate whether, if the matters raised therein are addressed, the application will be granted. **It simply says that these matters need to be resolved before the AEP will consider the request to transfer the registrations.**

In the November 18 Reply, the AEP referred to five pits where the security expired on March 9, 2020. The AEP previously wrote to JMB on January 20, 2020 indicating that those bonds were to expire on March 9, 2020, and that if replacement security was not provided, the AEP would demand payment under the bonds. **In fact, the AEP did not demand payment under the bonds and allowed the March 9, 2020 expiry date to pass without taking action.** The AEP now requests that these bonds be replaced, but there is no party available to provide replacement bonds. We do note that Mantle intends to provide replacement security for the Buksa Pit, the Havener Pit and the Shankowski Pit. The remaining pits referred to in the November 18 Reply are not being acquired by Mantle and therefore remain the responsibility the estate. We note that upon the Reverse Vesting Order becoming effective, all of the liabilities of JMB that are not assumed by Mantle are transferred to and vested in 216, and cease to be liabilities of JMB. This would include any liabilities to provide security.

In the November 18 Reply, the AEP requests evidence of the consent of the Haveners with respect to the Havener pit, and Shankowski with respect to the Shankowski pit. We can provide you with copies of the agreements with these parties. While Jerry Shankowski has subsequently attempted to back out of his agreement with Mantle and is currently in breach of that agreement, it remains binding upon him.

As you are aware, on November 12, 2020 there was an application to the Court to extend the stay of proceedings in the CCAA Proceedings. Because the Transaction has not yet closed, we provided an update on its status to Justice Eidsvik, including that the regulatory condition precedent remained unsatisfied and that the AEP had not yet taken a position with respect to the Application. Justice Eidsvik expressed concern that counsel for the AEP:

- (a) had required a two week adjournment of the October 2, 2020 hearing, which was the original date scheduled for the hearing of the application for the Mantle Transaction Orders;
- (b) had requested and obtained changes to the Mantle Transaction Orders; and
- (c) was unwilling to take steps to assist in or expedite the regulatory application process.

Justice Eidsvik has requested that you to attend the next application to explain the AEP's position and the delays in responding to the Applications.

The AEP has not provided a response as to whether or not it will consent to the Applications, or what conditions, if any it requires to be satisfied before it consents. It has simply said that it will not consider the Applications until certain steps have been taken. ~~This puts the Transaction at risk, and if it does not close, the business will be lost and there will be no alternative to the SML Dispositions being surrendered to the AEP.~~ Since the Transaction has been structured to avoid an outcome like this, it would be very unfortunate if the passage of time made it inevitable.



JMB and Mantle would like to meet with the AEP to discuss the status of the Application and whether it is possible to address concerns of the AEP. This meeting could be by video conference, which we are happy to arrange.

We look forward to hearing from you at your earliest convenience.

Yours truly,

Gowling WLG (Canada) LLP

*Tom Cumming*

Tom Cumming

TSC

Encl.





Lands Division  
 Land Policy and Programs Branch  
 Public Lands Disposition Management  
 Section  
 5<sup>th</sup> floor, South Petroleum Plaza  
 9915 - 108 Street NW  
 Edmonton, Alberta T6K 2G8  
 Fax: 780-422-2545  
[www.alberta.ca](http://www.alberta.ca)

File Nos. SML 110025, SML 110026  
 SML 110045, SML 110046  
 SML 110047, SML 120005  
 SML 120006, SML 120100  
 SML 080085, SML 100085

November 23, 2020

2161889 Alberta Ltd.  
 PO Box 6977  
 Bonnyville, Alberta T9N 2H4

Attention: Tyler Pell

Application to assign dated October 20, 2020  
 From: 2161889 Alberta Ltd. To: Mantle Materials Group, Ltd.  
 SML 110025, SML 110026, SML 110045, SML 110046, SML 110047,  
 SML 120005, SML 120006, SML 120100, SML 080085, SML 100085

The department has received the request to assign the dispositions listed above.

#### Outstanding Deficiencies in the Application

However, before the department can proceed to make a decision on the application to assign these dispositions, the following is required:

1. An assignment fee in the amount of \$3,150.00.
2. A surface materials return for the period of January 1, 2020 to October 20, 2020 from 2161889 Alberta Ltd. and any royalty payment due for this period for the above SML's.
3. A replacement security deposit (Letter of Credit see attached) for each of the dispositions listed above that 2161889 Alberta Ltd. has applied to assign to Mantle Group Materials, Ltd. in the name of Mantle Group Materials, Ltd. Attached is a list of acceptable forms of security deposits for your information.
4. Payment in full of any outstanding balance payable to the department in the account for each disposition listed above. See attached.
5. The Lender must discharge all Conditional Surrender of Leases registered against the dispositions listed above.

- 2 -

6. The Assignment of Disposition-Industrial dated October 20, 2020 is incorrect as the assignee should be Mantle Materials Group, Ltd. Please send in a corrected copy.

Please forward these requirements no later than 30 days from the date of this letter.

#### **Outstanding Regulatory Obligations to Reclaim**

2161889 Alberta Ltd. is also the holder of SML 060060, which is not part of this application to assign. In its November 16, 2020 letter, the Department notified you that 2161889 Alberta Ltd. has outstanding reclamation obligations as it relates to the public lands subject to SML 060060.


Section 21(1)(f) of the *Public Land Administration Regulation* (PLAR) requires 2161889 Alberta Ltd. as disposition holder, to reclaim the lands subject to SML 060060 to equivalent land capability, as defined in PLAR, on expiry.

#### **Next Steps**

Once the application to assign is complete, the department will proceed to review the application in accordance with the department's normal process, the *Public Lands Act* and the PLAR. Pursuant to section 15.1 of *Public Lands Act*, the Department can refuse to assign a disposition if the applicant is in non-compliance with the Public lands Act. The department may consider any outstanding regulatory obligations of the applicant as part of the department's review.

If you have any questions regarding this matter, please contact myself at 780-415-4672, in Edmonton.

Sincerely,



Jane Fletcher  
Land Policy and Programs

cc: AEP Upper Athabasca Region, South District  
cc: Zafar B. Jaffer ([zafar.jaffer@gowlingwlg.com](mailto:zafar.jaffer@gowlingwlg.com))  
cc: Pantelis Kyriakakis ([pkiriakakis@mccarthy.ca](mailto:pkiriakakis@mccarthy.ca))  
cc: Tom Cumming ([tom.cumming@gowlingwlg.com](mailto:tom.cumming@gowlingwlg.com))  
cc: Tyler Pell ([tyler.pell@mantlegroup.ca](mailto:tyler.pell@mantlegroup.ca))

Assignment of Disposition - Industrial

Lands Division

Assignment of Disposition

BETWEEN

2161889 ALBERTA LTD.  
PO BOX 6977, BONNYVILLE ALBERTA T9N 2H4  
(hereinafter called the "Assignor")

and

Mantle Group Materials, Ltd.  
Suite 2300, Bentall 5, 550 Burrard Street, Vancouver, BC V6C 2B5  
(hereinafter called the Assignee")

The assignor, being the holder of disposition(s) noted on Schedule "A" in consideration of the sum of \$ 10.00, payment of which is hereby acknowledged by the Assignor, hereby assigns the disposition(s) to the Assignee, and the Assignee(s) hereby accept(s) and agree(s) to be bound by this assignment.

Dated this 20th day of October, 2020

BLAKE ELYEA

[Signature]  
(WITNESS)

[Signature]  
(ASSIGNOR)

BYRON LEVKULICH - DIRECTOR

[Signature]  
(WITNESS)

[Signature]  
(ASSIGNEE)

NOTE: The affidavits of execution overleaf must be completed unless executed under corporation seal.

The personal information contained on this form is collected under the authorization of Section 33(c) of the Freedom of Information and Protection of Privacy (FOIP) Act and is managed in accordance with Part 2 of the FOIP Act. It will be used for the purposes of monitoring public land utilization in accordance with the Public Lands Act. Alberta Environment & Parks will disclose all information contained on this form, including personal information, to anyone requesting a copy in accordance with Section 166-167 of the Public Lands Administration Regulation. For further information, please contact Provincial Programs Branch, Operations Division, Alberta Environment and Parks, 5th Floor, South Petroleum Plaza, 9915-108 Street, Edmonton, Alberta, T5K 2G8, telephone 780-427-3570.

Access more land forms: <https://www.alberta.ca/alberta-environment-and-parks-land-forms.aspx>

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Classification: Protected A

[Signature]  
05.22a-1215





**Schedule "A"**

SML Assignments (2161880 Alberta Ltd to Mantle Group Materials, Ltd.)  
October 22, 2020

SML 110025
SML 110026
SML 110045
SML 110046
SML 110047
SML 120005
SML 120006
SML 120100
SML 080085
SML 100085

Outstanding Debts (Interest Included to Dec. 22/20)

SML 110025 - \$10,622.54

SML 110026 - \$1,082.29

SML 110045 - \$11,164.71

SML 110046 - \$544.26

SML 110047 - \$641.27

SML 120005 - \$132,618.97

SML 120006 - \$415.23

SML 120100 - \$1,277.65

SML 080085 - \$605.47

SML 100085 - \$593.94

SML 060060 - \$4,898.75

DLO 170011 - \$110.90



Security deposits Held by Letter of Credit

SML 110025 - \$79,690.00

SML 110026 - \$77,540.00

SML 110045 - \$57,030.00

SML 110046 - \$44,380.00

SML 110047 - \$46,110.00

SML 120005 - \$78,110.00

SML 120006 - \$25,690.00

SML 120100 - \$29,650.00

SML 080085 - \$19,540.00

SML 100085 - \$42,010.00

# Acceptable forms of security deposit

## Cash

Cash is defined as money, cheques, certified cheques, bank drafts, and money orders.

Please ensure all cheques, certified cheques, bank drafts, and money orders are payable to: **Government of Alberta**. If paying by cheque, please include on the cheque:

- For Security
- Application Number (new dispositions only) or Disposition Number (amendment and/or renewal of an existing disposition)

**NOTE: The department will not pay interest on security held for public land activities.**

## Irrevocable Letter of Credit or Letters of Guarantee

An Irrevocable letter of credit or letter of guarantee from a Chartered Bank, a Credit Union, a Trust Company or the Alberta Treasury Branch guaranteeing payment upon presentation to the issuer.

- An Automatic Renewal Clause should be added whenever possible for securities that are for a term of over 1 year.
- Partial withdrawals should be permitted.
- The Activity ID should be referenced on the letter that the security covers.

Please ensure all beneficiaries/assignees are payable to: **Her Majesty the Queen in Right of Alberta as represented by the Minister of Environment and Parks**

## Redeemable Term Deposits, Certificate of Deposit, Redeemable Guaranteed Investment Certificate

Issued by a Chartered Bank, a Credit Union, a Trust Company, or Alberta Treasury Branches. These must be in negotiable form and assigned to **Her Majesty the Queen in Right of Alberta as represented by the Minister of Environment and Parks**, as to principal only. Assignment documents must be acknowledged as accepted by banks or financial institutions as issuer.

**NOTE: Mortgage Corporation Certificates are not acceptable as they are not pre-encashable prior to maturity.**

Please ensure all beneficiaries/assignees are payable to: **Her Majesty the Queen in Right of Alberta as represented by the Minister of Environment and Parks**.

Find more land forms: <https://www.alberta.ca/lands-forms.aspx>

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JP

## Contact

The contact person for questions regarding securities is:

- Sandra Moore, Securities Analyst
- Phone: 780-427-9110
- Email: [AEP.FinancialSecurities@gov.ab.ca](mailto:AEP.FinancialSecurities@gov.ab.ca)
- Gurpreet Sohanpal, Team Lead, Revenues

All securities should be mailed to the following address:

- Ministry of Environment and Parks  
Attention: Securities Analyst  
Main Floor, South Petroleum Plaza  
9915 – 108 Street  
Edmonton, Alberta T5K 2G8

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Find more land forms: <https://www.alberta.ca/lands-forms.aspx>

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78





Tom Cumming  
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[Vivienne.Ball@gov.ab.ca](mailto:Vivienne.Ball@gov.ab.ca), [Melissa.Burkett@gov.ab.ca](mailto:Melissa.Burkett@gov.ab.ca), [Darrell.Kentner@gov.ab.ca](mailto:Darrell.Kentner@gov.ab.ca),  
[Muhammad.Aziz@gov.ab.ca](mailto:Muhammad.Aziz@gov.ab.ca), [Stephen.Abioye@gov.ab.ca](mailto:Stephen.Abioye@gov.ab.ca), [Valerie.Collins@gov.ab.ca](mailto:Valerie.Collins@gov.ab.ca),

November 27, 2020

Vivienne M Ball  
 Barrister and Solicitor  
 Environmental Law Team, Legal Services Division  
 Justice and Solicitor General  
 Government of Alberta  
 8th Floor, Oxbridge Place  
 9826 - 106 Street  
 Edmonton, AB T5K 2J6

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 5th Floor, South Petroleum Plaza  
 9915-108 Street  
 Edmonton, Alberta T5K, 2G8

Muhammad Aziz, Stephen Abioye and Valerie  
 Collins  
 Regulatory Assurance Division  
 Capital District – North Region  
 111, 4999 98 Avenue NW  
 Twin Atria Building  
 Edmonton, AB T6B 2X3

Jane Fletcher  
 Lands Division  
 Land Policy and Programs Branch  
 Public Lands Disposition Management Section  
 5th Floor, South Petroleum Plaza  
 9915-108 Street NW  
 Edmonton, AB T5K 2G8

Dear Sirs and Madams:

**Re: JMB Crushing Systems Inc. ("JMB") and 2161889 Alberta Ltd. ("216") proceedings under the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36 (as amended, the "CCAA")**

We are writing to respond to the letters from Alberta Environment and Parks (the "AEP") dated November 16, 2020 (the "Nov 16 Letter"), November 18, 2020 (the "Nov 18 Letter") and November 23, 2020 (the "Nov 23 Letter", and together with the Nov 16 Letter and Nov 18 Letter, the "AEP Letters"), and as a follow up to our letter dated November 19, 2020 addressed to Vivienne Ball and Melissa Burkett with Justice and Solicitor General, and to the conference call (the "Conference Call") held today between Vivienne Ball, Melissa Burkett, Lee Plumb, Pantelis Kyriakakis (counsel for FTI Consulting Canada Inc., the Court appointed Monitor of JMB and 216), Tom Gusa (counsel for ATB Financial) and Kyla Mahar (counsel for Fiera Private Debt Fund VI LP and Fiera Private Debt Fund V LP ("Fiera")).

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The purchase and sale transaction (the "Transaction") under the Asset Purchase Agreement dated September 28, 2020 (the "APA") between JMB and 216 as vendors and Mantle Materials Group Ltd. ("Mantle") is subject to the condition precedent that the AEP consent to the transfer to Mantle of the Included SMLs and the Included Registrations (as such terms are defined below) and the transfer to 216 of the Excluded SMLs. The completion of the Transaction will result in the majority, but not all, of the issues in the AEP Letters being addressed. If the regulatory condition in the APA is to be satisfied or waived, Mantle requires the conditions to regulatory approval to be clearly set out. However, the AEP Letters contemplate that all of the actions be taken before the AEP determines whether or not to approve the transfers of the Included SMLs and Included Registrations. Because any actions that are taken would have to be funded by Mantle, and such funding is dependent on the Transaction closing, there is a difficult timing problem that must be resolved in order for this matter to progress.

In an effort to resolve the timing issue, Mantle has instructed us to make the following proposal to the AEP:

1. The AEP will confirm in writing that provided the SML Conditions (as defined below) are satisfied, the AEP will take the following steps (collectively, the "Disposition Approvals"):
  - (a) the AEP will approve the transfer by 216 to Mantle of SML 080085, SML 110025, SML 110026, SML 110045, SML 110046, SML 110047, SML 120005, SML 120006, SML 120100 and SML 100085 (collectively, the "Included SMLs");
  - (b) the AEP will approve the transfer by JMB to 216 of DLO 170011, SML 120027, SML 930040, SML 980116 and DML 120032 (which, together with SML 060060, are collectively referred to as the "Excluded SMLs");
  - (c) the AEP will register new Conditional Surrenders of Lease in favour of Fiera against the Included SMLs;
  - (d) the AEP will permit the return of security in respect of SME 200009 (the "SME 200009 Security"); and
  - (e) provided a purchaser of SML 060060 is found that is acceptable to the AEP, the AEP will consent to the transfer to such purchaser of that disposition.
2. The Disposition Approvals will be subject to the satisfaction of the following conditions (collectively, the "Disposition Conditions"):
  - (a) Mantle will submit a corrected Assignment of Disposition - Industrial to replace the October 20, 2020 Assignment of Disposition - Industrial;
  - (b) Mantle will pay unpaid 2019 royalties under the Included SMLs;
  - (c) 216 will file the 2020 Returns in respect of the Included SMLs and Mantle will pay any unpaid 2020 royalties;
  - (d) Mantle will arrange for Canadian Western Bank (or an alternative bank or financial institution) to issue to the AEP as security for the reclamation obligations relating to the Included SMLs, subject to the return of the letters of credit that they are replacing;





- (e) Mantle will pay the assignment fee of \$3,150 for the assignment of the Included SMLs;
  - (f) Fiera will provide releases of the Conditional Surrenders of Leases granted to it by 216 in respect of the Included SMLs; and
  - (g) JMB will fund the reclamation by 216 of the lands subject to the Excluded SMLs in accordance with a reclamation plan mutually agreed to by JMB and the AEP, provided the reclamation security posted in respect of the Excluded SML's is returned to JMB to fund such reclamation.<sup>1</sup>
3. The AEP will confirm in writing to JMB and Mantle that provided the Registration Conditions (as defined below) are satisfied, the AEP will take the following steps (collectively, the "**Registration Approvals**"):
- (a) the AEP will approve the transfer by JMB to Mantle of registration nos. 15048-03-02 (in respect of the lands subject to the aggregate royalty agreement dated December 31, 2018 between JMB and 302016 Alberta Limited), 17395-01-00 (in respect of the lands subject to the aggregate royalty agreement dated November 8, 2018 between Helen Havener, Gail Havener and JMB), 308161-00-00 ((in respect of the lands subject to the aggregate royalty agreement dated October 29, 2018 between JMB, Jerry Shankowski and 945441 Alberta Ltd.) and 17395-01-00 (real property owned by JMB) (collectively, the "**Included Registrations**"); and
  - (b) the AEP will call on the bond with respect to registration 15048-03-02 (Buksa Royalty Agreement), in the amount of \$50,442.14, to secure the reclamation obligations in respect of the Excluded Royalty Lands.
4. The Registration Approvals will be subject to the satisfaction of the following conditions (collectively, the "**Registration Conditions**"):
- (a) Mantle will provide replacement security in respect of the Included Registrations;
  - (b) Mantle will provide the Schedule 3 filing in respect of registration no. 17395-01-00;
  - (c) Mantle will provide a copy of the amending agreement between Mantle, Lynne Havener (as Executor of the Estate of Helen Havener) and Gail Havener, the amended and restated aggregate royalty agreement between Mantle, Lynne Havener and Gail Havener, and the amending agreement between Mantle, Jerry Shankowski and 945441 Alberta Ltd., evidencing the respective consents of Lynne Havener, Gail Havener, Jerry Shankowski and 945441 Alberta Ltd. to the assignment of their respective aggregate royalty agreements with JMB;
  - (d) Mantle will provide a consent of 302016 Alberta Limited to the transfer to Mantle of the aggregate royalty agreement dated December 31, 2018 between JMB and 302016 Alberta Limited; and

<sup>1</sup> Subject to JMB's due diligence with respect to the reclamation obligations for the Excluded SMLs.





- (e) the application by Shankowski to set aside the amending agreement between Mantle, Jerry Shankowski and 945441 Alberta Ltd. shall be dismissed.
5. Upon the completion of the Transaction, the aggregate royalty agreements in respect of registration nos. 306490-00-00 (Hoye/Kucy Royalty Agreement), 293051-00-00 (MacDonald Royalty Agreement), 149949-00-00 (Megley Royalty Agreement) and 263318-00-00 (Okane Royalty Agreement) will vest in 216, subject to all liabilities associated with such aggregate royalty agreements. 216 is not funded to provide replacement security for the bonds posted in respect of such registrations in the amounts of \$39,805, \$77,600, \$74,683 and \$39,805 which the AEP permitted to expire.

The foregoing would resolve the timing issue because it would provide Mantle with the assurance that it requires that provided the Disposition Conditions and the Registration Conditions are satisfied, the AEP will provide the Disposition Approvals and Registration Approvals. This will, in turn, permit Mantle to proceed with closing the Transaction without the Disposition Approvals and Registration Approvals being issued, but on the strength of the AEP's assurances.

At the Conference call, it was agreed that there would be follow up discussions between JMB, 216, Mantle and the AEP, together with counsel for these entities, the Monitor, ATB Financial and Fiera. Given the urgency of this matter, we propose that the follow up video meetings take place on Monday November 30, 2020. Please let us know what a convenient time would be. If different groups within the AEP require different times, and would prefer separate meetings, we are happy to accommodate that.

We look forward to discussing the foregoing with you.

Yours truly,

Gowling WLG (Canada) LLP

Tom Cumming

cc: Tyler Pelt, Josh Inglett and Byron Levkulich  
Caireen Hanert and Stephen Kroeger  
Pantelis Kyriakakis, Tom Gusa and Kyla Mahar

THIS IS EXHIBIT "C" REFERRED TO IN  
THE AFFIDAVIT OF TYLER PELL  
SWORN BEFORE ME  
THIS 22<sup>ND</sup> DAY OF MARCH, 2021

---

A Commissioner for Oaths in and for the  
Province of Alberta

## RECLAMATION OBLIGATIONS AGREEMENT

THIS Agreement is dated as of January 6, 2021

BETWEEN:

**JMB Crushing Systems Inc. ("JMB") and 2161889 Alberta Ltd. ("216")**

**Mantle Materials Group, Ltd. ("Mantle")**

**ATB Financial ("ATB")**

**Fiera Private Debt Fund VI LP, by its general partner Fiera Private Debt Fund GP Inc. ("Fund VI") and Fiera Private Debt Fund V LP, by its general partner Fiera Private Debt Fund GP Inc., acting in its capacity as collateral agent for and on behalf of and for the benefit of Fund VI (collectively, "Fiera")**

**Alberta Environment and Parks (the "AEP")**

CONTEXT:

A. JMB and its wholly owned subsidiary 216 (collectively, the "**Companies**") carried on the business of extracting, processing and marketing Aggregate in the Province of Alberta (the "**Business**"). JMB's principal customers were road builders, municipalities, private land developers and the oil and gas service industry.

B. Canadian Aggregate Resources Corporation ("**CARC**") acquired the majority of the shares in JMB pursuant to a share purchase that closed in November of 2018 and J Buck and Sons Inc. ("**JBS**"), representing the Canadian management of the Companies, was a minority shareholder. CARC is wholly owned by Resource Land Fund V LP ("**RLF**"), a US private equity fund which based in Denver, Colorado.

C. JMB and 216 owned or had interests in over fifty Aggregate pits and/or the lands associated therewith on **Schedule "A"** (collectively, the "**Aggregate Pits**", and each individually, an "**Aggregate Pit**"). JMB and 216 held their respective interests in the Aggregate Pits (1) pursuant to certain Dispositions issued by the AEP under the *Public Lands Act*, RSA 2000, Ch P-40 and the *Public Lands Administration Regulation*, AR 187/2011 (collectively with all other applicable regulations and rules thereunder, the "**PLA**"), and such Aggregate Pits of JMB and 216, the "**Public Pits**"), (2) pursuant to certain aggregate royalty agreements with private land holders (such Aggregate Pits being the "**Private Pits**"), and (3) in the case of two pits, in fee simple (the "**Owned Lands**").

D. The extraction and processing of Aggregate, and the reclamation of the lands on which Aggregate Pits are located, is regulated by the AEP under the *Environmental Protection and Enhancement Act*, RSA 2000, Ch E-12, the *Conservation and Reclamation Regulation*, AR 115/93, the *Approvals and Registrations Procedure Regulation*, AR 113/93 and the *Activities Designation Regulation*, AR 278/2003 (collectively with all other applicable regulations and rules thereunder, the "**EPEA**"). In addition, in the case of the Private Pits and Owned Lands, the extraction and processing of Aggregate and reclamation of land is regulated by the *Code of Practice for Pits* under the EPEA (the "**Code**"), and together with the EPEA and PLA, the "**Regulatory Legislation**").



E. ATB provided a senior operating loan and Fiera provided senior term loans to JMB, each of which were secured by Security Interests against all of the property and assets of JMB and 216, with ATB's Security Interests ranking first against the accounts receivable and inventory of JMB and 216 and a parcel of real property owned by JMB and Fiera's Security Interests ranking first against all other property and assets of JMB and 216, other than certain equipment subject to purchase money security interests in favour of or leases by certain third parties.

F. Almost immediately after CARC acquired its majority interest in JMB in November of 2018, it became apparent JMB was suffering a severe and sustained cash flow shortfall, which appeared to arise from the ongoing downturn in the oil and gas industry and in Alberta's economy. This financial impairment became significantly worse as a result of the public health measures to combat the COVID-19 pandemic.

G. In order to improve the Companies' financial viability and provide a process for recapitalizing or refinancing the Companies, the Companies applied to the Court of Queen's Bench of Alberta (the "**Court**") for protection under the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended (the "**CCAA**"). On May 1, 2020, the Honourable Madam Justice Eidsvik pronounced an initial order which, among other things, declared the Companies were companies to which the CCAA applied, stayed all proceedings against the Companies, and appointed FTI Consulting Canada Inc. as the monitor of the Companies (the "**Monitor**"). The initial order was amended and restated by a further order of Justice Eidsvik pronounced on May 11, 2020 (as amended, the "**Initial Order**").

H. Under the Initial Order, the Court approved a sale and investment solicitation process (the "**SISP**") and appointed Sequeira Partners as sale advisor (the "**Sale Advisor**") under the SISP. The Sale Advisor conducted an extensive, two phase marketing process under the SISP, approaching approximately ■ potential strategic and financial investors and purchasers. Because of the possibility that CARC might submit a reserve or stalking horse bid in the SISP, the SISP was placed under the supervision and control of the monitor in order to ensure the independence and integrity of the process. Further, neither the Monitor nor the Sale Advisor provided information to CARC, RLF or the Companies' management with respect to actual or potential bids.

I. By June 26, 2020, JMB had completed its obligations under a supply agreement with the Municipal District of Bonnyville No. 87 and thereafter reduced its operations to a minimum and terminated all but six of its employees and contractors. In June of 2020, the president of JMB departed.

J. In June of 2020, CARC submitted a bid in the first phase of the SISP, and then in July of 2020, Mantle, which was a newly created affiliate of CARC which was also a wholly owned subsidiary of RLF, submitted a bid in the second phase to purchase the Core Assets. There were no other realistic bids and therefore Monitor negotiated the terms of the bid on behalf of the Companies and after consulting with ATB, Fiera and other stakeholders.

K. Pursuant to an asset purchase agreement dated September 27, 2020 (which, as amended on November 4, 2020 and from time to time subsequently, is referred to as the "**APA**") between the Companies and Mantle, it was agreed that Mantle would purchase the Core Assets for a purchase price payable by a partial assumption of the indebtedness owing by the Companies to ATB and Fiera, by the assumption of certain other liabilities of the Companies, and in part by the payment of cash. The Core Assets include the Included Public Pits, the Included Private Pits and the Included Owned Land.



L. Pursuant to the APA, JMB and Mantle filed with the Court a plan of arrangement under the CCAA and *Business Corporations Act*, SBC 2002, c 57 (the "**CCAA Plan**") under which, upon the completion of the transactions contemplated by the APA (the "**Transaction**"), the shares of JBS in the capital of JMB will be cancelled and the shares of CARC in the capital of JMB will be transferred to Mantle, and Mantle will assume the Assumed ATB Debt and Assumed Fiera Debt.

M. The Transaction is to be completed and implemented pursuant to and in accordance with (1) a sale approval and vesting order (the "**SAVO**"), vesting certain core assets of JMB and 216 in Mantle, (2) a reverse vesting order (the "**RVO**"), vesting assets and liabilities excluded from the Transaction in 216, (3) an assignment order, assigning certain key contracts of JMB and 216 to Mantle, and (4) a sanction order, sanctioning the CCAA Plan (collectively, the "**Mantle Transaction Orders**").

N. The Transaction Closing is conditional upon the AEP approving assignments of the Dispositions and transfers of the Registrations in respect of the Included Public Pits, the Included Private Pits, the Included Owned Land. Certain Reclamation Obligations exist in respect of the Included Public Pits, the Included Private Pits, the Included Owned Land and the Excluded Pits, the quantum of which is estimated by the Companies as set out on **Schedule "A"**, and in order to provide certainty with respect to the manner in which Reclamation Obligations are to be addressed, and to obtain the approval by the AEP of the assignment of the Dispositions and transfer of the Registrations, the Parties have undertaken certain obligations on the terms and subject to the conditions contained herein.

**NOW THEREFORE** the Parties agree as follows:

## 1. DEFINITIONS AND INTERPRETATION

### 1.1 Definitions

The following capitalized terms will have the meanings set out below:

- (a) "**216**" is defined in the introductory paragraph of this Agreement.
- (b) "**AEP**" is defined in the introductory paragraph of this Agreement.
- (c) "**Aggregate**" means aggregates including granular base course gravels, asphalt pavement aggregates, concrete and weeping tile rock, sand and other aggregates.
- (d) "**Aggregate Pits**" and "**Aggregate Pit**" are defined in Recital C.
- (e) "**Agreement**" means this reclamation obligation agreement, including the Schedule, as it may be amended, modified, supplemented or restated from time to time.
- (f) "**APA**" is defined in Recital K.
- (g) "**Applicable Law**" means, with respect to any Person, property, transaction, event, business or other matter, any federal, state, provincial, local, domestic or foreign constitution, treaty, law, statute, regulation, code, ordinance, principle of

common law or equity, rule, municipal by-law, Permit, order or other requirement of any Governmental Authority whether or not having the force of law relating or applicable to such Person, property, transaction, event, business or other matter.

- (h) "**ATB**" is defined in the introductory paragraph of this Agreement.
- (i) "**Buksa Royalty Agreement**" means the aggregate royalty agreement dated December 31, 2018 between 302016 Alberta Limited, Rose Short and JMB.
- (j) "**Business**" is defined in Recital A.
- (k) "**Business Day**" means any day other than a Saturday, Sunday or statutory holiday in Edmonton, Alberta.
- (l) "**CARC**" is defined in Recital B.
- (m) "**CCAA**" is defined in Recital G.
- (n) "**CCAA Plan**" is defined in Recital L.
- (o) "**Code**" is defined in Recital D.
- (p) "**Communication**" means any notice, demand, request, consent, approval or other communication which is required or permitted by this Agreement to be given or made by a Party.
- (q) "**Contractor**" is defined in Section 3.5(f).
- (r) "**Core Assets**" means all of the right, title, benefit, estate and interest of JMB and 216 in and to certain assets to be acquired by Mantle under and pursuant to the APA.
- (s) "**Court**" is defined in Recital G.
- (t) "**CWB**" means Canadian Western Bank.
- (u) "**CWB LC Facility**" means the letter of credit facility created by CWB in favour of JMB and 216, and was assigned to and assumed by Mantle pursuant to the Transaction, for the purposes of providing the CWB LCs to the AEP as Security.
- (v) "**CWB LCs**" means letters of credit issued by CWB in favour of AEP.
- (w) "**Dispositions**" means the surface material leases and other dispositions of public lands issued by the AEP to JMB or 216 under the PLA, and "**Disposition**" means any one of the Dispositions.
- (x) "**EPEA**" is defined in Recital E.
- (y) "**Excluded Aggregate Inventory**" means Aggregate that, as of the date this Agreement is fully executed by the Parties, has been extracted and is located on the lands subject to the Excluded Royalty Agreements.



- (z) "**Excluded Private Pits**" the Aggregate Pits governed by the aggregate royalty agreements listed on **Schedule "A"** under the heading of "*Excluded Private Pits*" and identified as the Hoye/Kucy Royalty Agreement, the MacDonald Royalty Agreement, the Megley Royalty Agreement and the Okane Royalty Agreement.
- (aa) "**Excluded Public Pits**" means the Aggregate Pits governed by the Dispositions listed on **Schedule "A"** under the heading of "*Excluded Public Pits*" and identified as SML 120027, SML 930040, SML 980116 and DML 120032.
- (bb) "**Excluded Royalty Agreements**" means the aggregate royalty agreements relating to the Excluded Private Pits, being the Hoye/Kucy Royalty Agreement, the MacDonald Royalty Agreement, the Megley Royalty Agreement and the Okane Royalty Agreement, and "**Excluded Royalty Agreement**" means any one of them.
- (cc) "**Excluded Royalty Lands**" means each of the lands on which the Excluded Public Pits are located and to which an Excluded Royalty Agreements applies.
- (dd) "**Excluded Reclamation Amount**" is defined in Section 3.5(b).
- (ee) "**Fiera**" is defined in the introductory paragraph of this Agreement.
- (ff) "**Fund VI**" is defined in the introductory paragraph of this Agreement.
- (gg) "**Glacier Royalty Agreement**" means the aggregate royalty agreement dated September 30, 2014 between JMB and 1386194 Alberta Ltd., in respect of the Aggregate Pit subject to the Disposition identified as SML 030074 which was granted to 1386194 Alberta Ltd.
- (hh) "**Governmental Authority**" means any federal, provincial, state, local, municipal, regional, territorial, aboriginal, or other government, governmental or public department, branch, ministry, or court, domestic or foreign, including any district, agency, commission, board, arbitration panel or authority and any subdivision of any of them exercising or entitled to exercise any administrative, executive, judicial, ministerial, prerogative, legislative, regulatory or taxing authority or power of any nature and any quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of any of them, and any subdivision of any of them.
- (ii) "**Havener Royalty Agreement**" means the aggregate royalty agreement dated November 8, 2018 between JMB, Helen Havener and Gail Havener, as amended by a letter agreement dated October 13, 2020 between Mantle, Gail Havener and Lynne Havener, as executor of the Estate of Helen Havener, as amended and restated by the aggregate royalty agreement dated October 13, 2020 between Mantle, Gail Havener and Lynne Havener, as executor of the Estate of Helen Havener.
- (jj) "**Hoye/Kucy Royalty Agreement**" means the aggregate royalty agreement dated January 7, 2020 between JMB, Ron and Rita Kucy and Ron and Vonda Hoye.

- (kk) "**Included Owned Land**" means lands identified on **Schedule "A"** under the heading of Included Owned Land.
- (ll) "**Included Private Pits**" means the Aggregate Pits governed by the aggregate royalty agreements listed on **Schedule "A"** under the heading of "*Included Private Pits*" and identified as the Buksa Royalty Agreement, the Havener Royalty Agreement and the Shankowski Royalty Agreement.
- (mm) "**Included Public Pits**" means the Aggregate Pits governed by the Dispositions listed on **Schedule "A"** under the heading of "*Included Public Pits*" and identified as SML 080085, SML 110025, SML 110026, SML 110045, SML 110046, SML 110047, SML 120005, SML 120006, SML 120100 and SML100085.
- (nn) "**Initial Order**" is defined in Recital G.
- (oo) "**JBS**" is defined in Recital B.
- (pp) "**JMB**" is defined in the introductory paragraph of this Agreement.
- (qq) "**Kalinko Royalty Agreement**" means the aggregate royalty agreement dated June 12, 2012 and amended June 12, 2017 between Tim Kalinski, Jessica Brennan, Matthew Kalinski, Zachariah Kalinski, Elisha Kalinski and JMB.
- (rr) "**Lafarge Royalty Agreements**" means collectively the aggregate royalty agreement dated June 28, 2019 between Lafarge Canada Inc. and JMB, relating to the Disposition identified as SML 100043, and the aggregate royalty agreement dated June 28, 2019 between Lafarge Canada Inc. and JMB, relating to the Aggregate Pit having Registration no. 15215-01-01.
- (ss) "**MacDonald Royalty Agreement**" means the aggregate royalty agreement dated October 27, 2019 between JMB and Allan K MacDonald.
- (tt) "**Mantle**" is defined in the introductory paragraph of this Agreement.
- (uu) "**Mantle Transaction Orders**" is defined in Recital M.
- (vv) "**Megley Royalty Agreement**" means the aggregate royalty agreement dated September 30, 2018 between JMB and Doug Megley.
- (ww) "**Monitor**" is defined in Recital G.
- (xx) "**Okane Royalty Agreement**" means the aggregate royalty agreement dated April 30, 2018 between JMB, Colleen Penner and the Estate of Ed Okane.
- (yy) "**Owned Lands**" is defined in Recital C.
- (zz) "**Parties**" means JMB, Mantle, ATB Fiera and the AEP, collectively, and "**Party**" means any one of them.
- (aaa) "**Permits**" means any permit, license, approval, consent, authorization, registration or certificate issued, and conservation and reclamation business plans in respect of Dispositions approved, by the AEP or other applicable



Governmental Authority, including the Registrations.

- (bbb) **"Person"** will be broadly interpreted and includes: (i) a natural person, whether acting in his or her own capacity, or in his or her capacity as executor, administrator, estate trustee, trustee or personal or legal representative, and the heirs, executors, administrators, estate trustees, trustees or other personal or legal representatives of a natural person; (ii) a corporation or a company of any kind, a partnership of any kind, a sole proprietorship, a trust, a joint venture, an association, an unincorporated association, an unincorporated syndicate, an unincorporated organization or any other association, organization or entity of any kind; and (iii) a Governmental Authority.
- (ccc) **"PLA"** is defined in Recital C.
- (ddd) **"Private Pits"** is defined in Recital C.
- (eee) **"Public Pits"** is defined in Recital C.
- (fff) **"Reclamation Obligation Limit"** is defined in Section 3.5(c).
- (ggg) **"Reclamation Obligations"** means reclamation obligations under the Regulatory Legislation in respect of Aggregate Pits.
- (hhh) **"Reclamation Work"** means work in performing the Reclamation Obligations in respect of the Excluded Private Pits.
- (iii) **"Registrations"** means the registrations issued by the AEP in respect of the Private Pits under the Code and other Regulatory Legislation.
- (jjj) **"Regulatory Legislation"** is defined in Recital D.
- (kkk) **"RVO"** is defined in Recital M.
- (lll) **"RVO Amending Order"** is defined in Section 3.2(a)(ii).
- (mmm) **"RLF"** is defined in Recital B.
- (nnn) **"Sale Advisor"** is defined in Recital H.
- (ooo) **"SAVO"** is defined in Recital M.
- (ppp) **"SAVO Amending Order"** is defined in Section 3.2(a)(i).
- (qqq) **"Security"** means security in the form of letters of credit, bonds, cash or other forms for Reclamation Obligations required under the Regulatory Legislation.
- (rrr) **"Security Interest"** means any mortgage, charge, security interest, lien or other charge or leasehold interest of a lessor of property.
- (sss) **"Shankowski Royalty Agreement"** means the aggregate royalty agreement dated October 29, 2018 between JMB, Jerry Shankowski and 945441 Alberta



Ltd., as amended by a letter agreement dated October 14, 2020 between Mantle, Jerry Shankowski and 945441 Alberta Ltd.

- (ttt) "**SISP**" is defined in Recital H.
- (uuu) "**Skoreyko**" means Skoreyko Crushing Ltd.
- (vvv) "**Skoreyko PSA**" means the purchase and sale agreement between 216 and Skoreyko pursuant to which 216 agreed to sell and Skoreyko agreed to purchase the SML 060060 Dispositions.
- (www) "**SML 060060 Dispositions**" means the Dispositions identified as SML 060060 and DLO 170011 which are listed on **Schedule "A"** under the heading "**SML 060060 Dispositions**".
- (xxx) "**Transaction**" is defined in Recital L.
- (yyy) "**Transaction Closing**" means the completion of the Transaction and the implementation of the CCAA Plan.
- (zzz) "**Trust**" is defined in Section 3.5(e).
- (aaaa) "**Trust Fund**" is defined in Section 3.5(e).

## 1.2 Certain Rules of Interpretation

- (a) In this Agreement, words signifying the singular number include the plural and *vice versa*, and words signifying gender include all genders. Every use of the words "including" or "includes" in this Agreement is to be construed as meaning "including, without limitation" or "includes, without limitation", respectively.
- (b) The division of this Agreement into Sections and the insertion of headings are for convenience of reference only and do not affect the construction or interpretation of this Agreement.
- (c) References in this Agreement to a Section or Schedule are to be construed as references to a Section or Schedule of or to this Agreement unless otherwise specified.
- (d) Unless otherwise specified, any reference in this Agreement to any statute includes all regulations and subordinate legislation made under or in connection with that statute at any time, and is to be construed as a reference to that statute as amended, modified, restated, supplemented, extended, re-enacted, replaced or superseded at any time.
- (e) For the purposes of this Agreement, all amounts will be denominated in Canadian dollars, and all payments and distributions to be made in cash will be made in Canadian dollars.

### 1.3 Schedule

The following Schedule is attached to, incorporated by reference into and forms part of this Agreement:

Schedule "A"

Aggregate Pits

## 2. PURPOSE OF THIS AGREEMENT

### 2.1 Purpose

This Agreement is intended to permit the Transaction under the APA and CCAA Plan to be completed by setting out the terms under which the AEP would approve and consent to the assignment of the Dispositions and Permits and transfer of the Registrations relating to the Included Public Pits and Included Private Pits. Without such approvals and consents, a fundamental condition to Transaction Closing provided for in the APA would not be satisfied and Mantle is unwilling to waive such condition.

Mantle anticipates that if the Transaction is completed, the stakeholders in JMB and 216, including the current or former employees, their customers, their suppliers, landowners, the communities in rural Alberta where the Business operates, the environment, ATB and Fiera, and the investors in RLF, will potentially benefit from the following:

- (a) the Business will directly employ in Alberta approximately thirty full time individuals, and will seasonally employ in Alberta, directly and indirectly through contractors, in excess of ninety individuals;
- (b) the Business will sell approximately 1 million tonnes of Aggregate per annum, based upon production of approximately 2 million tonnes per annum, yielding approximately \$30,000,000 per annum, with significant potential for additional production with the recovery of the oil and gas industry;
- (c) upon Mantle acquiring the Included Public Pits, Mantle will assume the Reclamation Obligations associated therewith, maintain the Security for such Reclamation Obligations, and pay the arrears of royalty payments and other amounts owing to the AEP under the Included Public Pits;
- (d) Mantle would acquire the Excluded Public Pits for the purpose of performing the Reclamation Obligations in respect thereof;
- (e) the SML 060060 Dispositions would be assigned to Skoreyko together with associated Permits, and Skoreyko would assume the Reclamation Obligations thereunder, replace the Security posted by 216 thereunder and operate the Aggregate Pit subject thereto;
- (f) Mantle would acquire the interest of JMB in the Buksa Royalty Agreement, the Siankowski Royalty Agreement and the Havener Royalty Agreement, operate the Aggregate Pits subject thereto, assume the Reclamation Obligations and replace the expired Security thereunder; and



- (g) the Parties would share the economic burden of the expired Security provided under the Registrations of the Aggregate Pits subject to the Hoye/Kucy Royalty Agreement, the MacDonald Royalty Agreement, the Megley Royalty Agreement and the Okane Royalty Agreement.

Should the Transaction not proceed, JMB and 216 would likely be placed into bankruptcy or receivership, with their remaining property and assets either being liquidated or abandoned, and the foregoing benefits would be lost. In particular: (i) the Business would cease together with the associated direct and indirect employment, and substantially all of the tangible property and assets of JMB and 216 will be abandoned, with the consequential loss of economic activity in Alberta; (ii) it is unlikely that any other Person or Persons would acquire the interest of the Companies in the Public Pits, the Private Pits or the Owned Lands; (iii) the Dispositions would eventually lapse or be terminated; (iv) the aggregate amount of the Reclamation Obligations exceeds the aggregate amount of the Security posted therefor, and in the event of such shortfall being realized, the public and the private land owners could bear the economic burden of such deficiency; and (v) substantial portions of the loans advanced by ATB and Fiera to JMB and the capital invested by RLF in JMB and 216 could be lost.

### 3. COVENANTS OF THE PARTIES

#### 3.1 Included Public Pits

Subject to the satisfaction or waiver of the conditions precedent in Section 4.1:

- (a) Mantle and the AEP agree as follows:
- (i) the AEP will consent to and approve the assignment to Mantle pursuant to the SAVO of the Dispositions governing the Included Public Pits and any Permits issued by the AEP relating thereto,
  - (ii) promptly following the Transaction Closing:
    - (A) Mantle will pay to the AEP the applicable assignment fee payable in respect of the application to approve the assignment of the Dispositions of the Included Public Pits and the Excluded Public Pits;
    - (B) Mantle will assume the Reclamation Obligations in respect of each Included Public Pit;
    - (C) Mantle will assume the rights and obligations of JMB to CWB under the CWB LC Facility, whereupon the Security in the form of CWB LCs will previously issued on behalf of JMB will be issued on behalf of Mantle;
    - (D) 216 will file with the AEP the outstanding returns for 2020 required under the Regulatory Legislation in respect of the Included Public Pits, and Mantle will thereafter pay when due the royalties owing to the AEP under the Dispositions relating to the Included Public Pits for the 2020 calendar year as and when they become due; and



- (E) With respect to the arrears of 2019 and 2020 royalty payments, goods and services tax and insurance payments in respect of the Dispositions of Included Public Pits, which Mantle estimates to be an aggregate of \$250,292.23, Mantle shall pay to the AEP fifty percent (50%) of such amount.
- (b) Fiera will deliver to the AEP releases of the conditional surrenders of lease granted by JMB or 216 in respect of the Included Public Pits, and the AEP will register replacement conditional surrenders of lease granted by Mantle to Fiera in respect of the Included Public Pits.

### 3.2 Excluded Public Pits

- (a) Following the execution by each of the Parties of this Agreement, the Companies and Mantle will apply to the Court for orders amending the SAVO and RVO pursuant to which:
  - (i) the Excluded Public Pits shall be included in the definition of *Transferred Acquired Assets* (as such term is defined in the SAVO, with such amending order being the "**SAVO Amending Order**"); and
  - (ii) the Excluded Public Pits shall cease to be included in the definition of *Excluded Aggregate Pits* (as such term is defined in the RVO, with such amending order being the "**RVO Amending Order**"),

with the effect that Mantle will acquire all of the right, title and interest of the Companies in the Excluded Public Pits, assume the Reclamation Obligations in respect thereof, and maintain the Security relating thereto, which the AEP and Mantle agree is in the aggregate amount of \$42,332 for the 2021 calendar year.

- (b) Subject to the satisfaction or waiver of the conditions precedent in Section 4.1, Mantle and the AEP agree as follows:
  - (i) the AEP will consent to and approve the assignment to Mantle of the Dispositions of the Excluded Public Pits and any Permits issued by the AEP relating thereto;
  - (ii) Mantle will assume the Reclamation Obligations and maintain Security in respect of each Excluded Public Pit in accordance with the requirements of the Regulatory Legislation, provided that Mantle shall have a two year time period to perform such Reclamation Obligations; and
  - (iii) upon the performance by Mantle of the Reclamation Obligations relating to an Excluded Public Pit, in a manner satisfactory to the AEP, at the request in writing of Mantle, the AEP shall return to Mantle the Security provided in respect of such Excluded Public Pit and terminate the Dispositions and Permits.

### 3.3 Sale of Dispositions

Subject to the satisfaction or waiver of the conditions precedent in Section 4.1, Mantle and the AEP agree as follows:

- (a) the AEP will consent to and approve the assignment to Skoreyko of the SML 060060 Dispositions together with any related Permits issued by the AEP, and upon Skoreyko depositing Security with the AEP in an amount acceptable to the AEP, the AEP shall return to Mantle the Security posted by 216 in respect of the SML 060060 Dispositions, being a CWL LC in the face amount of \$41,400; and
- (b) in the event that Mantle is able to sell any Dispositions relating to Excluded Public Pits to any other Person that is acceptable to the AEP, the AEP will approve and consent to the assignment thereof to such Person together with any related Permits and upon such Person posting with the AEP the Security required by the AEP in respect of such Disposition, the AEP will return to Mantle the Security provided by JMB, 216 or Mantle, as applicable.

### 3.4 Included Private Pits

Subject to the satisfaction or waiver of the conditions precedent in Section 4.1, Mantle and the AEP agree as follows:

- (a) the AEP will consent to and approve the transfer to Mantle pursuant to the SAVO of the Registrations and other Permits relating to the Included Private Pits;
- (b) upon the Transaction Closing, Mantle will assume the Reclamation Obligations in respect of each Included Private Pit in accordance with the requirements of the Regulatory Legislation;
- (c) with respect to the bond in the amount of \$50,442.14 issued in favour of the AEP as Security in respect of the Included Private Pit subject to the Buksa Royalty Agreement, the AEP shall hold the cash paid to it by the issuer thereof as Security and such cash shall satisfy obligation of Mantle to provide such Security for the 2021 calendar year; and
- (d) promptly following the Transaction Closing, Mantle will deposit:
  - (i) Security with the AEP for each Included Private Pit, which:
    - (A) in the case of the Included Private Pit subject to the Havener Royalty Agreement, Mantle and the AEP acknowledge is in the amount of \$31,988 for the 2021 calendar year; and
    - (B) in the case of the Included Private Pit subject to the Shankowski Royalty Agreement, Mantle and the AEP acknowledge is in the amount of \$180,430.57 for the 2021 calendar year; and
  - (ii) file with the AEP any outstanding filings required under the Regulatory Legislation with respect to the Included Private Pits, including any schedule 3 filings.

### 3.5 Excluded Private Pits

Subject to the satisfaction or waiver of the conditions precedent in Section 4.1, the Parties agree as follows:

- (a) AEP shall approve the transfer from JMB to 216 pursuant to the RVO of the Registrations in respect of the Excluded Private Pits and any Permits issued by the AEP in respect thereof.
- (b) The Parties acknowledge that the Reclamation Obligations in respect of the Excluded Royalty Lands, and the amount of Security required as of the date of this Agreement in respect of each, are as follows:
  - (i) \$39,805 in respect of the Excluded Royalty Lands subject to the Hoye/Kucy Royalty Agreement;
  - (ii) \$77,600 in respect of the Excluded Royalty Lands subject to the MacDonald Royalty Agreement;
  - (iii) \$74,683 in respect of the Excluded Royalty Lands subject to the Megley Royalty Agreement; and
  - (iv) \$39,805 in respect of the Excluded Royalty Lands subject to the Okane Royalty Agreement

(each such amount being the "**Excluded Reclamation Amount**").

- (c) The Parties shall divide the economic burden of the Reclamation Obligations in respect of the Excluded Royalty Lands such that each of Mantle, ATB, Fiera and AEP are individually responsible for one quarter of the Excluded Reclamation Amount, which in the case of Mantle, ATB and Fiera (whose aggregate responsibility for the Excluded Reclamation Amount is referred to as the "**Reclamation Obligation Limit**"), will be provided for as follows:
  - (i) ATB's portion of the Reclamation Obligation Limit shall be funded either directly by ATB or from funds held by JMB against which ATB's Security Interest has first ranking priority, which portion shall be paid to the AEP;
  - (ii) Fiera's portion of the Reclamation Obligation Limit shall be funded from net proceeds of the sale JMB's equipment against which Fiera's Security Interest has first ranking priority, which proceeds Fiera will pay to the AEP; and
  - (iii) Mantle's portion of the Reclamation Obligation Limit shall be funded by an advance by Mantle to AEP.

- (d) Mantle shall be entitled, for and on behalf of 216, to sell any Excluded Aggregate Inventory provided that the applicable Excluded Royalty Agreement permits access to the applicable Excluded Royalty Pit for such purpose. The proceeds of sale of the Excluded Aggregate Inventory shall be applied as follows:



- (i) firstly, to any costs incurred in marketing, selling, processing and delivering the Excluded Aggregate Inventory, together with a reasonable overhead relating to Mantle's costs in respect thereof, and to any royalties payable under the applicable Excluded Royalty Agreement;
- (ii) secondly, to the Parties on a *pari passu* basis, up to the aggregate Excluded Reclamation Amount; and
- (iii) thirdly, to the extent that all the Reclamation Obligations relating to all Excluded Royalty Lands up to the Reclamation Obligation Limit have been satisfied.

ATB consents to the application of the proceeds of sale of the Excluded Aggregate Inventory in accordance with Subsections 3.5(d)(i) and (ii). In the event that Mantle is unable to sell Excluded Aggregate Inventory at prices that exceed the costs and amounts payable referred to in Subsection 3.5(d)(i), Mantle may utilize such Excluded Aggregate Inventory in carrying out the Reclamation Work.

- (e) The contributions of ATB, Fiera and Mantle to the Reclamation Obligations in respect of the Excluded Private Pits pursuant to Section 3.5(c) shall be held in trust by the AEP (the trust created hereby being the "Trust", and the funds held in the Trust being the "Trust Funds"), on the following terms:
  - (i) the purpose of the Trust is to provide funding for performance of the Reclamation Obligations in respect of the Excluded Private Pits, up to the amount of the Reclamation Obligation Limit;
  - (ii) the beneficiary of the Trust shall be AEP, with ATB, Fiera and Mantle holding a *pari passu* reversionary beneficial interest therein held by ATB, Fiera and Mantle where Reclamation Work has been performed in an amount equal to the Reclamation Obligation Limit; and
  - (iii) the Trust Fund shall constitute Security which secures the Reclamation Obligations in respect of the Excluded Private Pits, up to the Reclamation Obligation Limit.
- (f) 216 shall be responsible for carrying out the Reclamation Work on the Excluded Private Pits, up to the Reclamation Obligation Limit. 216 hereby engages Mantle to manage and supervise the performance of such Reclamation Work and Mantle accepts such engagement. In carrying out such engagement, Mantle shall retain such contractors (each, a "Contractor") as it deems necessary or desirable, in consultation with the AEP, to carry out the Reclamation Work. As each task or set of tasks is performed in a manner and at a cost satisfactory to Mantle (based on reasonable industry norms for such Reclamation Work):
  - (i) Mantle shall give written notice thereof to the AEP of the completion of such task or tasks, and the AEP will promptly upon receipt of such notice attend the applicable Excluded Private Pit to determine whether it is satisfied with the performance of such task or tasks;

- (ii) provided that the AEP is satisfied with the performance of such task or tasks, the AEP shall promptly pay from the Trust Fund the Contractor's invoice for such task or tasks; and
  - (iii) if the AEP is not satisfied with the performance of such task or tasks, it will give Mantle and the Contractor the particulars thereof and work with Mantle and the Contractor to identify any deficiency and the steps required to address such deficiency.
- (g) When the aggregate amounts paid or payable to Contractors for Reclamation Work is equal to the Reclamation Obligation Limit, the AEP shall distribute any remaining amounts in the Trust Fund to Mantle, ATB and Fiera, in equal portions, and Mantle's obligations under this Section 3.5 shall terminate, provided that if the AEP advances sufficient amounts into the Trust Fund to permit the completion of the Reclamation Obligations in respect of the Excluded Private Pits, Mantle shall continue to supervise and manage the Contractors in performing Reclamation Work until such Reclamation Obligations are fully performed, whereupon Mantle's obligations hereunder shall terminate.

### 3.6 Included Owned Lands

Subject to the satisfaction or waiver of the conditions precedent in Section 4.1, Mantle shall assume the Reclamation Obligations in respect of the Included Owned Lands and maintain the Security in respect thereof, which Mantle and the AEP acknowledge is in the amount of \$14,534 for the 2021 calendar year.

### 3.7 Aggregate Pits not subject to this Agreement

The Aggregate Pits subject to the Kalinko Royalty Agreement, the Glacier Royalty Agreement and the Lafarge Royalty Agreements are not subject to this Agreement because the Kalinko Royalty Agreement has been terminated by JMB's counterparties thereto, the Glacier Royalty Agreement has expired, and the Security for the Aggregate Pits governed by the Lafarge Royalty Agreements is provided by Lafarge Canada Inc.

## 4. CONDITIONS PRECEDENT

### 4.1 Conditions to Agreement Implementation

This Agreement shall become effective and binding upon the Parties upon the satisfaction or waiver of the following conditions precedent:

- (a) the Parties shall have fully executed and delivered this Agreement;
- (b) the conditions set out in Sections 5.1, 5.2 and 5.3 of the APA shall have been fulfilled, satisfied or waived in accordance with the APA;
- ~~(c) the Monitor shall have consented to 216 assigning to Mantle the Dispositions relating to the Excluded Public Pits and any other consent required by the Monitor shall have been obtained; and~~
- (d) Skoreyko shall have fully executed and delivered to 216 the Skoreyko PSA.



#### 4.2 Waiver of Conditions Precedent

The conditions in Subsections 4.1(a) and (c) may only be waived in whole or in part in writing by all of the Parties. The condition in Subsection 4.1(d) may be waived in whole or in part in writing by Mantle.

### 5. GENERAL

#### 5.1 Communications

Any Communication must be in writing and either delivered personally or by courier, sent by prepaid registered mail or transmitted by e-mail or functionally equivalent electronic means of transmission, charges (if any) prepaid. Any Communication must be sent to the intended recipient at its address as follows:

(a) to JMB or 216:

JMB Crushing Systems Inc.  
PO Box 6977  
Bonnyville, Alberta T9N 2H4  
Email: [blakeelyea@jmbcrush.com](mailto:blakeelyea@jmbcrush.com)  
Attention: Blake M. Elyea, CPA, CGA, CIRP,  
LIT, Chief Restructuring Advisor

FTI Consulting Canada Inc.  
1000, 888-3rd Street SW  
Bankers Hall, West Tower  
Calgary, Alberta T2P 5C5  
E-mail: [deryck.helkaa@fticonsulting.com](mailto:deryck.helkaa@fticonsulting.com)  
Attention: Deryck Helkaa

with copies to:

Gowling WLG (Canada) LLP  
1600, 421 7th Avenue SW  
Calgary Alberta T2P 4K9  
E-mail: [tom.cumming@gowlingwlg.com](mailto:tom.cumming@gowlingwlg.com)  
Attention: Tom Cumming

McCarthy Tétrault LLP  
4000, 421 - 7th Avenue SW  
Calgary, Alberta T2P 4K9  
E-mail: [scollins@mccarthy.ca](mailto:scollins@mccarthy.ca)  
Attention: Sean Collins

(b) to Mantle:

Mantle Materials Group, Ltd.  
1400 16th St, Suite 320  
Denver, Colorado 80209  
E-mail: [Byron.Levkulich@RLHoldings.com](mailto:Byron.Levkulich@RLHoldings.com)  
Attention: Byron Levkulich, CFA, CPA

with copies to:

Gowling WLG (Canada) LLP  
1600, 421 7th Avenue SW  
Calgary Alberta T2P 4K9  
E-mail: [tom.cumming@gowlingwlg.com](mailto:tom.cumming@gowlingwlg.com)  
Attention: Tom Cumming

(c) to ATB:

ATB Financial  
Suite 2500, 10020 - 100 Street  
Edmonton Alberta T5J 0N3  
E-mail: [aburnett@atb.com](mailto:aburnett@atb.com)  
Attention: Andrew J. Burnett, Director, Risk  
Advisory and Management, ATB Corporate  
Financial Services

with copies to:

Dentons Canada LLP  
2500 Stantec Tower  
10220 - 103 Avenue NW  
Edmonton, Alberta T5J 0K4  
E-mail: [tom.gusa@dentons.com](mailto:tom.gusa@dentons.com)  
Attention: Tom Gusa

(d) to Fiera:

Fiera Private Debt  
20 Adelaide Street East, Suite 1500  
Toronto, Ontario M5C 2T6

with copies to:

Miller Thomson LLP  
Scotia Plaza  
40 King Street West, Suite 5800



E-mail: [szagrodny@fieracapital.com](mailto:szagrodny@fieracapital.com)  
 Attention: Stephen Zagrodny, Director,  
 Corporate & Infrastructure Debt Financing

P.O. Box 1011  
 Toronto, Ontario M5H 3S1  
 E-mail: [kmahar@millerthomson.com](mailto:kmahar@millerthomson.com)  
 Attention: Kyla E. M. Mahar

(e) to the AEP:

with copies to:

•  
 Email: •  
 Attention: •

•  
 Email: •  
 Attention: •

or at any other address as any Party may at any time advise the other by Communication given or made in accordance with this Section 5.1. Any Communication delivered to the Party to whom it is addressed will be deemed to have been given or made and received on the day it is delivered at that Party's address, provided that if that day is not a Business Day then the Communication will be deemed to have been given or made and received on the next Business Day. Any Communication sent by prepaid registered mail will be deemed to have been given or made and received on the fifth Business Day after which it is mailed. If a strike or lockout of postal employees is then in effect, or generally known to be impending, every Communication must be delivered personally or by courier or transmitted by e-mail or functionally equivalent electronic means of transmission. Any Communication transmitted by e-mail or other functionally equivalent electronic means of transmission will be deemed to have been given or made and received on the day on which it is transmitted; but if the Communication is transmitted on a day which is not a Business Day or after 4:00 pm (local time of the recipient), the Communication will be deemed to have been given or made and received on the next Business Day.

## 5.2 Miscellaneous Provisions

- (a) This Agreement is governed by, and is to be construed and interpreted in accordance with, the laws of the Province of Alberta and the laws of Canada applicable in that Province. All questions as to the interpretation of or application of this Agreement and all proceedings taken in connection with this Agreement and its provisions will be subject to the jurisdiction of the Court.
- (b) This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter of this Agreement and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the Parties and there are no representations, warranties or other agreements between the Parties, express or implied, in connection with the subject matter of this Agreement except as specifically set out in this Agreement.
- (c) Each Section of this Agreement is distinct and severable. If any Section of this Agreement, in whole or in part, is or becomes illegal, invalid, void, voidable or unenforceable in any jurisdiction by any court of competent jurisdiction, the illegality, invalidity or unenforceability of that Section, in whole or in part, will not affect the legality, validity or enforceability of the remaining Sections of this Agreement, in whole or in part or the legality, validity or enforceability of that Section, in whole or in part, in any other jurisdiction.
- (d) No amendment, discharge, modification, restatement, supplement, termination or waiver of this Agreement or any Section of this Agreement is binding unless it is

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in writing and executed by the Party to be bound. No waiver of, failure to exercise, or delay in exercising, any Section of this Agreement constitutes a waiver of any other Section (whether or not similar) nor does any waiver constitute a continuing waiver unless otherwise expressly provided.

- (e) This Agreement will be binding upon and will enure to the benefit of the successors and assigns of any Party.
- (f) Each of the Persons named or referred to in, or subject to, this Agreement will execute and deliver all such documents and instruments and do all such acts and things as may be necessary or desirable to carry out the full intent and meaning of this Agreement and to give effect to the transactions contemplated herein.
- (g) This Agreement and any counterpart of it may be created, provided, received, retained and otherwise used, and will be accepted, in any digital, electronic or other intangible form. This Agreement and any counterpart of it may be signed by manual, digital or other electronic signatures and delivered or transmitted by any digital, electronic or other intangible means, including by e-mail or other functionally equivalent electronic means of transmission, and that execution, delivery and transmission will be valid and legally effective to create a valid and binding agreement between the Parties.

**THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK**

Each of the Parties has executed and delivered this Agreement, as of the date noted at the beginning of this Agreement.

**JMB Crushing Systems Inc.**

By: \_\_\_\_\_

Name:

Title:

**2161889 Alberta Ltd.**

By: \_\_\_\_\_

Name:

Title:

**Mantle Materials Group, Ltd.**

By: \_\_\_\_\_

Name:

Title:

**ATB Financial**

By: \_\_\_\_\_

Name:

Title:

**Fiera Private Debt Fund VI LP**, by its general partner **Fiera Private Debt Fund GP Inc.**

("Fund VI") and **Fiera Private Debt Fund V**

**LP**, by its general partner **Fiera Private Debt**

**Fund GP Inc.**, acting in its capacity as

collateral agent for and on behalf of and for the

benefit of Fund VI

By: \_\_\_\_\_

Name:

Title:

**Alberta Environment and Parks**

By: \_\_\_\_\_

Name:

Title:

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## Schedule "A" - Aggregate Pits

## Public Pits

Holder	Disposition Number	Pit Name	Status	Expiration	Estimated Reclamation Obligations	Security with AEP
<i>Included Public Pits</i>						
216	SML 080085	JLG 3	Not opened	25/04/2022	\$ 0	\$ 19,540
216	SML 110025	JLG 5	Open	10/02/2024	\$ 47,724	\$ 79,690
216	SML 110026	JLG 6	Open	10/04/2022	\$ 54,374	\$ 77,540
216	SML 110045	JLG 7	Open	17/03/2025	\$ 47,333	\$ 57,030
216	SML 110046	JLG 8	Open	17/03/2025	\$ 5,868	\$ 44,380
216	SML 110047	JLG 9	Open	17/03/2025	\$ 37,554	\$ 46,110
216	SML 120005	JLG 10	Open	04/10/2027	\$ 92,710	\$ 78,110
216	SML 120006	JLG 11	Not opened	06/10/2027	\$ 0	\$ 25,690
216	SML 120100	JLG 12	Not opened	06/10/2027	\$ 0	\$ 29,650
216	SML100085	JLG 4	Not opened	23/06/2026	\$ 0	\$ 42,010
<i>Excluded Public Pits</i>						
JMB	SML 120027		Open	12/01/2030	\$ 2,000	\$ 2,960
JMB	SML 930040		Depleted	28/07/2013	\$ 1,956	\$ 1,000
JMB	SML 980116		Open	15/02/2009	\$2,000	\$ 9,140
JMB	DML 120032		Open	06/01/2023	\$ 14,747	\$ 17,232
JMB	SME 150106		Expired	Expired	\$ 0	\$ 6,000
JMB	SME 200009		Expired	Expired	\$ 0	\$ 6,000
<i>SML 060060 Dispositions</i>						
216	SML 060060		Open	27/05/2024	\$ 44,595	\$ 41,400
216	DLO 170011		Access to SML 060060	27/05/2024	\$ 0	\$ 0

## Private Pits

Holder	Registration Number	Agreement	Status	Expiration	Estimated Reclamation Obligations	Security with AEP
<i>Included Private Pits</i>						
JMB	15048-03-02	Buksa Royalty Agreement	Open	31/12/2023	\$ 25,605	\$ 0
JMB	17395-01-00	Havener Royalty Agreement		08/11/2031	\$ 73,584	\$ 0
JMB	308161-00-00	Shankowski Royalty Agreement		19/10/2028	\$ 179,516	\$ 0
<i>Excluded Private Pits</i>						
JMB	306490-00-00	Hoye/Kiev Royalty Agreement	Open	31/03/2021	\$ 32,742	\$ 0
JMB	293051-00-00	MacDonald Royalty Agreement	Open	31/12/2020	\$ 11,748	\$ 0
JMB	149949-00-00	Megley Royalty Agreement	Open	30/09/2023	\$ 173,056	\$ 0
JMB	263318-00-00	Okane Royalty Agreement	Open	30/04/2021	\$ 27,565	\$ 0

**Included Owned Property**

Owner	Legal Description	Status	Estimated Reclamation Obligations	Security with AEP
<i>Included Owned Property</i>				
JMB	NE 35-56-6-W4	Open	\$ 30,703	\$ 14,534

**Aggregate Pits not subject to this Agreement**

Holder	Agreement	Disposition or Registration No.	Expiration	Person responsible for Security
1386194 Alberta Ltd.	Glacier Royalty Agreement	SML 030074	SML 030074 expires 17/10/2021 Glacier Royalty Agreement has expired	1386194 Alberta Ltd.
Tim Kalinski, Jessica Brennan, Matthew Kalinski, Zachariah Kalinski and/or Elisha Kalinski, as applicable ("Kalinko")	Kalinko Royalty Agreement	SML 100101, SML 000034, SML 010005, SML 010032, SML 020014, SML 030046, SML 040122, SML 100016, SML 100050, SML 100057, SML 100075, SML 100112, SML 110037, SML 110044, SML 110065, SML 110072, SML 120004, SML 130003, SML 130017, SML 130124, SML 140015, SML 140026, SML 140046, SML 140080 and SML 150031	Kalinko Royalty Agreement terminated by Kalinko	Kalinko
Lafarge Canada Inc.	Lafarge Royalty Agreements	SML 100043 (Moose River) and 15215-01-01 (Oberg)	Lafarge Royalty Agreements - 01/07/2024 SML 100043 - 06/01/2023	Lafarge Canada Inc.

THIS IS EXHIBIT "D" REFERRED TO IN  
THE AFFIDAVIT OF TYLER PELL  
SWORN BEFORE ME  
THIS 22<sup>ND</sup> DAY OF MARCH, 2021

---

A Commissioner for Oaths in and for the  
Province of Alberta





February 8, 2021

**Delivered by Email**

**Thomas Cumming**  
 Direct +1 403 298 1938  
 tom.cumming@gowlingwlg.com  
 File no. A164352

Brendan Hemens  
 Director, Public Lands Disposition Management  
 Alberta Environment and Parks  
 Brendan.Hemens@gov.ab.ca

Dear Brendan:

**Re: Application of JMB Crushing Systems Inc. and 2161889 Alberta Ltd. under the *Companies' Creditors Arrangement Act* - acquisition by Mantle Materials Group, Ltd.**

We are writing in connection with the continuing discussions between Mantle Materials Group, Ltd. ("**Mantle**") and Alberta Environment and Parks (the "**AEP**") with respect to the transaction (the "**Transaction**") contemplated by the Amended and Restated Asset Purchase Agreement dated September 28, 2021 (the "**APA**") between Mantle, JMB Crushing Systems Inc. ("**JMB**") and 2161889 Alberta Ltd. ("**216**").

The last proposal made by Mantle was contained in the draft Reclamation Obligations Agreement (the "**ROA**") between Mantle, the AEP, ATB Financial ("**ATB**") and the Fiera entities, Fiera Private Debt Fund VI LP and Fiera Private Debt Fund V LP ("**Fiera**"), which was attached to my email to you of January 21, 2021. For ease of reference a copy of the draft ROA is attached.

The current draft of the ROA provides that the APA would be amended and the Transaction revised to incorporate the following:

- SML 120027, SML 930040, SML 980116, DML 120032, SME 150106 and SME 200009, together with any associated cash security posted with the AEP, would be transferred to Mantle and reclaimed in due course;
- SML 060060 and DLO 170011 would be sold to Skoreyko Crushing Ltd. ("**Skoreyko**"), Skoreyko would provide security to the AEP, and the letter of credit held by the AEP would be returned to Mantle;
- The AEP would retain the cash security paid to it under the bond posted in respect of the Buksa Pit (registration no. 15048-03-02), but treat such security as being posted by Mantle;

Mantle would post new security in the form of letters of credit issued by Canadian Western Bank to secure the reclamation obligations in respect of the Havener Pit (registration no. 17395-01-00) and Shankowski Pit (registration no. 308161-00-00);

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- The “Excluded Private Pits”, consisting of the Hoye/Kucy Pit (registration no. 306490-00-00), the MacDonald Pit (registration no. 293051-00-00), the Megley Pit (registration no. 149949-00-00) and the Okane Pit (registration no. 263318-00-00) would continue to be vested in 216, but the economic cost of the lapsed security for the reclamation obligations in respect of these pits would be shared equally by Mantle, ATB, Fiera and the AEP. The AEP would hold in trust the contributions of Mantle, ATB and Fiera;
- Mantle would manage the reclamation work for the Excluded Private Pits, up to the amount held in trust by the AEP, and could draw upon those trust funds to defray the costs of such reclamation work;
- Mantle would pay 50% of the arrears of fees, interest and royalties for 2019 and 2020 payable to the AEP, whereupon the payment of further arrears would be waived pursuant to sections 25 and 28 of the *Public Lands Act*; and
- The AEP would immediately provide the approvals for the transfers of dispositions and registrations necessary to implement the Transaction, as amended.

We are quickly approaching February 12, 2021, which as I noted in my email of January 29, 2021, is a hard stop in respect of the Transaction. Mantle has negotiated a renewed supply contract with the Municipal District of Bonnyville No. 87 (the “MD”), which requires that 100,000 tonnes of aggregate is delivered to the MD by May 1, 2021. Because of seasonal road closures and restrictions starting March 1, 2021, Mantle must place heavy equipment in the Shankowski pit well that date and commence operations to extract, process and transport aggregate. Mantle will not be able to accomplish this unless the ROA is finalized by the end of February 9, 2021, which is tomorrow, and the Transaction is closed by February 12<sup>th</sup>.

Given the deadline described above, Mantle has instructed me to make one last attempt to secure the AEP’s support for a revised ROA. Subject to obtaining the concurrence of ATB and Fiera (which is being sought), Mantle is willing to support the following changes to the proposal contained in the ROA and set out above:

- The Excluded Private Pits, consisting of the Hoye/Kucy Pit (registration no. 306490-00-00), the MacDonald Pit (registration no. 293051-00-00), the Megley Pit (registration no. 149949-00-00) and the Okane Pit (registration no. 263318-00-00), would be vested in 216, but the economic cost of the lapsed reclamation security, which is estimated to be \$261,758, would be shared by Mantle, ATB and Fiera, with the respective contributions of ATB and Fiera being capped at \$87,500 each;
- The AEP would not be required to share any of the economic burden of the lapsed reclamation security; and
- The reclamation security would be held in trust by the AEP and would defray the costs incurred by Mantle in managing the reclamation of the Excluded Private Pits.

All other aspects of the proposal would remain as set out in the draft ROA.



Note that if the Transaction does not proceed, it is likely that all stakeholders, including Mantle, ATB, Fiera and the AEP, would suffer significant and unnecessary losses. In order to avoid such a scenario, the stakeholders are actively considering alternatives. If it is necessary to seek alternatives, the AEP will be advised of the intended course of action.

We would appreciate hearing from you at your earliest convenience whether or not the proposal is acceptable to the AEP, or could form the basis for a revised ROA. Given how quickly February 12<sup>th</sup> is approaching, I would ask that you let us know by the early afternoon tomorrow.

Sincerely,

Gowling WLG (Canada) LLP

Thomas Cumming

TSC

cc: Vivienne Ball - Environmental Law Team, Legal Services Division,  
Justice and Solicitor General  
Kyla Mahar, Miller Thomson LLP  
Tom Gusa, Dentons Canada LLP  
Josh Inglett, Byron Levkulich - Mantle Materials Group, Ltd.  
Caireen Hanert, Zafar Jaffer, Stephen Kroeger, Gowling WLG (Canada) LLP

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## RECLAMATION OBLIGATIONS AGREEMENT

THIS Agreement is dated as of January 9, 2021

BETWEEN:

**JMB Crushing Systems Inc. ("JMB") and 2161889 Alberta Ltd. ("216")**

**Mantle Materials Group, Ltd. ("Mantle")**

**ATB Financial ("ATB")**

**Fiera Private Debt Fund VI LP, by its general partner Fiera Private Debt Fund GP Inc. ("Fund VI") and Fiera Private Debt Fund V LP, by its general partner Fiera Private Debt Fund GP Inc., acting in its capacity as collateral agent for and on behalf of and for the benefit of Fund VI (collectively, "Fiera")**

**Alberta Environment and Parks (the "AEP")**

CONTEXT:

A. JMB and its wholly owned subsidiary 216 (collectively, the "**Companies**") carried on the business of extracting, processing and marketing Aggregate in the Province of Alberta (the "**Business**"). JMB's principal customers were road builders, municipalities, private land developers and the oil and gas service industry.

B. Canadian Aggregate Resources Corporation ("**CARC**") acquired the majority of the shares in JMB pursuant to a share purchase that closed in November of 2018 and J Buck and Sons Inc. ("**JBS**"), representing the Canadian management of the Companies, was a minority shareholder. CARC is wholly owned by Resource Land Fund V LP ("**RLF**"), a US private equity fund which based in Denver, Colorado.

C. JMB and 216 owned or had interests in over fifty Aggregate pits and/or the lands associated therewith on **Schedule "A"** (collectively, the "**Aggregate Pits**", and each individually, an "**Aggregate Pit**"). JMB and 216 held their respective interests in the Aggregate Pits (1) pursuant to certain Dispositions issued by the AEP under the *Public Lands Act*, RSA 2000, Ch P-40 and the *Public Lands Administration Regulation*, AR 187/2011 (collectively with all other applicable regulations and rules thereunder, the "**PLA**", and such Aggregate Pits of JMB and 216, the "**Public Pits**"), (2) pursuant to certain aggregate royalty agreements with private land holders (such Aggregate Pits being the "**Private Pits**"), and (3) in the case of two pits, in fee simple (the "**Owned Lands**").

D. The extraction and processing of Aggregate, and the reclamation of the lands on which Aggregate Pits are located, is regulated by the AEP under the *Environmental Protection and Enhancement Act*, RSA 2000, Ch E-12, the *Conservation and Reclamation Regulation*, AR 115/93, the *Approvals and Registrations Procedure Regulation*, AR 113/93 and the *Activities Designation Regulation*, AR 278/2003 (collectively with all other applicable regulations and rules thereunder, the "**EPEA**"). In addition, in the case of the Private Pits and Owned Lands, the extraction and processing of Aggregate and reclamation of land is regulated by the *Code of Practice for Pits* under the EPEA (the "**Code**", and together with the EPEA and PLA, the "**Regulatory Legislation**").

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E. ATB provided a senior operating loan and Fiera provided senior term loans to JMB, each of which were secured by Security Interests against all of the property and assets of JMB and 216, with ATB's Security Interests ranking first against the accounts receivable and inventory of JMB and 216 and a parcel of real property owned by JMB and Fiera's Security Interests ranking first against all other property and assets of JMB and 216, other than certain equipment subject to purchase money security interests in favour of or leases by certain third parties.

F. Almost immediately after CARC acquired its majority interest in JMB in November of 2018, it became apparent JMB was suffering a severe and sustained cash flow shortfall, which appeared to arise from the ongoing downturn in the oil and gas industry and in Alberta's economy. This financial impairment became significantly worse as a result of the public health measures to combat the COVID-19 pandemic.

G. In order to improve the Companies' financial viability and provide a process for recapitalizing or refinancing the Companies, the Companies applied to the Court of Queen's Bench of Alberta (the "**Court**") for protection under the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended (the "**CCAA**"). On May 1, 2020, the Honourable Madam Justice Eidsvik pronounced an initial order which, among other things, declared the Companies were companies to which the CCAA applied, stayed all proceedings against the Companies, and appointed FTI Consulting Canada Inc. as the monitor of the Companies (the "**Monitor**"). The initial order was amended and restated by a further order of Justice Eidsvik pronounced on May 11, 2020 (as amended, the "**Initial Order**").

H. Under the Initial Order, the Court approved a sale and investment solicitation process (the "**SISP**") and appointed Sequeira Partners as sale advisor (the "**Sale Advisor**") under the SISP. The Sale Advisor conducted an extensive, two phase marketing process under the SISP, approaching approximately 20 potential strategic and financial investors and purchasers. Because of the possibility that CARC might submit a reserve or stalking horse bid in the SISP, the SISP was placed under the supervision and control of the monitor in order to ensure the independence and integrity of the process. Further, neither the Monitor nor the Sale Advisor provided information to CARC, RLF or the Companies' management with respect to actual or potential bids.

I. By June 26, 2020, JMB had completed its obligations under a supply agreement with the Municipal District of Bonnyville No. 87 and thereafter reduced its operations to a minimum and terminated all but six of its employees and contractors. In June of 2020, the president of JMB departed.

J. In June of 2020, CARC submitted a bid in the first phase of the SISP, and then in July of 2020, Mantle, which was a newly created affiliate of CARC which was also a wholly owned subsidiary of RLF, submitted a bid in the second phase to purchase the Core Assets. There were no other realistic bids and therefore Monitor negotiated the terms of the bid on behalf of the Companies and after consulting with ATB, Fiera and other stakeholders.

K. Pursuant to an asset purchase agreement dated September 27, 2020 (which, as amended on November 2, 2020 and from time to time subsequently, is referred to as the "**APA**") between the Companies and Mantle, it was agreed that Mantle would purchase the Core Assets for a purchase price payable by a partial assumption of the indebtedness owing by the Companies to ATB and Fiera, by the assumption of certain other liabilities of the Companies, and in part by the payment of cash. The Core Assets include the Included Public Pits, the Included Private Pits and the Included Owned Land.



L. Pursuant to the APA, JMB and Mantle filed with the Court a plan of arrangement under the CCAA and *Business Corporations Act*, SBC 2002, c 57 (the "**CCAA Plan**") under which, upon the completion of the transactions contemplated by the APA (the "**Transaction**"), the shares of JBS in the capital of JMB will be cancelled and the shares of CARC in the capital of JMB will be transferred to Mantle, and Mantle will assume the Assumed ATB Debt and Assumed Fiera Debt.

M. The Transaction is to be completed and implemented pursuant to and in accordance with (1) a sale approval and vesting order (the "**SAVO**"), vesting certain core assets of JMB and 216 in Mantle, (2) a reverse vesting order (the "**RVO**"), vesting assets and liabilities excluded from the Transaction in 216, (3) an assignment order, assigning certain key contracts of JMB and 216 to Mantle, and (4) a sanction order, sanctioning the CCAA Plan (collectively, the "**Mantle Transaction Orders**").

N. The Transaction Closing is conditional upon the AEP approving assignments of the Dispositions and transfers of the Registrations in respect of the Included Public Pits, the Included Private Pits, the Included Owned Land. Certain Reclamation Obligations exist in respect of the Included Public Pits, the Included Private Pits, the Included Owned Land and the Excluded Pits, the quantum of which is estimated by the Companies as set out on **Schedule "A"**, and in order to provide certainty with respect to the manner in which Reclamation Obligations are to be addressed, and to obtain the approval by the AEP of the assignment of the Dispositions and transfer of the Registrations, the Parties have undertaken certain obligations on the terms and subject to the conditions contained herein.

**NOW THEREFORE** the Parties agree as follows:

## 1. DEFINITIONS AND INTERPRETATION

### 1.1 Definitions

The following capitalized terms will have the meanings set out below:

- (a) "**216**" is defined in the introductory paragraph of this Agreement.
- (b) "**AEP**" is defined in the introductory paragraph of this Agreement.
- (c) "**Aggregate**" means aggregates including granular base course gravels, asphalt pavement aggregates, concrete and weeping tile rock, sand and other aggregates.
- (d) "**Aggregate Pits**" and "**Aggregate Pit**" are defined in Recital C.
- (e) "**Agreement**" means this reclamation obligation agreement, including the Schedule, as it may be amended, modified, supplemented or restated from time to time.
- (f) "**APA**" is defined in Recital K.
- (g) "**Applicable Law**" means, with respect to any Person, property, transaction, event, business or other matter, any federal, state, provincial, local, domestic or foreign constitution, treaty, law, statute, regulation, code, ordinance, principle of



common law or equity, rule, municipal by-law, Permit, order or other requirement of any Governmental Authority whether or not having the force of law relating or applicable to such Person, property, transaction, event, business or other matter.

- (h) "**ATB**" is defined in the introductory paragraph of this Agreement.
- (i) "**Buksa Royalty Agreement**" means the aggregate royalty agreement dated December 31, 2018 between 302016 Alberta Limited, Rose Short and JMB.
- (j) "**Business**" is defined in Recital A.
- (k) "**Business Day**" means any day other than a Saturday, Sunday or statutory holiday in Edmonton, Alberta.
- (l) "**CARC**" is defined in Recital B.
- (m) "**CCAA**" is defined in Recital G.
- (n) "**CCAA Plan**" is defined in Recital L.
- (o) "**Code**" is defined in Recital D.
- (p) "**Communication**" means any notice, demand, request, consent, approval or other communication which is required or permitted by this Agreement to be given or made by a Party.
- (q) "**Contractor**" is defined in Section 3.5(f).
- (r) "**Core Assets**" means all of the right, title, benefit, estate and interest of JMB and 216 in and to certain assets to be acquired by Mantle under and pursuant to the APA.
- (s) "**Court**" is defined in Recital G.
- (t) "**CWB**" means Canadian Western Bank.
- (u) "**CWB LC Facility**" means the letter of credit facility created by CWB in favour of JMB and 216, and was assigned to and assumed by Mantle pursuant to the Transaction, for the purposes of providing the CWB LCs to the AEP as Security.
- (v) "**CWB LCs**" means letters of credit issued by CWB in favour of AEP.
- (w) "**Dispositions**" means the surface material leases and other dispositions of public lands issued by the AEP to JMB or 216 under the PLA, and "**Disposition**" means any one of the Dispositions.
- (x) "**EPEA**" is defined in Recital E.
- (y) "**Excluded Aggregate Inventory**" means Aggregate that, as of the date this Agreement is fully executed by the Parties, has been extracted and is located on the lands subject to the Excluded Royalty Agreements.

- (z) "**Excluded Private Pits**" the Aggregate Pits governed by the aggregate royalty agreements listed on **Schedule "A"** under the heading of "*Excluded Private Pits*" and identified as the Hoye/Kucy Royalty Agreement, the MacDonald Royalty Agreement, the Megley Royalty Agreement and the Okane Royalty Agreement.
- (aa) "**Excluded Public Pits**" means the Aggregate Pits governed by the Dispositions listed on **Schedule "A"** under the heading of "*Excluded Public Pits*" and identified as SML 120027, SML 930040, SML 980116 and DML 120032.
- (bb) "**Excluded Royalty Agreements**" means the aggregate royalty agreements relating to the Excluded Private Pits, being the Hoye/Kucy Royalty Agreement, the MacDonald Royalty Agreement, the Megley Royalty Agreement and the Okane Royalty Agreement, and "**Excluded Royalty Agreement**" means any one of them.
- (cc) "**Excluded Royalty Lands**" means each of the lands on which the Excluded Public Pits are located and to which an Excluded Royalty Agreements applies.
- (dd) "**Excluded Reclamation Amount**" is defined in Section 3.5(b).
- (ee) "**Fiera**" is defined in the introductory paragraph of this Agreement.
- (ff) "**Fund VI**" is defined in the introductory paragraph of this Agreement.
- (gg) "**Glacier Royalty Agreement**" means the aggregate royalty agreement dated September 30, 2014 between JMB and 1386194 Alberta Ltd., in respect of the Aggregate Pit subject to the Disposition identified as SML 030074 which was granted to 1386194 Alberta Ltd.
- (hh) "**Governmental Authority**" means any federal, provincial, state, local, municipal, regional, territorial, aboriginal, or other government, governmental or public department, branch, ministry, or court, domestic or foreign, including any district, agency, commission, board, arbitration panel or authority and any subdivision of any of them exercising or entitled to exercise any administrative, executive, judicial, ministerial, prerogative, legislative, regulatory or taxing authority or power of any nature and any quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of any of them, and any subdivision of any of them.
- (ii) "**Havener Royalty Agreement**" means the aggregate royalty agreement dated November 8, 2018 between JMB, Helen Havener and Gail Havener, as amended by a letter agreement dated October 13, 2020 between Mantle, Gail Havener and Lynne Havener, as executor of the Estate of Helen Havener, as amended and restated by the aggregate royalty agreement dated October 13, 2020 between Mantle, Gail Havener and Lynne Havener, as executor of the Estate of Helen Havener.
- (jjj) "**Hoye/Kucy Royalty Agreement**" means the aggregate royalty agreement dated January 7, 2020 between JMB, Ron and Rita Kucy and Ron and Vonda Hoye.



- (kk) **"Included Owned Land"** means lands identified on **Schedule "A"** under the heading of Included Owned Land.
- (ll) **"Included Private Pits"** means the Aggregate Pits governed by the aggregate royalty agreements listed on **Schedule "A"** under the heading of *"Included Private Pits"* and identified as the Buksa Royalty Agreement, the Havener Royalty Agreement and the Shankowski Royalty Agreement.
- (mm) **"Included Public Pits"** means the Aggregate Pits governed by the Dispositions listed on **Schedule "A"** under the heading of *"Included Public Pits"* and identified as SML 080085, SML 110025, SML 110026, SML 110045, SML 110046, SML 110047, SML 120005, SML 120006, SML 120100 and SML100085.
- (nn) **"Initial Order"** is defined in Recital G.
- (oo) **"JBS"** is defined in Recital B.
- (pp) **"JMB"** is defined in the introductory paragraph of this Agreement.
- (qq) **"Kalinko Royalty Agreement"** means the aggregate royalty agreement dated June 12, 2012 and amended June 12, 2017 between Tim Kalinski, Jessica Brennan, Matthew Kalinski, Zachariah Kalinski, Elisha Kalinski and JMB.
- (rr) **"Lafarge Royalty Agreements"** means collectively the aggregate royalty agreement dated June 28, 2019 between Lafarge Canada Inc. and JMB, relating to the Disposition identified as SML 100043, and the aggregate royalty agreement dated June 28, 2019 between Lafarge Canada Inc. and JMB, relating to the Aggregate Pit having Registration no. 15215-01-01.
- (ss) **"MacDonald Royalty Agreement"** means the aggregate royalty agreement dated October 27, 2019 between JMB and Allan K MacDonald.
- (tt) **"Mantle"** is defined in the introductory paragraph of this Agreement.
- (uu) **"Mantle Transaction Orders"** is defined in Recital M.
- (vv) **"Megley Royalty Agreement"** means the aggregate royalty agreement dated September 30, 2018 between JMB and Doug Megley.
- (ww) **"Monitor"** is defined in Recital G.
- (xx) **"Okane Royalty Agreement"** means the aggregate royalty agreement dated April 30, 2018 between JMB, Colleen Penner and the Estate of Ed Okane.
- (yy) **"Owned Lands"** is defined in Recital C.
- (zz) **"Parties"** means JMB, Mantle, ATB, Fiera and the AEP, collectively, and **"Party"** means any one of them.
- (aaa) **"Permits"** means any permit, license, approval, consent, authorization, registration or certificate issued, and conservation and reclamation business plans in respect of Dispositions approved, by the AEP or other applicable



Governmental Authority, including the Registrations.

- (bbb) **"Person"** will be broadly interpreted and includes: (i) a natural person, whether acting in his or her own capacity, or in his or her capacity as executor, administrator, estate trustee, trustee or personal or legal representative, and the heirs, executors, administrators, estate trustees, trustees or other personal or legal representatives of a natural person; (ii) a corporation or a company of any kind, a partnership of any kind, a sole proprietorship, a trust, a joint venture, an association, an unincorporated association, an unincorporated syndicate, an unincorporated organization or any other association, organization or entity of any kind; and (iii) a Governmental Authority.
- (ccc) **"PLA"** is defined in Recital C.
- (ddd) **"Private Pits"** is defined in Recital C.
- (eee) **"Public Pits"** is defined in Recital C.
- (fff) **"Reclamation Obligation Limit"** is defined in Section 3.5(c).
- (ggg) **"Reclamation Obligations"** means reclamation obligations under the Regulatory Legislation in respect of Aggregate Pits.
- (hhh) **"Reclamation Work"** means work in performing the Reclamation Obligations in respect of the Excluded Private Pits.
- (iii) **"Registrations"** means the registrations issued by the AEP in respect of the Private Pits under the Code and other Regulatory Legislation.
- (jjj) **"Regulatory Legislation"** is defined in Recital D.
- (kkk) **"RVO"** is defined in Recital M.
- (lll) **"RVO Amending Order"** is defined in Section 3.2(a)(ii).
- (mmm) **"RLF"** is defined in Recital B.
- (nnn) **"Sale Advisor"** is defined in Recital H.
- (ooo) **"SAVO"** is defined in Recital M.
- (ppp) **"SAVO Amending Order"** is defined in Section 3.2(a)(i).
- (qqq) **"Security"** means security in the form of letters of credit, bonds, cash or other forms for Reclamation Obligations required under the Regulatory Legislation.
- (rrr) **"Security Interest"** means any mortgage, charge, security interest, lien or other charge or leasehold interest of a lessor of property.
- (sss) **"Shankowski Royalty Agreement"** means the aggregate royalty agreement dated October 29, 2018 between JMB, Jerry Shankowski and 945441 Alberta

Ltd., as amended by a letter agreement dated October 14, 2020 between Mantle, Jerry Shankowski and 945441 Alberta Ltd.

- (ttt) "**SISP**" is defined in Recital H.
- (uuu) "**Skoreyko**" means Skoreyko Crushing Ltd.
- (vvv) "**Skoreyko PSA**" means the purchase and sale agreement between 216 and Skoreyko pursuant to which 216 agreed to sell and Skoreyko agreed to purchase the SML 060060 Dispositions.
- (www) "**SML 060060 Dispositions**" means the Dispositions identified as SML 060060 and DLO 170011 which are listed on **Schedule "A"** under the heading "**SML 060060 Dispositions**".
- (xxx) "**Transaction**" is defined in Recital L.
- (yyy) "**Transaction Closing**" means the completion of the Transaction and the implementation of the CCAA Plan.
- (zzz) "**Trust**" is defined in Section 3.5(e).
- (aaaa) "**Trust Fund**" is defined in Section 3.5(e).

## 1.2 Certain Rules of Interpretation

- (a) In this Agreement, words signifying the singular number include the plural and *vice versa*, and words signifying gender include all genders. Every use of the words "including" or "includes" in this Agreement is to be construed as meaning "including, without limitation" or "includes, without limitation", respectively.
- (b) The division of this Agreement into Sections and the insertion of headings are for convenience of reference only and do not affect the construction or interpretation of this Agreement.
- (c) References in this Agreement to a Section or Schedule are to be construed as references to a Section or Schedule of or to this Agreement unless otherwise specified.
- (d) Unless otherwise specified, any reference in this Agreement to any statute includes all regulations and subordinate legislation made under or in connection with that statute at any time, and is to be construed as a reference to that statute as amended, modified, restated, supplemented, extended, re-enacted, replaced or superseded at any time.
- (e) For the purposes of this Agreement, all amounts will be denominated in Canadian dollars, and all payments and distributions to be made in cash will be made in Canadian dollars.

### 1.3 Schedule

The following Schedule is attached to, incorporated by reference into and forms part of this Agreement:

Schedule "A"

Aggregate Pits

## 2. PURPOSE OF THIS AGREEMENT

### 2.1 Purpose

This Agreement is intended to permit the Transaction under the APA and CCAA Plan to be completed by setting out the terms under which the AEP would approve and consent to the assignment of the Dispositions and Permits and transfer of the Registrations relating to the Included Public Pits and Included Private Pits. Without such approvals and consents, a fundamental condition to Transaction Closing provided for in the APA would not be satisfied and Mantle is unwilling to waive such condition.

Mantle anticipates that if the Transaction is completed, the stakeholders in JMB and 216, including the current or former employees, their customers, their suppliers, landowners, the communities in rural Alberta where the Business operates, the environment, ATB and Fiera, and the investors in RLF, will potentially benefit from the following:

- (a) the Business will directly employ in Alberta approximately thirty full time individuals, and will seasonally employ in Alberta, directly and indirectly through contractors, in excess of ninety individuals;
- (b) the Business will sell approximately 1 million tonnes of Aggregate per annum, based upon production of approximately 2 million tonnes per annum, yielding approximately \$30,000,000 per annum, with significant potential for additional production with the recovery of the oil and gas industry;
- (c) upon Mantle acquiring the Included Public Pits, Mantle will assume the Reclamation Obligations associated therewith, maintain the Security for such Reclamation Obligations, and pay the arrears of royalty payments and other amounts owing to the AEP under the Included Public Pits;
- (d) Mantle would acquire the Excluded Public Pits for the purpose of performing the Reclamation Obligations in respect thereof;
- (e) the SML 060060 Dispositions would be assigned to Skoreyko together with associated Permits, and Skoreyko would assume the Reclamation Obligations thereunder, replace the Security posted by 216 thereunder and operate the Aggregate Pit subject thereto;
- (f) Mantle would acquire the interest of JMB in the Buksa Royalty Agreement, the Shankowski Royalty Agreement and the Haverier Royalty Agreement, operate the Aggregate Pits subject thereto, assume the Reclamation Obligations and replace the expired Security thereunder; and



- (g) the Parties would share the economic burden of the expired Security provided under the Registrations of the Aggregate Pits subject to the Hoye/Kucy Royalty Agreement, the MacDonald Royalty Agreement, the Megley Royalty Agreement and the Okane Royalty Agreement.

Should the Transaction not proceed, JMB and 216 would likely be placed into bankruptcy or receivership, with their remaining property and assets either being liquidated or abandoned, and the foregoing benefits would be lost. In particular: (i) the Business would cease together with the associated direct and indirect employment, and substantially all of the tangible property and assets of JMB and 216 will be abandoned, with the consequential loss of economic activity in Alberta; (ii) it is unlikely that any other Person or Persons would acquire the interest of the Companies in the Public Pits, the Private Pits or the Owned Lands; (iii) the Dispositions would eventually lapse or be terminated; (iv) the aggregate amount of the Reclamation Obligations exceeds the aggregate amount of the Security posted therefor, and in the event of such shortfall being realized, the public and the private land owners could bear the economic burden of such deficiency; and (v) substantial portions of the loans advanced by ATB and Fiera to JMB and the capital invested by RLF in JMB and 216 could be lost.

### 3. COVENANTS OF THE PARTIES

#### 3.1 Included Public Pits

Subject to the satisfaction or waiver of the conditions precedent in Section 4.1:

- (a) Mantle and the AEP agree as follows:
- (i) the AEP will consent to and approve the assignment to Mantle pursuant to the SAVO of the Dispositions governing the Included Public Pits and any Permits issued by the AEP relating thereto;
  - (ii) promptly following the Transaction Closing:
    - (A) Mantle will pay to the AEP the applicable assignment fee payable in respect of the application to approve the assignment of the Dispositions of the Included Public Pits and the Excluded Public Pits;
    - (B) Mantle will assume the Reclamation Obligations in respect of each Included Public Pit;
    - (C) Mantle will assume the rights and obligations of JMB to CWB under the CWB LC Facility, whereupon the Security in the form of CWB LCs will previously issued on behalf of JMB will be issued on behalf of Mantle;
    - (D) 216 will file with the AEP the outstanding returns for 2020 required under the Regulatory Legislation in respect of the Included Public Pits, and Mantle will thereafter pay when due the royalties owing to the AEP under the Dispositions relating to the Included Public Pits for the 2020 calendar year as and when they become due; and

- (E) With respect to the arrears of 2019 and 2020 royalty payments, goods and services tax and insurance payments in respect of the Dispositions of Included Public Pits, which Mantle estimates to be an aggregate of \$250,292.23, Mantle shall pay to the AEP fifty percent (50%) of such amount.
- (b) Fiera will deliver to the AEP releases of the conditional surrenders of lease granted by JMB or 216 in respect of the Included Public Pits, and the AEP will register replacement conditional surrenders of lease granted by Mantle to Fiera in respect of the Included Public Pits.

### 3.2 Excluded Public Pits

- (a) Following the execution by each of the Parties of this Agreement, the Companies and Mantle will apply to the Court for orders amending the SAVO and RVO pursuant to which:
  - (i) the Excluded Public Pits shall be included in the definition of *Transferred Acquired Assets* (as such term is defined in the SAVO, with such amending order being the "**SAVO Amending Order**"); and
  - (ii) the Excluded Public Pits shall cease to be included in the definition of *Excluded Aggregate Pits* (as such term is defined in the RVO, with such amending order being the "**RVO Amending Order**"),

with the effect that Mantle will acquire all of the right, title and interest of the Companies in the Excluded Public Pits, assume the Reclamation Obligations in respect thereof, and maintain the Security relating thereto, which the AEP and Mantle agree is in the aggregate amount of \$42,332 for the 2021 calendar year.

- (b) Subject to the satisfaction or waiver of the conditions precedent in Section 4.1, Mantle and the AEP agree as follows:
  - (i) the AEP will consent to and approve the assignment to Mantle of the Dispositions of the Excluded Public Pits and any Permits issued by the AEP relating thereto;
  - (ii) Mantle will assume the Reclamation Obligations and maintain Security in respect of each Excluded Public Pit in accordance with the requirements of the Regulatory Legislation, provided that Mantle shall have a two year time period to perform such Reclamation Obligations; and
  - (iii) upon the performance by Mantle of the Reclamation Obligations relating to an Excluded Public Pit, in a manner satisfactory to the AEP, at the request in writing of Mantle, the AEP shall return to Mantle the Security provided in respect of such Excluded Public Pit and terminate the Dispositions and Permits.



### 3.3 Sale of Dispositions

Subject to the satisfaction or waiver of the conditions precedent in Section 4.1, Mantle and the AEP agree as follows:

- (a) the AEP will consent to and approve the assignment to Skoreyko of the SML 060060 Dispositions together with any related Permits issued by the AEP, and upon Skoreyko depositing Security with the AEP in an amount acceptable to the AEP, the AEP shall return to Mantle the Security posted by 216 in respect of the SML 060060 Dispositions, being a CWL LC in the face amount of \$41,400; and
- (b) in the event that Mantle is able to sell any Dispositions relating to Excluded Public Pits to any other Person that is acceptable to the AEP, the AEP will approve and consent to the assignment thereof to such Person together with any related Permits and upon such Person posting with the AEP the Security required by the AEP in respect of such Disposition, the AEP will return to Mantle the Security provided by JMB, 216 or Mantle, as applicable.

### 3.4 Included Private Pits

Subject to the satisfaction or waiver of the conditions precedent in Section 4.1, Mantle and the AEP agree as follows:

- (a) the AEP will consent to and approve the transfer to Mantle pursuant to the SAVO of the Registrations and other Permits relating to the Included Private Pits;
- (b) upon the Transaction Closing, Mantle will assume the Reclamation Obligations in respect of each Included Private Pit in accordance with the requirements of the Regulatory Legislation;
- (c) with respect to the bond in the amount of \$50,442.14 issued in favour of the AEP as Security in respect of the Included Private Pit subject to the Buksa Royalty Agreement, the AEP shall hold the cash paid to it by the issuer thereof as Security and such cash shall satisfy obligation of Mantle to provide such Security for the 2021 calendar year; and
- (d) promptly following the Transaction Closing, Mantle will deposit:
  - (i) Security with the AEP for each Included Private Pit, which:
    - (A) in the case of the Included Private Pit subject to the Havener Royalty Agreement, Mantle and the AEP acknowledge is in the amount of \$31,988 for the 2021 calendar year; and
    - (B) in the case of the Included Private Pit subject to the Shankowski Royalty Agreement, Mantle and the AEP acknowledge is in the amount of \$180,120.57 for the 2021 calendar year; and
  - (ii) file with the AEP any outstanding filings required under the Regulatory Legislation with respect to the Included Private Pits, including any schedule 3 filings.



### 3.5 Excluded Private Pits

Subject to the satisfaction or waiver of the conditions precedent in Section 4.1, the Parties agree as follows:

- (a) AEP shall approve the transfer from JMB to 216 pursuant to the RVO of the Registrations in respect of the Excluded Private Pits and any Permits issued by the AEP in respect thereof.
- (b) The Parties acknowledge that the Reclamation Obligations in respect of the Excluded Royalty Lands, and the amount of Security required as of the date of this Agreement in respect of each, are as follows:
  - (i) \$39,805 in respect of the Excluded Royalty Lands subject to the Hoye/Kucy Royalty Agreement;
  - (ii) \$77,600 in respect of the Excluded Royalty Lands subject to the MacDonald Royalty Agreement;
  - (iii) \$74,883 in respect of the Excluded Royalty Lands subject to the Megley Royalty Agreement; and
  - (iv) \$39,805 in respect of the Excluded Royalty Lands subject to the Okane Royalty Agreement

(each such amount being the "**Excluded Reclamation Amount**").
- (c) The Parties shall divide the economic burden of the Reclamation Obligations in respect of the Excluded Royalty Lands such that each of Mantle, ATB, Fiera and AEP are individually responsible for one quarter of the Excluded Reclamation Amount, which in the case of Mantle, ATB and Fiera (whose aggregate responsibility for the Excluded Reclamation Amount is referred to as the "**Reclamation Obligation Limit**"), will be provided for as follows:
  - (i) ATB's portion of the Reclamation Obligation Limit shall be funded either directly by ATB or from funds held by JMB against which ATB's Security Interest has first ranking priority, which portion shall be paid to the AEP;
  - (ii) Fiera's portion of the Reclamation Obligation Limit shall be funded from net proceeds of the sale JMB's equipment against which Fiera's Security Interest has first ranking priority, which proceeds Fiera will pay to the AEP; and
  - (iii) Mantle's portion of the Reclamation Obligation Limit shall be funded by an advance by Mantle to AEP.
- (d) Mantle shall be entitled, for and on behalf of 216, to sell any Excluded Aggregate Inventory provided that the applicable Excluded Royalty Agreement permits access to the applicable Excluded Royalty Pit for such purpose. The proceeds of sale of the Excluded Aggregate Inventory shall be applied as follows:

- (i) firstly, to any costs incurred in marketing, selling, processing and delivering the Excluded Aggregate Inventory, together with a reasonable overhead relating to Mantle's costs in respect thereof, and to any royalties payable under the applicable Excluded Royalty Agreement;
- (ii) secondly, to the Parties on a *pari passu* basis, up to the aggregate Excluded Reclamation Amount; and
- (iii) thirdly, to the extent that all the Reclamation Obligations relating to all Excluded Royalty Lands up to the Reclamation Obligation Limit have been satisfied.

ATB consents to the application of the proceeds of sale of the Excluded Aggregate Inventory in accordance with Subsections 3.5(d)(i) and (ii). In the event that Mantle is unable to sell Excluded Aggregate Inventory at prices that exceed the costs and amounts payable referred to in Subsection 3.5(d)(i), Mantle may utilize such Excluded Aggregate Inventory in carrying out the Reclamation Work.

- (e) The contributions of ATB, Fiera and Mantle to the Reclamation Obligations in respect of the Excluded Private Pits pursuant to Section 3.5(c) shall be held in trust by the AEP (the trust created hereby being the "Trust", and the funds held in the Trust being the "Trust Funds"), on the following terms:
  - (i) the purpose of the Trust is to provide funding for performance of the Reclamation Obligations in respect of the Excluded Private Pits, up to the amount of the Reclamation Obligation Limit;
  - (ii) the beneficiary of the Trust shall be AEP, with ATB, Fiera and Mantle holding a *pari passu* reversionary beneficial interest therein held by ATB, Fiera and Mantle where Reclamation Work has been performed in an amount equal to the Reclamation Obligation Limit; and
  - (iii) the Trust Fund shall constitute Security which secures the Reclamation Obligations in respect of the Excluded Private Pits, up to the Reclamation Obligation Limit.
- (f) 216 shall be responsible for carrying out the Reclamation Work on the Excluded Private Pits, up to the Reclamation Obligation Limit. 216 hereby engages Mantle to manage and supervise the performance of such Reclamation Work and Mantle accepts such engagement. In carrying out such engagement, Mantle shall retain such contractors (each, a "Contractor") as it deems necessary or desirable, in consultation with the AEP, to carry out the Reclamation Work. As each task or set of tasks is performed in a manner and at a cost satisfactory to Mantle (based on reasonable industry norms for such Reclamation Work):
  - (i) Mantle shall give written notice thereof to the AEP of the completion of such task or tasks, and the AEP will promptly upon receipt of such notice attend the applicable Excluded Private Pit to determine whether it is satisfied with the performance of such task or tasks;



- (ii) provided that the AEP is satisfied with the performance of such task or tasks, the AEP shall promptly pay from the Trust Fund the Contractor's invoice for such task or tasks; and
  - (iii) if the AEP is not satisfied with the performance of such task or tasks, it will give Mantle and the Contractor the particulars thereof and work with Mantle and the Contractor to identify any deficiency and the steps required to address such deficiency.
- (g) When the aggregate amounts paid or payable to Contractors for Reclamation Work is equal to the Reclamation Obligation Limit, the AEP shall distribute any remaining amounts in the Trust Fund to Mantle, ATB and Fiera, in equal portions, and Mantle's obligations under this Section 3.5 shall terminate, provided that if the AEP advances sufficient amounts into the Trust Fund to permit the completion of the Reclamation Obligations in respect of the Excluded Private Pits, Mantle shall continue to supervise and manage the Contractors in performing Reclamation Work until such Reclamation Obligations are fully performed, whereupon Mantle's obligations hereunder shall terminate.

### 3.6 Included Owned Lands

Subject to the satisfaction or waiver of the conditions precedent in Section 4.1, Mantle shall assume the Reclamation Obligations in respect of the Included Owned Lands and maintain the Security in respect thereof, which Mantle and the AEP acknowledge is in the amount of \$14,534 for the 2021 calendar year.

### 3.7 Aggregate Pits not subject to this Agreement

The Aggregate Pits subject to the Kalinko Royalty Agreement, the Glacier Royalty Agreement and the Lafarge Royalty Agreements are not subject to this Agreement because the Kalinko Royalty Agreement has been terminated by JMB's counterparties thereto, the Glacier Royalty Agreement has expired, and the Security for the Aggregate Pits governed by the Lafarge Royalty Agreements is provided by Lafarge Canada Inc.

## 4. CONDITIONS PRECEDENT

### 4.1 Conditions to Agreement Implementation

This Agreement shall become effective and binding upon the Parties upon the satisfaction or waiver of the following conditions precedent:

- (a) the Parties shall have fully executed and delivered this Agreement;
- (b) the conditions set out in Sections 5.1, 5.2 and 5.3 of the APA shall have been fulfilled, satisfied or waived in accordance with the APA;
- (c) the Monitor shall have consented to 216 assigning to Mantle the Dispositions relating to the Excluded Public Pits and any other consent required by the Monitor shall have been obtained; and
- (d) Skoreyko shall have fully executed and delivered to 216 the Skoreyko PSA.



## 4.2 Waiver of Conditions Precedent

The conditions in Subsections 4.1(a) and (c) may only be waived in whole or in part in writing by all of the Parties. The condition in Subsection 4.1(d) may be waived in whole or in part in writing by Mantle.

## 5. GENERAL

### 5.1 Communications

Any Communication must be in writing and either delivered personally or by courier, sent by prepaid registered mail or transmitted by e-mail or functionally equivalent electronic means of transmission, charges (if any) prepaid. Any Communication must be sent to the intended recipient at its address as follows:

(a) to JMB or 216:

JMB Crushing Systems Inc.  
PO Box 6977  
Bonnyville, Alberta T9N 2H4  
Email: [blakeelyea@jmbcrush.com](mailto:blakeelyea@jmbcrush.com)  
Attention: Blake M. Elyea, CPA, CGA, CIRP,  
LIT, Chief Restructuring Advisor

FTI Consulting Canada Inc.  
1000, 888-3rd Street SW  
Bankers Hall, West Tower  
Calgary, Alberta T2P 5C5  
E-mail: [deryck.helkaa@fticonsulting.com](mailto:deryck.helkaa@fticonsulting.com)  
Attention: Deryck Helkaa

(b) to Mantle:

Mantle Materials Group, Ltd.  
1400 16th St, Suite 320  
Denver, Colorado 80209  
E-mail: [Byron.Levkulich@RLHoldings.com](mailto:Byron.Levkulich@RLHoldings.com)  
Attention: Byron Levkulich, CFA, CPA

(c) to ATB:

ATB Financial  
Suite 2500, 10020 - 100 Street  
Edmonton Alberta T5J 0N3  
E-mail: [aburnett@atb.com](mailto:aburnett@atb.com)  
Attention: Andrew J. Burnett, Director, Risk  
Advisory and Management, ATB Corporate  
Financial Services

(d) to Fiera:

Fiera Private Debt  
20 Adelaide Street East, Suite 1500  
Toronto, Ontario M5C 2T6

with copies to:

Gowling WLG (Canada) LLP  
1600, 421 7th Avenue SW  
Calgary Alberta T2P 4K9  
E-mail: [tom.cumming@gowlingwlg.com](mailto:tom.cumming@gowlingwlg.com)  
Attention: Tom Cumming

McCarthy Tétrault LLP  
4000, 421 - 7th Avenue SW  
Calgary, Alberta T2P 4K9  
E-mail: [scollins@mccarthy.ca](mailto:scollins@mccarthy.ca)  
Attention: Sean Collins

with copies to:

Gowling WLG (Canada) LLP  
1600, 421 7th Avenue SW  
Calgary Alberta T2P 4K9  
E-mail: [tom.cumming@gowlingwlg.com](mailto:tom.cumming@gowlingwlg.com)  
Attention: Tom Cumming

with copies to:

Dentons Canada LLP  
2500 Stantec Tower  
10220 - 103 Avenue NW  
Edmonton, Alberta T5J 0K4  
E-mail: [tom.gusa@dentons.com](mailto:tom.gusa@dentons.com)  
Attention: Tom Gusa

with copies to:

Miller Thomson LLP  
Scotia Plaza  
40 King Street West, Suite 5800

E-mail: [szagrodny@fieracapital.com](mailto:szagrodny@fieracapital.com)  
 Attention: Stephen Zagrodny, Director,  
 Corporate & Infrastructure Debt Financing

P.O. Box 1011  
 Toronto, Ontario M5H 3S1  
 E-mail: [kmahar@millerthomson.com](mailto:kmahar@millerthomson.com)  
 Attention: Kyla E. M. Mahar

(e) to the AEP:

with copies to:

▪  
 Email: ▪  
 Attention: ▪

▪  
 Email: ▪  
 Attention: ▪

or at any other address as any Party may at any time advise the other by Communication given or made in accordance with this Section 5.1. Any Communication delivered to the Party to whom it is addressed will be deemed to have been given or made and received on the day it is delivered at that Party's address, provided that if that day is not a Business Day then the Communication will be deemed to have been given or made and received on the next Business Day. Any Communication sent by prepaid registered mail will be deemed to have been given or made and received on the fifth Business Day after which it is mailed. If a strike or lockout of postal employees is then in effect, or generally known to be impending, every Communication must be delivered personally or by courier or transmitted by e-mail or functionally equivalent electronic means of transmission. Any Communication transmitted by e-mail or other functionally equivalent electronic means of transmission will be deemed to have been given or made and received on the day on which it is transmitted; but if the Communication is transmitted on a day which is not a Business Day or after 4:00 pm (local time of the recipient), the Communication will be deemed to have been given or made and received on the next Business Day.

## 5.2 Miscellaneous Provisions

- (a) This Agreement is governed by, and is to be construed and interpreted in accordance with, the laws of the Province of Alberta and the laws of Canada applicable in that Province. All questions as to the interpretation of or application of this Agreement and all proceedings taken in connection with this Agreement and its provisions will be subject to the jurisdiction of the Court.
- (b) This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter of this Agreement and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the Parties and there are no representations, warranties or other agreements between the Parties, express or implied, in connection with the subject matter of this Agreement except as specifically set out in this Agreement.
- (c) Each Section of this Agreement is distinct and severable. If any Section of this Agreement, in whole or in part, is or becomes illegal, invalid, void, voidable or unenforceable in any jurisdiction by any court of competent jurisdiction, the illegality, invalidity or unenforceability of that Section, in whole or in part, will not affect the legality, validity or enforceability of the remaining Sections of this Agreement, in whole or in part or the legality, validity or enforceability of that Section, in whole or in part, in any other jurisdiction.
- (d) No amendment, discharge, modification, restatement, supplement, termination or waiver of this Agreement or any Section of this Agreement is binding unless it is

in writing and executed by the Party to be bound. No waiver of, failure to exercise, or delay in exercising, any Section of this Agreement constitutes a waiver of any other Section (whether or not similar) nor does any waiver constitute a continuing waiver unless otherwise expressly provided.

- (e) This Agreement will be binding upon and will enure to the benefit of the successors and assigns of any Party.
- (f) Each of the Persons named or referred to in, or subject to, this Agreement will execute and deliver all such documents and instruments and do all such acts and things as may be necessary or desirable to carry out the full intent and meaning of this Agreement and to give effect to the transactions contemplated herein.
- (g) This Agreement and any counterpart of it may be created, provided, received, retained and otherwise used, and will be accepted, in any digital, electronic or other intangible form. This Agreement and any counterpart of it may be signed by manual, digital or other electronic signatures and delivered or transmitted by any digital, electronic or other intangible means, including by e-mail or other functionally equivalent electronic means of transmission, and that execution, delivery and transmission will be valid and legally effective to create a valid and binding agreement between the Parties.

**THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK**



Each of the Parties has executed and delivered this Agreement, as of the date noted at the beginning of this Agreement.

**JMB Crushing Systems Inc.**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**Mantle Materials Group, Ltd.**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**ATB Financial**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**2161889 Alberta Ltd.**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**Fiera Private Debt Fund VI LP**, by its general partner **Fiera Private Debt Fund GP Inc.** ("**Fund VI**") and **Fiera Private Debt Fund V LP**, by its general partner **Fiera Private Debt Fund GP Inc.**, acting in its capacity as collateral agent for and on behalf of and for the benefit of Fund VI

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**Alberta Environment and Parks**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

## Schedule "A" - Aggregate Pits

## Public Pits

Holder	Disposition Number	Pit Name	Status	Expiration	Estimated Reclamation Obligations	Security with AEP
<i>Included Public Pits</i>						
216	SML 080085	JLG 3	Not opened	25/04/2022	\$ 0	\$ 19,540
216	SML 110025	JLG 5	Open	10/02/2024	\$ 47,724	\$ 79,690
216	SML 110026	JLG 6	Open	10/04/2022	\$ 54,374	\$ 77,540
216	SML 110045	JLG 7	Open	17/03/2025	\$ 47,333	\$ 57,030
216	SML 110046	JLG 8	Open	17/03/2025	\$ 5,868	\$ 44,380
216	SML 110047	JLG 9	Open	17/03/2025	\$ 37,554	\$ 46,110
216	SML 120005	JLG 10	Open	04/10/2027	\$ 92,710	\$ 78,110
216	SML 120006	JLG 11	Not opened	06/10/2027	\$ 0	\$ 25,690
216	SML 120100	JLG 12	Not opened	06/10/2027	\$ 0	\$ 29,650
216	SML100085	JLG 4	Not opened	23/06/2026	\$ 0	\$ 42,010
<i>Excluded Public Pits</i>						
JMB	SML 120027		Open	12/01/2030	\$ 2,000	\$ 2,960
JMB	SML 930040		Depleted	28/07/2013	\$ 1,956	\$ 1,000
JMB	SML 980116		Open	15/02/2009	\$ 2,000	\$ 9,140
JMB	DML 120032		Open	06/01/2023	\$ 14,747	\$ 17,232
JMB	SME 150106		Expired	Expired	\$ 0	\$ 6,000
JMB	SME 200009		Expired	Expired	\$ 0	\$ 6,000
<i>SML 060060 Dispositions</i>						
216	SML 060060		Open	27/05/2024	\$ 44,595	\$ 41,400
216	DLO 170011		Access to SML 060060	27/05/2024	\$ 0	\$ 0

## Private Pits

Holder	Registration Number	Agreement	Status	Expiration	Estimated Reclamation Obligations	Security with AEP
<i>Included Private Pits</i>						
JMB	15048-03-02	Buksa Royalty Agreement	Open	31/12/2023	\$ 25,605	\$ 0
JMB	17395-01-00	Havener Royalty Agreement		08/11/2031	\$ 73,584	\$ 0
JMB	308161-00-00	Shankowski Royalty Agreement		19/10/2028	\$ 179,516	\$ 0
<i>Excluded Private Pits</i>						
JMB	306490-00-00	Hove/Kucy Royalty Agreement	Open	31/03/2021	\$ 32,742	\$ 0
JMB	293051-00-00	MacDonald Royalty Agreement	Open	31/12/2020	\$ 11,748	\$ 0
JMB	149949-00-00	Megley Royalty Agreement	Open	30/09/2023	\$ 173,056	\$ 0
JMB	263318-00-00	Okane Royalty Agreement	Open	30/04/2021	\$ 27,565	\$ 0

**Included Owned Property**

Owner	Legal Description	Status	Estimated Reclamation Obligations	Security with AEP
<i>Included Owned Property</i>				
JMB	NE 35-56-6-W4	Open	\$ 30,703	\$ 14,634

**Aggregate Pits not subject to this Agreement**

Holder	Agreement	Disposition or Registration No.	Expiration	Person responsible for Security
1386194 Alberta Ltd.	Glacier Royalty Agreement	SML 030074	SML 030074 expires 17/10/2021 Glacier Royalty Agreement has expired	1386194 Alberta Ltd.
Tim Kalinski, Jessica Brennan, Matthew Kalinski, Zachariah Kalinski and/or Elisha Kalinski, as applicable ("Kalinko")	Kalinko Royalty Agreement	SML 100101, SML 000034, SML 010005, SML 010032, SML 020014, SML 030046, SML 040122, SML 100016, SML 100050, SML 100057, SML 100075, SML 100112, SML 110037, SML 110044, SML 110065, SML 110072, SML 120004, SML 130003, SML 130017, SML 130124, SML 140015, SML 140026, SML 140046, SML 140080 and SML 150031	Kalinko Royalty Agreement terminated by Kalinko	Kalinko
Lafarge Canada Inc.	Lafarge Royalty Agreements	SML 100043 (Moose River) and 15215-01-01 (Oberg)	Lafarge Royalty Agreements - 01/07/2024 SML 100043 - 06/01/2023	Lafarge Canada Inc.



THIS IS EXHIBIT "E" REFERRED TO IN  
THE AFFIDAVIT OF TYLER PELL  
SWORN BEFORE ME  
THIS 22<sup>ND</sup> DAY OF MARCH, 2021

---

A Commissioner for Oaths in and for the  
Province of Alberta



**Regulatory Assurance  
Capital Region**  
Spruce Grove  
PO Box 4240 (T7X 3B4)  
250 Diamond Avenue  
Spruce Grove AB T7X 4C7  
Telephone: 780-960-8600

February 12, 2021

Investigation No. 35659

Mr. Tyler Pell  
tylerpell@jmbcrush.com  
Aggregate Resource Manager  
JMB Crushing Systems Inc.  
PO Box 6977  
Bonnyville AB T9N 2H4

**Re: Letter of Non-Compliance – Pits regulated under the *Code of Practice* under *Environmental Protection and Enhancement Act (EPEA)* and *Conservation and Reclamation Regulation*, and *Water Act***

Alberta Environment and Parks (AEP) has identified numerous issues of non-compliance with pits registered to JMB Crushing Systems Inc.(JMB) located on private land. On January 26, 2021, AEP conducted a review of the Activities Plans and satellite imagery (attached as Appendix A) on the following Registrations:

**Registration No. 149949-00-00** Megley Pit SE 35-58-16-4  
**Registration No. 15048-03-00** Buksa Pit NE 24-56-7-4  
**Registration No. 17395-01-00** Havener Pit NW 16-56-7-4  
**Registration No. 263318-00-00** O'Kane Pit NE 10-57-6-4  
**Registration No. 293318-00-00** MacDonald Pit SE 34-56-7-4  
**Registration No. 306490-00-00** Kucy Pit NW 17, NE 18 & SE 19-63-9-4  
**Registration No. 308161-00-00** Shankowski Pit SW 21-56-7-4

***Code of Practice* under EPEA and *Conservation and Reclamation Regulation***

AEP has determined that for one or all of the pits listed above, JMB has:

- failed to restore the required security;
- failed to submit the required 5-year report;
- failed to follow the Activities Plan mining sequence with absence of reclamation noted on all pits;
- failed to comply to the boundary approved in the Registration;
- failed to report these non-compliance issues to the Director.

- 2 -

The above are contraventions to the *Code of Practice for Pits* under EPEA and the *Conservation and Reclamation Regulation*:

*"3.2.2 Unless exempted by the Act or the Conservation and Reclamation Regulation, as amended from time to time, no person shall commence or continue an activity at a pit unless the full amount of security for that pit has been provided to the Director, as authorized in writing by the Director."*

*"4.1.1 No person shall conduct any activity at a pit except in accordance with the most recent Activities Plan."*

*"6.1.1 In addition to any other reporting required pursuant to this Code of Practice, the Act or the regulations under the Act, any person carrying out an activity at a pit shall immediately report any contravention of this Code of Practice to: (a) the registration holder; and (b) the Director: (i) by telephone at (780) 422-4505, or (ii) by a method: (A) in compliance with the release reporting provisions of the Act and the regulations; or (B) authorized in writing by the Director."*

*"6.1.4 In addition to any other reporting requirements pursuant to this Code of Practice, the Act or the regulations, the registration holder shall provide a written report to the Director: (a) no later than 5 years after the date of the registration; and (b) every 5 years thereafter until."*

*"6.1.6 No person shall commence or continue an activity at a pit after the applicable date specified in 6.1.4 unless the applicable written report in 6.1.4 has been submitted to the Director."*

### **Water Act**

In addition to the above noted non-compliances, AEP has also observed water bodies, as defined under the *Water Act* on Kucy Pit and Megley Pit. If there has been a disturbance to ground water this could be considered an unauthorized activity and a contravention of section 36(1) of the *Water Act* which states:

*"No person may commence or continue an activity except pursuant to an approval, unless it is otherwise authorized under this Act".*

A review of departmental records indicates that no *Water Act* approval has been applied for or was issued for the above-mentioned activity and as such all work associated with the unauthorized activity must immediately stop.

### **Written Plan to Resolve Non-Compliance**

For each pit, JMB Crushing Systems Inc. is required to submit a written plan to AEP by no later than February 18, 2021:

- detailing its assessment of the pit against the terms and conditions of the Registration and the *Code of Practice for Pits*.
- describing how JMB plans to bring each pit into compliance with the Registration and the *Code of Practice for Pits*, and by when;
- describing how JMB plans on assessing the potential *Water Act* contraventions



- 3 -

Please be advised that enforcement action arising from the above noted contravention of the *Code of Practice for Pits and Water Act* may also be taken without further notice. Should you have any questions regarding this letter, please contact the undersigned at 780-960-8659 or at [april.franks@gov.ab.ca](mailto:april.franks@gov.ab.ca).

Respectfully,



April Franks  
Environmental Protection Officer  
Alberta Environment and Parks

CC. Maxwell Harrision, Compliance Manager (acting)  
Heather Dent, Compliance Manger  
Neil Brad, Regulatory Assurance Manager  
Bryon LevKulich, Mantles Materials Group, Ltd.  
Josh Inglett, Mantles Materials Group, Ltd.  
Vivian Ball, Legal Services Division  
Lee Plumb, Legal Services Division  
Tom Cumming, Growling WLG (Canada) LLP



Burka Pit 1  
NE 24-56-7

E. NE SEC. 24 T. 1 N. R. 07 E. MER. 4

JP





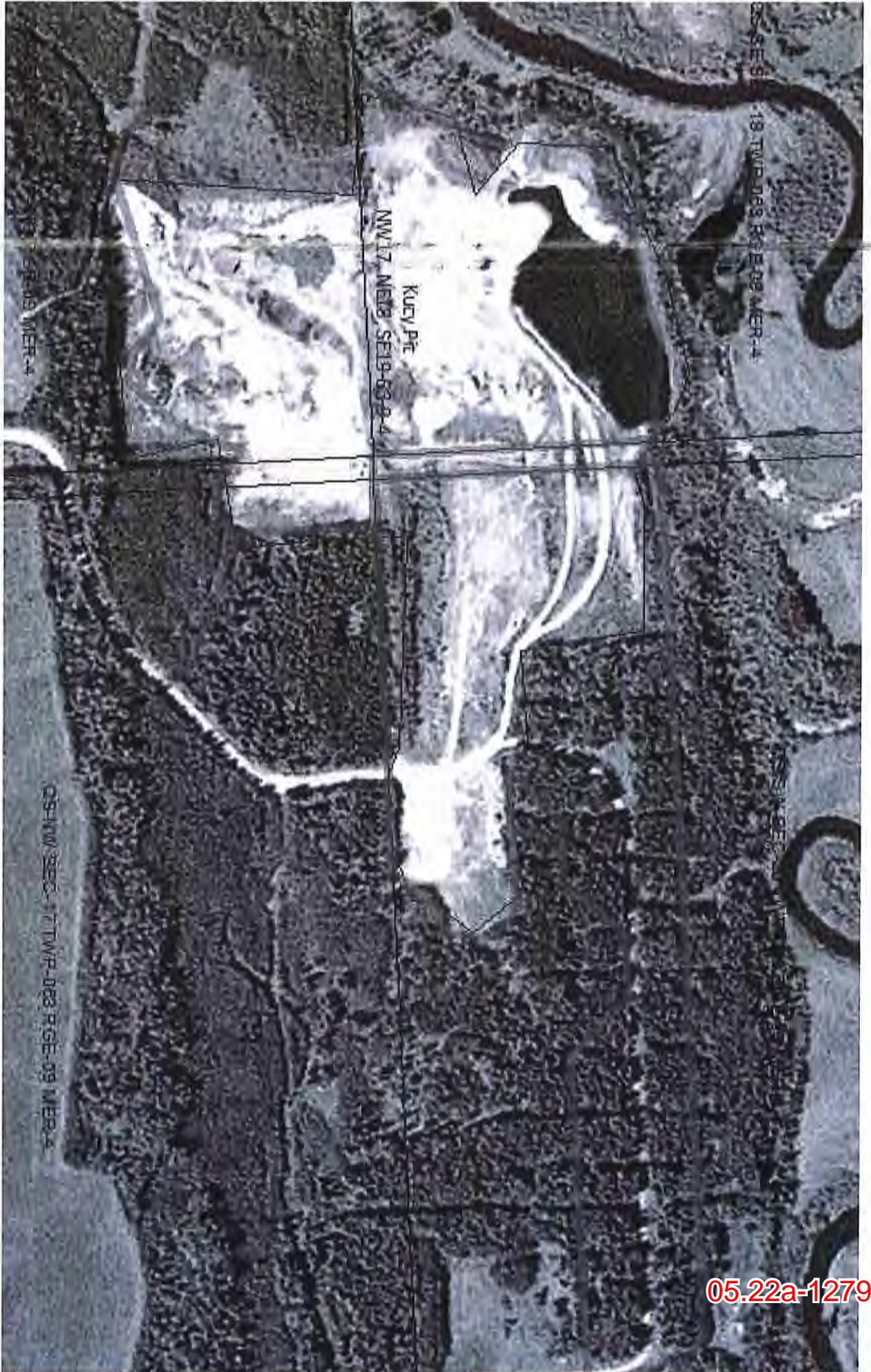
Shankowski Pit  
NW 16-567-4

CS-NW SEC-16 TWP-056 RGE-07 MBR-4

S-SE SEC-20 TWP-056 RGE-07 MBR-4  
Shankowski Pit  
NW 16-567-4

CS-NE SEC-17 TWP-056 RGE-07 MBR-4





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MacDonald Pit  
SE 34-56-7-A

Q. 1 E SEC-34 TWP-056 RGE-07 MER-4





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SEC-10 TWP-057 RGE-08 MER-4

O'Kane Pit  
NE 10-57-6-4

SE SEC-10 TWP-057 RGE-08 MER-4





OS SW SEC-21 TWP-056 RGE-07 MER-4

Shankowski Pit  
SW 21-56-7-4

OS SW SEC-18 TWP-056 RGE-07 MER-4

Havener Pit

JP

THIS IS EXHIBIT "F" REFERRED TO IN  
THE AFFIDAVIT OF TYLER PELL  
SWORN BEFORE ME  
THIS 22<sup>ND</sup> DAY OF MARCH, 2021

---

A Commissioner for Oaths in and for the  
Province of Alberta





**Regulatory Assurance Division**  
 North District  
 2<sup>nd</sup> Flr Provincial Building  
 9503 Beaver Hill Road  
 Lac La Biche, Alberta T0A 2C0  
 Phone: (780) 623-5240  
[www.aep.alberta.ca](http://www.aep.alberta.ca)

Inv. No. 35659

February 23, 2021

JMB Crushing Systems Inc.  
 PO Box 6977  
 Bonnyville, AB T9N 2H4  
 Via Email: [tylerpell@jmbcrush.com](mailto:tylerpell@jmbcrush.com)

Attention: Mr. Tyler Pell  
 Aggregate Resource Manager

### NOTICE OF NON-COMPLIANCE

Alberta Environment and Parks (AEP) has identified numerous instances of JMB Crushing Systems Inc.'s (JMB) non-compliance with pits covered by dispositions held by JMB. On February 17, 2021 AEP finished a review of the terms and conditions of the following dispositions and satellite imagery of the lands covered by the dispositions:

<b>SML 930040</b>	08-23-061-07-W4M	Expired
<b>SML 980116</b>	SW-21-063-12-W4M	Expired
<b>SML 120027</b>	NW-20-074-08-W4M	Active

#### **Public Lands Act**

AEP has determined that as it relates to one or all of the dispositions listed above, JMB has:

- caused, permitted, or allowed an undesirable excavation to exist on public land;
- caused, permitted, or allowed the creation of conditions likely to result in soil erosion on public land; and
- contravened one or more provisions of the dispositions.

The above are contraventions of the *Public Lands Act*:

*54(1)(b) "No person shall cause, permit or suffer the existence on public land of any...excavation or any kind that is undesirable or otherwise in contravention of this Act or the regulations."*

54(1)(f) "No person shall cause, permit or suffer the creation of any condition on public land which is likely to result in soil erosion."

56(1)(n) "A person who as the holder of a disposition, contravenes a provision of the disposition is guilty of an offence."

### **Public Lands Administration Regulation**

AEP has determined that as it relates to one or all of the dispositions listed above, JMB has:

- failed to pay fees owing to AEP;
- failed to comply with the terms and conditions of the disposition;
- failed to adhere to disturbance standards;
- failed to reclaim land to an equivalent land capability following expiry of the disposition;
- allowed or caused loss or damage on the subject land; and
- failed to report these non-compliance issues to the Director.

The above are contraventions of the *Public Lands Administration Regulation*:

21(1)(b) "The holder of a formal disposition must pay promptly and regularly any rent, rate, royalty, charge or fee that is payable by the holder under the formal disposition, the Act or this Regulation."

21(1)(d) "The holder of a formal disposition must comply with the terms and conditions of the formal disposition."

21(1)(e) "The holder of a formal disposition must comply with any disturbance standards applicable to the formal disposition or the subject land."

21(1)(f) "The holder of a formal disposition must, on the expiry, cancellation, surrender or abandonment of the formal disposition, reclaim the subject land to an equivalent land capability."

21(1)(g) "The holder of a formal disposition shall not cause or allow unauthorized loss or damage on the subject land."

165(1) "A person responsible for a reportable event must report the event to the Department as soon as possible and in any event not later than 7 days after the person became aware, or should reasonably have become aware, of its occurrence."

AEP's investigation into potential other contraventions of the *Public Lands Act* and *Public Lands Administration Regulation* are ongoing.

### **Written Plan to Resolve Non-Compliance**

For each disposition listed above, JMB Crushing Systems Inc. is required to submit a written plan



to AEP by no later than **February 26, 2021**:

- detailing its assessment of the disposition against the terms and conditions of the disposition, the *Public Lands Act* and the *Public Lands Administration Regulation*;
- describing how JMB plans to bring each disposition into compliance with the *Public Lands Act*, *Public Lands Administration Regulation*, and the terms and conditions of the disposition, including a timeline to completion;
- stating its immediate plans to operate the pit on the lands contained in SML 120027.

Please be advised that enforcement action arising from the above mentioned contraventions may be taken without further notice. Should you have any questions, please contact the undersigned at 780-623-5483 or by email at [nathan.polturak@gov.ab.ca](mailto:nathan.polturak@gov.ab.ca).

Respectfully,



Nathan Polturak, P.Biol.  
Environmental Protection Officer  
Regulatory Assurance Division – North District

CC: Heather Dent, Compliance Manager  
Maxwell Harrison, Compliance Manager (acting)  
Neil Brad, Regulatory Assurance Manager  
Bryon LevKulich, Mantles Materials Group Ltd.  
Josh Inglett, Mantles Materials Group Ltd.  
Tom Cumming, Gowling WLG (Canada) LLP



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Phone: (780) 623-5240  
[www.aep.alberta.ca](http://www.aep.alberta.ca)

Inv. No. 35659

February 23, 2021

2161889 Alberta Ltd.  
PO Box 6977  
Bonnyville, AB T9N 2H4  
Via Email: [tylerpell@jmbcrush.com](mailto:tylerpell@jmbcrush.com)

Attention: Mr. Tyler Pell  
Aggregate Resource Manager

### NOTICE OF NON-COMPLIANCE

Alberta Environment and Parks (AEP) has identified numerous instances of 2161889 Alberta Ltd.'s (216) non-compliance with the pit covered by SML 060060. On February 17, 2021 AEP finished a review of the terms and conditions of SML 060060 and satellite imagery of the lands covered by SML 060060.

#### **Public Lands Act**

AEP has determined that as it relates to SML 060060, 216 has:

- caused, permitted, or allowed loss or damage to public land;
- caused, permitted, or allowed the creation of conditions likely to result in soil erosion on public land; and
- contravened one or more provisions of the disposition.

The above are contraventions of the *Public Lands Act*:

*54(1)(c) "No person shall cause, permit or suffer the existence on public land of any condition that may cause loss or damage to the public land."*

*54(1)(f) "No person shall cause, permit or suffer the creation of any condition on public land which is likely to result in soil erosion."*

*56(1)(n) "A person who as the holder of a disposition, contravenes a provision of*



*the disposition is guilty of an offence."*

### **Public Lands Administration Regulation**

AEP has determined that as it relates to SML 060060, 216 has:

- failed to pay fees owing to AEP;
- failed to comply with the terms and conditions of the disposition;
- failed to adhere to disturbance standards;
- allowed or caused loss or damage on the subject land; and
- failed to report these non-compliance issues to the Director.

The above are contraventions of the *Public Lands Administration Regulation*:

*21(1)(b) "The holder of a formal disposition must pay promptly and regularly any rent, rate, royalty, charge or fee that is payable by the holder under the formal disposition, the Act or this Regulation."*

*21(1)(d) "The holder of a formal disposition must comply with the terms and conditions of the formal disposition."*

*21(1)(g) "The holder of a formal disposition shall not cause or allow unauthorized loss or damage on the subject land."*

*165(1) "A person responsible for a reportable event must report the event to the Department as soon as possible and in any event not later than 7 days after the person became aware, or should reasonably have become aware, of its occurrence."*

AEP's investigation into potential other contraventions of the *Public Lands Act* and the *Public Lands Administration Regulation* are ongoing.

### **Water Act**

In October 2020, AEP conducted an inspection of SML 060060 and identified an end pit lake present at the disposition. On February 17, 2021, AEP confirmed the existence of the end pit lake through satellite imagery. Based on a review of its databases, AEP determined that no authorization has been issued for the creation of a waterbody at this location. This is a contravention of section 36(1) of the *Water Act*, which states:

*"No person may commence or continue an activity except pursuant to an approval, unless it is otherwise authorized under this Act."*

### **Written Plan to Resolve Non-Compliance**

For SML 060060, 2161889 Alberta Ltd. is required to submit a written plan to AEP by no later than **February 26, 2021**:

- detailing its assessment of the disposition against the terms and conditions of SML 060060, the *Public Lands Act* and the *Public Lands Administration Regulation*;
- describing how 216 plans to bring the disposition into compliance with the *Public Lands Act*, *Public Lands Administration Regulation*, and the terms and conditions of the disposition, including a timeline to completion; and
- stating its immediate plans to operate the pit on the lands contained in SML 060060.

Please be advised that enforcement action arising from the above mentioned contraventions may be taken without further notice. Should you have any questions, please contact the undersigned at 780-623-5483 or by email at [nathan.polturak@gov.ab.ca](mailto:nathan.polturak@gov.ab.ca).

Respectfully,



Nathan Polturak, P.Biol.  
Environmental Protection Officer  
Regulatory Assurance Division – North District

CC: Heather Dent, Compliance Manager  
Neil Brad, Regulatory Assurance Manager  
Maxwell Harrison, Compliance Manager (acting)  
Bryon LevKulich, Mantles Materials Group Ltd.  
Josh Inglett, Mantles Materials Group Ltd.  
Tom Cumming, Gowling WLG (Canada) LLP



THIS IS EXHIBIT "G" REFERRED TO IN  
THE AFFIDAVIT OF TYLER PELL  
SWORN BEFORE ME  
THIS 22<sup>ND</sup> DAY OF MARCH, 2021

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A Commissioner for Oaths in and for the  
Province of Alberta



JMB Crushing Systems  
P.O. Box 6977  
Bonnyville, AB T9N 2H4

February 24, 2021

April Franks  
Environmental Protection Officer  
Regional Compliance  
Environment and Parks  
1st fl 250 Diamond Avenue  
Spruce Grove, AB T7X 4C7

**Re: Written Plan to Resolve Non-Compliances – Investigation No. 35659**  
**Buksa 15048-03-02, Havener 17395-01-00, Kucy 306490-00-00, MacDonald 293051-00-00,**  
**Megley 149949-00-00, Okane 263318-00-00,**

This letter is submitted by JMB Crushing Systems Inc. ("JMB") in response to your February 12, 2021 letter in which Alberta Environment and Parks ("AEP") required a written plan (the "Plan") to be submitted by February 18, 2021. Further clarification of the letter and the requirements were discussed during a follow up meeting with AEP and JMB on February 16, 2021. An extension to February 24, 2021 was requested by JMB after the meeting and granted by AEP.

As you are aware, pursuant to an order of the Court of Queen's Bench of Alberta (the "Court") under the *Companies' Creditors Arrangement Act* (the "CCAA") made on May 1, 2020, JMB and its subsidiary, 2161889 Alberta Ltd. ("216"), were granted protection from their creditors and FTI Consulting Canada Inc. was appointed as their monitor (the "Monitor"). The Court subsequently approved a sale and investment solicitation procedure, under which the Monitor and a sale advisor marketed the assets of JMB and 216. The only viable proposal to purchase certain core assets of JMB and 216 was set out in a bid submitted by Mantle Resources Group, Ltd. ("Mantle"). Pursuant to an asset purchase agreement dated September 28, 2020 between JMB and 216 as vendors and Mantle as purchaser, and a plan of arrangement filed by JMB and Mantle, the core assets of JMB and 216 were to be vested in Mantle, Mantle was to assume specific liabilities, and the remaining assets and liabilities of JMB were to be vested in 216.

Mantle, JMB and 216 intend to amend and restate the purchase agreement and plan of arrangements such that a new corporation will be incorporated ("ResidualCo"), JMB and 216 will retain their respective public lands dispositions and registrations under the *Environmental Protection and Enhancement Act* (the "EPEA") and the majority of their core assets that were previously to be vested in Mantle, and certain residual non-regulated assets and all non-assumed liabilities will be vested in ResidualCo. The effect of



JMB Crushing Systems  
P.O. Box 6977  
Bonnyville, AB T9N 2H4

this is that Mantle and JMB would be subsidiaries of RLF Canada Holdings Limited, 216 would remain a subsidiary of JMB, JMB and 216 would emerge as solvent companies from the CCAA proceedings, and Mantle would fund the combined business of the three corporations. The revised transaction contemplates that replacement security will be provided for the pits subject to EPEA registration nos. 15048-03-02, 17395-01-00, 306490-00-00, 293051-00-00, 149949-00-00, 263318-00-00 and 308161-00-00.

As previously discussed with you, in order to enable a supply contract with the Municipal District of Bonnyville No. 87 to be performed, JMB is required to commence operations in the Shankowski pit (registration no. 308161-00-00), and therefore Mantle will provide the funds to JMB to permit this security to be posted in cash form. Also, a revised Activity Plan addressing the non-compliances is to be immediately filed so that the registration can be put into good standing. This is subject to a letter sent concurrently with this letter.

Mantle is exiting CCAA under challenging market conditions and without a sales backlog. Current and first year financial pressures play a factor in financing the outstanding reclamation. Mantle will perform progressive reclamation on the pits as production is performed. As markets and sales improve there will be opportunity to align reclamation implementation with crushing operations. This approach takes advantages of the economies of scale with heavy equipment and personnel already on site. Fully addressing the current volume of outstanding reclamation for all the pits is proposed to take four years with some pits only taking three years. Reclamation in the first year of operations will be of a smaller scale on the private land pits and each year after that will increase to meet, in some cases, a four-year timeframe. General details are presented below, and further detail will be presented in each individual Updated Activity Plan ("UAP") submission in relation to any unique technical details of operations and reclamation.

With the potential June 2021 deployment of the new Sand & Gravel framework and digital platform, all required UAP's applications are proposed to be submitted by May 31, 2021.

Updated reclamation security amounts will be submitted as part of AEP's typical UAP approval process.





JMB Crushing Systems  
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The following criteria was used for the assessment and planning of each individual pit non-compliance and/or issue:

Assessment

- Desktop review of the current conditions of the pit.
- Review current Activity Plan to compare against current conditions.
- Determination of issue and/or further detailing of non-compliance and when it likely occurred.

Plans to address issues and bring pit into compliance

- List out tasks that, when implemented, go towards getting the pit back into compliance and/or address issues.

**Written Plan Information by Pit**

Buksa 15048-03-02

Assessment of Pit

- Non-compliance: security
- 2017 UAP covers current disturbance area.
- ~3.5 ha of the 17.6 ha of COP registration area is reclaimed.

Plan to bring pit into compliance

- Post security.

Timeline

- Post security as part of the closing of CCAA court proceedings.

Havener 17395-01-00

Assessment of Pit

- Non-compliances: security, boundary, 5 year report
- Large disturbance area inside and outside registration boundary.
- Boundary non-compliance, sequencing and improved progressive reclamation need to be addressed and updated through an UAP submission.
- 20% of total disturbed area is revegetated as a form of temporary reclamation.

A handwritten signature in black ink, appearing to be the initials 'JR'.



JMB Crushing Systems  
 P.O. Box 6977  
 Bonnyville, AB T9N 2H4

#### Plan to bring into compliance

- UAP submission.
- Post security.
- Submit 5 year report.
- Implementation of sequencing and reclamation based on UAP.

#### Timeline

- 5 year report submitted February 18, 2021.
- UAP application submission - May 31, 2021.
- Post security as part of the closing of CCAA court proceedings – Upon acceptance of the UAP.
- Implementation of operational and reclamation improvements within three years of UAP approval.

#### Scheduling factors

- Frost free resource assessment in disturbed areas.
- Larger amount of reclamation liability and/or effort required to address issues.
- First year budget and annual budgeting for the foreseeable future .
- Development, submission, and AEP review time for final approval of an UAP application before operations and improved reclamation can be implemented.

#### Kucy 306490-00-00

##### Assessment of Pit

- Non-compliances: security, boundary, Water Act
- Boundary presented by AEP is incorrect and there are no JMB operations in SW 20-63-09-W4.
- Working in the water table and an end pit water body design is documented in the current approved Activities Plan (2012 approval). Also referenced is bailing as a method of the working in the water table and no requirement for a Water Act approvals based on the *Guide to the code of practice for pits*.
- Current water body surface area is 1.5 ha, approved area in Activities Plan is 0.6 ha.
- Aside from the operations outside the registration boundary, the mining sequence was followed but not completed.



JMB Crushing Systems  
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Bonnyville, AB T9N 2H4

#### Plan to bring into compliance

- UAP submission for reclamation.
- Post security.
- Implementation of final reclamation based on UAP.
- Work with AEP to determine final Water Act approval requirements for designed end pit lake or filling in water body.

#### Timeline

- UAP application submission - May 31, 2021.
- Water Act submission – TBD in 2021 based on results of consultation with AEP.
- Post security as part of the closing of CCAA court proceedings – Upon acceptance of the UAP.
- Implementation of final reclamation within three years of UAP approval.

#### Scheduling factors

- First year budget and annual budgeting for the foreseeable future.
- Effort and time to receive approval from landowners for final reclamation plan as there will be no Royalty Agreement in place which gives us the right to access the land for and reclamation.
- Due diligence and frost free testing of resource by 3rd party (Urlacher Construction) that has an interest in taking over the registration of the pit.
- Development, submission, and AEP review time for final approval of an UAP application before reclamation can be implemented.
- Frost free assessment of pit waterbodies and the typical time period to acquire the applicable Water Act approvals.

#### MacDonald 293051-00-00

##### Assessment of Pit

- Non-compliances: security, boundary
- UAP application was submitted in 2018 to formally address boundary non-compliance and update mining plans. The UAP itself was reviewed by Stephen Abioye, AEP and only the submission of the updated security amount to AEP was required to have the registration formally updated. JMB was unable to provide additional funds to cover off the updated security amount. May 1<sup>st</sup>, 2020 JMB sought and obtained an initial order from the Court of





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 Bonnyville, AB T9N 2H4

the Queen's Bench of Alberta under the CCAA. The 2018 UAP application was withdrawn May 22, 2020 on the advice of Stephen.

- Current disturbance used for inventory storage and needing reclamation is ~5.7 ha.

Plan to bring into compliance

- UAP re-submission for final operations and reclamation.
- Post security.

Timeline

- UAP application submission - March 31, 2021.
- Post security as part of the closing of CCAA court proceedings – Upon acceptance of the UAP.
- Implementation of final reclamation within three years of UAP approval.

Scheduling factors

- Existing inventory and likelihood of selling it within two years.
- Effort and time to receive approval from landowner for final operations and reclamation plan as there is no Royalty Agreement in place which gives us the right to access the land.

#### Megley 149949-00-00

Assessment of Pit

- Non-compliances: security, boundary, Water Act
- Boundary non-compliance, sequencing, and final reclamation need to be addressed and updated through an UAP submission.
- The creation of a water body and working in the water table in the east were not approved or applied for under the Water Act.
- Water body was not proposed in current Activities Plan.
- Approximately 40% of the total pit disturbance inside and outside of the registration boundary has already been reclaimed and harvested as a commercial crop by a local farmer.

Plan to bring into compliance

- UAP submission for reclamation.
- Post security.
- Implementation of final reclamation based on UAP.



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- Work with AEP to determine final Water Act approval requirements for filling in created water body.

#### Timeline

- UAP application submission – May 31, 2021.
- Post security as part of the closing of CCAA court proceedings – Upon acceptance of the UAP.
- Water Act submission – TBD based on results of consultation with AEP.
- Implementation of final reclamation within three years of UAP approval.

#### Scheduling factors

- First year budget and annual budgeting for the foreseeable future.
- Effort and time to receive approval from landowner for final reclamation plan even though there is a Royalty Agreement in place which gives us the right to access the land for and reclamation.
- Development, submission, and AEP review time for final approval of an UAP application before reclamation can be implemented.
- Frost free assessment of pit waterbodies and the typical time period to acquire the applicable Water Act approvals.
- Larger amount of reclamation liability and/or effort required to address issues.

#### Okane 263318-00-00

##### Assessment of Pit

- Non-compliances: security, boundary, 5 year report
- Of the 8 ha of original registration area, approximately 5.1 ha has been reclaimed.
- The current disturbed area requiring reclamation is 6.8 ha.
- Inside the registration area the mining sequence was followed.

##### Plan to bring into compliance

- UAP submission for reclamation.
- Post security.
- Implementation of final reclamation based on UAP.

##### Timeline

- 5 year report submitted February 18, 2021.



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- 
- UAP application submission – April 30, 2021.
  - Post security as part of the closing of CCAA court proceedings – Upon acceptance of the UAP.
  - Implementation of final reclamation within 3 years of UAP approval.

Scheduling factors

- First year budget and annual budgeting for the foreseeable future.
- Effort and time to receive approval from new landowner for final reclamation plan even though there is a Royalty Agreement in place which gives us the right to access the land for and reclamation.
- Development, submission, and AEP review time for final approval of an UAP application before final reclamation can be implemented.

See attached table that summarizes the unique details of reported non-compliances and maps showing the current registration boundary and 2020 imagery.

If you have any questions please contact the undersigned.

Regards,

A handwritten signature in black ink that reads 'Tyler Pell'.

Tyler Pell  
Aggregates Resource Manager  
JMB Crushing Systems Inc.  
[tylerpell@jmbcrushing.com](mailto:tylerpell@jmbcrushing.com)  
1.780.815.0139





JMB Crushing Systems  
P.O. Box 6977  
Bonnyville, AB T9N 2H4

February 24, 2021

April Franks  
Environmental Protection Officer  
Regional Compliance  
Environment and Parks  
1st fl 250 Diamond Avenue  
Spruce Grove, AB T7X 4C7

**Re: Written Plan to Resolve Non-Compliances – Investigation No. 35659  
Shankowski 308161-00-00**

This letter is submitted by JMB Crushing Systems Inc. (“JMB”) in response to your February 12, 2021 letter in which Alberta Environment and Parks (“AEP”) required a written plan (the “Plan”) to be submitted by February 18, 2021. Further clarification of the letter and the requirements were discussed during a follow up meeting with AEP and JMB on February 16, 2021. An extension to February 24, 2021 was requested by JMB after the meeting and granted by AEP.

As previously discussed with you, in order to enable a supply contract with the Municipal District of Bonnyville No. 87 to be performed, JMB is required to commence operations in the Shankowski pit (registration no. 308161-00-00), and therefore Mantle will provide the funds to JMB to permit this security to be posted in cash form. Also, a revised Activity Plan addressing the non-compliances is to be immediately filed so that the registration can be put into good standing.

As you are aware, pursuant to an order of the Court of Queen’s Bench of Alberta (the “Court”) under the *Companies’ Creditors Arrangement Act* (the “CCAA”) made on May 1, 2020, JMB and its subsidiary, 2161889 Alberta Ltd. (“216”), were granted protection from their creditors and FTI Consulting Canada Inc. was appointed as their monitor (the “Monitor”). The Court subsequently approved a sale and investment solicitation procedure, under which the Monitor and a sale advisor marketed the assets of JMB and 216. The only viable proposal to purchase certain core assets of JMB and 216 was set out in a bid submitted by Mantle Resources Group, Ltd. (“Mantle”). Pursuant to an asset purchase agreement dated September 26, 2020 between JMB and 216 as vendors and Mantle as purchaser, and a plan of arrangement filed by JMB and Mantle, the core assets of JMB and 216 were to be vested in Mantle, Mantle was to assume specific liabilities, and the remaining assets and liabilities of JMB were to be vested in 216.

JP



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Mantle, JMB and 216 intend to amend and restate the purchase agreement and plan of arrangements such that a new corporation will be incorporated ("ResidualCo"), JMB and 216 will retain their respective public lands dispositions and registrations under the *Environmental Protection and Enhancement Act* (the "EPEA") and the majority of their core assets that were previously to be vested in Mantle, and certain residual non-regulated assets and all non-assumed liabilities will be vested in ResidualCo. The effect of this is that Mantle and JMB would be subsidiaries of RLF Canada Holdings Limited, 216 would remain a subsidiary of JMB, JMB and 216 would emerge as solvent companies from the CCAA proceedings, and Mantle would fund the combined business of the three corporations. The revised transaction contemplates that replacement security will be provided for the pits subject to EPEA registration nos. 15048-03-02, 17395-01-00, 306490-00-00, 293051-00-00, 149949-00-00, 263318-00-00 and 308161-00-00.

Mantle is exiting CCAA under challenging market conditions and without a sales backlog. Current and first year financial pressures play a factor in financing the outstanding reclamation. Mantle will perform progressive reclamation on the Shankowski pit as production is performed. As markets and sales improve there will be opportunity to align reclamation implementation with crushing operations. This approach takes advantages of the economies of scale with heavy equipment and personnel already on site. Fully addressing the current volume of outstanding reclamation for all this pit is proposed to take four years. Reclamation in the first year of operations will be of a smaller scale on the pit and each year after that will increase to meet the four-year timeframe. General details are presented below, and further detail will be presented in the Updated Activity Plan ("UAP") submission in relation to any unique technical details of operations and reclamation.

Reclamation security will be posted as part of AEP's typical UAP approval process.

The following criteria was used for the assessment and planning of the Shankowski pit non-compliance and outstanding mining sequencing issue:

#### Assessment

- Desktop review of the current conditions of the pit
- Review current Activity Plan to compare against current conditions.
- Determination of issue and/or further detailing of non-compliance and when it likely occurred



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Plans to address issues and bring pit into compliance

- List out tasks that, when implemented, go towards getting the pit back into compliance and/or address issues

Shankowski 308161-00-00

Assessment of Pit

- Non-compliances: security, boundary
- Large disturbance area inside and outside registration boundary
- Boundary non-compliance, sequencing, and improved progressive reclamation need to be addressed and updated through an UAP submission
- Previous disturbed area in the NW was disturbed prior to the registration being transferred to JMB late 2018. This area was included in the February 18, 2020 UAP submission.
- UAP application was submitted in 2018 to cover boundary non-compliance and update mining plans. The UAP was in the process of being reviewed by Stephen Abioye, AEP and a SIR response was being prepared by JMB but on May 1<sup>st</sup>, 2020 JMB sought and obtained an initial order from the Court of the Queen's Bench of Alberta under the CCAA. The 2018 UAP application was withdrawn May 22, 2020 on the advice of Stephen Abioye.
- There is no reclamation on the current 23 ha of disturbed area inside and outside of the registration area

Plan to bring into compliance

- UAP submission
- Post security
- Implementation of sequencing and reclamation based on approved UAP

Timeline

- UAP application submission – Week of February 22 to 26, 2021
- Replace security as part of the closing of CCAA court proceedings – Once UAP is approved
- Implementation of operational and reclamation improvements within four years of UAP approval

Scheduling factors

- Amount of reclamation liability and/or effort required to address issues
- First year budget and annual budgeting for the foreseeable future
- Frost free resource assessment in disturbed areas

A handwritten signature in black ink, appearing to be 'JP', is located at the bottom right of the page.





JMB Crushing Systems  
P.O. Box 6977  
Bonnyville, AB T9N 2H4

- Approval from landowner for updated operational plans and reclamation even though there is a royalty agreement in place which gives us the right to access the land for and reclamation

See attached table that summarizes the unique details of reported non-compliances and map showing the current registration boundary laid over 2020 imagery.

If you have any questions please contact the undersigned.

Regards,

A handwritten signature in black ink, appearing to read 'Tyler Pell'.

Tyler Pell  
Aggregates Resource Manager  
JMB Crushing Systems Inc.  
[tylerpell@jmbcrushing.com](mailto:tylerpell@jmbcrushing.com)  
1.780.815.0139

JP

THIS IS EXHIBIT "H" REFERRED TO IN  
THE AFFIDAVIT OF TYLER PELL  
SWORN BEFORE ME  
THIS 22<sup>ND</sup> DAY OF MARCH, 2021

---

A Commissioner for Oaths in and for the  
Province of Alberta

JMB Crushing Systems Inc.  
P.O. Box 6977  
Bonnyville, AB T9N 2H4

---

February 26, 2021

Nathan Polturak  
Regulatory Assurance Division  
North District  
2nd Flr Provincial Building  
9503 Beaver Hill Road  
Lac La Biche, Alberta T0A 2C0  
Phone: (780) 623-5240

**Re: Written Plan to Resolve Non-Compliances – Investigation No. 35659  
SML 930040, SML 980116, SML 120027**

This letter is submitted by JMB Crushing Systems Inc. (“JMB”) in response to your February 23, 2021 letter in which Alberta Environment and Parks (“AEP”) required a written plan (the “Plan”) to be submitted by February 26, 2021. Further clarification of the letter and the requirements were discussed during a follow up meeting between yourself and Tyler Pell on February 23, 2021.

As you may be aware, pursuant to an order of the Court of Queen’s Bench of Alberta (the “Court”) under the *Companies’ Creditors Arrangement Act* (the “CCAA”) made on May 1, 2020, JMB and its subsidiary, 2161889 Alberta Ltd. (“216”), were granted protection from their creditors and FTI Consulting Canada Inc. was appointed as their monitor (the “Monitor”). The Court subsequently approved a sale and investment solicitation procedure, under which the Monitor and a sale advisor marketed the assets of JMB and 216. The only viable proposal to purchase certain core assets of JMB and 216 was set out in a bid submitted by Mantle Resources Group, Ltd. (“Mantle”). Pursuant to an asset purchase agreement dated September 28, 2020 between JMB and 216 as vendors and Mantle as purchaser, and a plan of arrangement filed by JMB and Mantle, the core assets of JMB and 216 were to be vested in Mantle, Mantle was to assume specific liabilities, and the remaining assets and liabilities of JMB were to be vested in 216.

Mantle, JMB and 216 intend to amend and restate the purchase agreement and plan of arrangements such that a new corporation will be incorporated (“ResidualCo”), JMB and 216 will retain their respective public lands dispositions and registrations under the *Environmental Protection and Enhancement Act* (the “EPEA”) and the majority of their core assets that were previously to be vested in Mantle, and certain residual non-regulated assets and all non-assumed liabilities will be vested in ResidualCo. The effect of this is that Mantle and JMB would be subsidiaries of RLF Canada Holdings Limited, 216 would remain a



JMB Crushing Systems Inc.  
P.O. Box 6977  
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subsidiary of JMB, JMB and 216 would emerge as solvent companies from the CCAA proceedings, and Mantle would fund the combined business of the three corporations.

JMB and 216 are exiting CCAA under challenging market conditions and without a sales backlog. Current and first year financial pressures play a factor in financing the outstanding reclamation. Mantle will perform progressive reclamation on a number of pits as production is performed. As markets and sales improve there will be opportunity to align reclamation implementation with active operations. This approach takes advantages of the economies of scale with heavy equipment and personnel already in the same general area. Fully addressing the current volume of outstanding reclamation for all the pits is proposed to take four years with some pits only taking three years. Reclamation in the first year of operations will be of a smaller scale on numerous pits and each year after that will increase to meet, in some cases, a four-year timeframe. Details are presented below, and further detail will be presented in any applicable regulatory submissions.

The following criteria was used for the assessment and planning of each individual pit non-compliance and/or issue:

#### Assessment

- Desktop review of the current conditions of the pit.
- Review current Conservation and Reclamation Business Plan (CRBP) to compare against current conditions.
- Determination of issue and/or further detailing of non-compliance and when it likely occurred.

#### Plans to address issues and bring pit into compliance

- List out tasks that, when implemented, go towards getting the pit back into compliance and/or address issues.

JMB Crushing Systems Inc.  
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## Written Plan Information

### SML 930040

#### Assessment of Pit

- Disposition area is 0.87 ha.
- Disturbed area is 0.45 ha.
- Disturbed area has no topsoil.
- Site assessment Oct 2020 showed a possible stockpile of salvaged soils in the north portion of the SML.
- JMB has been contacted by Randy Batke of Bonnyville as an interested party to take over the SML as a source of sand for rodeo grounds.

#### Plan to bring pit into compliance

- Green up assessment of stockpile quality and quantity to determine viability for final reclamation.
- Assignment of SML to interested 3<sup>rd</sup> party.

#### Timeline

- Green up assessment - 2021.
- Assignment - 2021

#### Scheduling factors

- Closing date of CCAA court proceedings.
- Consultation with AEP and Randy on options for assigning the SML to Randy.

### SML 980116

#### Assessment of Pit

- Disposition is 5.85 ha and is overlapped by LOC 890970.  
3.3 ha has been disturbed and revegetated.
- Cows from GRL36298 have been entering and using the SML on a very regular basis.
- Gate installed on access road entering from highway.
- SML is fenced along the highway right-of-way boundary.

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- 
- A small stockpile along the treed boundary in the NW portion of the disturbed area of the SML needs confirmation of its composition. The pile is revegetated.

Plan to bring pit into compliance

- Since the site is used by the adjacent GRL holder for grazing his cows, JMB is proposing the SML be added to the area of GRL 36298 as is.
- Once the stockpile is confirmed of its composition, move to location along the LOC that is accessible for final reclamation of the LOC.

Timeline

- Finalize pile – May 15, 2021
- Convert to GRL and move pile - 2021

Scheduling factors

- Consultation time with AEP.
- Closing date of CCAA court proceedings.

SML 120027

Assessment of Pit

- Pit is 99% reclaimed and revegetated.
- EZE was constructed before SML was disturbed. It is believed that there has been no measurable effect on the EZE from the development and operations of the SML.

Plan to bring pit into compliance

- JMB believes the pit is in compliance.
- Green up site assessment as regular post reclamation follow up.

Timeline

- Green up 2021.

Scheduling factors

- Green up conditions in 2021.

JR



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Bonnyville, AB T9N 2H4

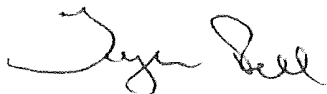
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Immediate plans to operate the pit

- The pit is exhausted and 99% of reclamation is completed. There are no plans to operate the pit for production.

If you have any questions please contact the undersigned.

Regards,



Tyler Pell  
Aggregates Resource Manager  
JMB Crushing Systems Inc.  
[tylerpell@jmbcrushing.com](mailto:tylerpell@jmbcrushing.com)  
1.780.815.0139



THIS IS EXHIBIT "I" REFERRED TO IN  
THE AFFIDAVIT OF TYLER PELL  
SWORN BEFORE ME  
THIS 22<sup>ND</sup> DAY OF MARCH, 2021

---

A Commissioner for Oaths in and for the  
Province of Alberta

2161889 Alberta Ltd  
P.O. Box 6977  
Bonnyville, AB T9N 2H4

---

February 26, 2021

Nathan Polturak  
Regulatory Assurance Division  
North District  
2nd Flr Provincial Building  
9503 Beaver Hill Road  
Lac La Biche, Alberta T0A 2C0  
Phone: (780) 623-5240

**Re: Written Plan to Resolve Non-Compliances – Investigation No. 35659  
SML 060060**

This letter is submitted by 2161889 Alberta Ltd. ("216") in response to your February 23, 2021 letter in which Alberta Environment and Parks ("AEP") required a written plan (the "Plan") to be submitted by February 26, 2021. Further clarification of the letter and the requirements were discussed during a follow up meeting between yourself and Tyler Pell on February 23, 2021.

As you may be aware, pursuant to an order of the Court of Queen's Bench of Alberta (the "Court") under the *Companies' Creditors Arrangement Act* (the "CCAA") made on May 1, 2020, JMB and its subsidiary, 2161889 Alberta Ltd. ("216"), were granted protection from their creditors and FTI Consulting Canada Inc. was appointed as their monitor (the "Monitor"). The Court subsequently approved a sale and investment solicitation procedure, under which the Monitor and a sale advisor marketed the assets of JMB and 216. The only viable proposal to purchase certain core assets of JMB and 216 was set out in a bid submitted by Mantle Resources Group, Ltd. ("Mantle"). Pursuant to an asset purchase agreement dated September 28, 2020 between JMB and 216 as vendors and Mantle as purchaser, and a plan of arrangement filed by JMB and Mantle, the core assets of JMB and 216 were to be vested in Mantle, Mantle was to assume specific liabilities, and the remaining assets and liabilities of JMB were to be vested in 216.

Mantle, JMB and 216 intend to amend and restate the purchase agreement and plan of arrangements such that a new corporation will be incorporated ("ResidualCo"), JMB and 216 will retain their respective public lands dispositions and registrations under the *Environmental Protection and Enhancement Act* (the "EPEA") and the majority of their core assets that were previously to be vested in Mantle, and certain residual non-regulated assets and all non-assumed liabilities will be vested in ResidualCo. The effect of this is that Mantle and JMB would be subsidiaries of RLF Canada Holdings Limited, 216 would remain a



2161889 Alberta Ltd  
P.O. Box 6977  
Bonnyville, AB T9N 2H4

---

subsidiary of JMB, JMB and 216 would emerge as solvent companies from the CCAA proceedings, and Mantle would fund the combined business of the three corporations.

JMB and 216 are exiting CCAA under challenging market conditions and without a sales backlog. Current and first year financial pressures play a factor in financing the outstanding reclamation. Mantle will perform progressive reclamation on a number of pits as production is performed. As markets and sales improve there will be opportunity to align reclamation implementation with active operations. This approach takes advantages of the economies of scale with heavy equipment and personnel already in the same general area. Fully addressing the current volume of outstanding reclamation for all the pits is proposed to take four years with some pits only taking three years. Reclamation in the first year of operations will be of a smaller scale on numerous pits and each year after that will increase to meet, in some cases, a four-year timeframe. Details are presented below, and further detail will be presented in any applicable regulatory submissions.

The following criteria was used for the assessment and planning of each individual pit non-compliance and/or issue:

#### Assessment

- Desktop review of the current conditions of the pit.
- o Review current Activity Plan to compare against current conditions.
- o Determination of issue and/or further detailing of non-compliance and when it likely occurred.

#### Plans to address issues and bring pit into compliance

- o List out tasks that, when implemented, go towards getting the pit back into compliance and/or address issues.

2161889 Alberta Ltd  
P.O. Box 6977  
Bonnyville, AB T9N 2H4

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## Written Plan Information

### SML 060060

#### Assessment of Pit

- Non-compliance: Water Act (unauthorized water body)
- The creation of a water body was not authorized under the Water Act or presented in the Conservation and Reclamation Business Plan (CRBP).
- The construction of the water body and all other disturbances existed before 216 was assigned SML 060060 in March 2019.
- JLG Ball Enterprises is believed to be the operator of the pit prior to March 2019.
- 216 has not operated in the water body since being assigned the disposition.
- 216's operations since March 2019 have not increased the overall disturbance footprint of the disposition or further disturbed areas logged of trees but not previously striped of the original root mat. Only a very minor amount of earthworks was completed on area already devoid of topsoil. This was necessary to support the hauling of saleable crushed material produced by the previous operator of the SML.
- Total disposition area 16.77 ha.
  - 3.9 ha - Area with trees removed and original root mat and soils undisturbed.
  - 3.6 ha - Recontoured area with topsoil replaced.
  - 1.2 ha - Recontoured area yet to receive topsoil.
  - 4.1 ha – Disturbed (active operations area)
  - 1.3 ha – Water body
  - 1.2 ha – Disturbed – temporary revegetation
  - 0.5 ha – Soil storage
  - 1.0 ha – Undisturbed
- Evidence of parent materials being washed away past the SML boundary into adjacent undisturbed forest to the south.
- Potential boundary non-compliance in south.

#### Mining sequence

- Timber was harvested over the entire site as one event sometime in 2017.
- Excavation occurred in portions of mining cell #1, #3, and #4.
- Topsoil stripping and excavation was not implemented in mining cell #2. Portions of the other mining cells also have area not stripped of topsoil and excavated.

2161889 Alberta Ltd  
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Bonnyville, AB T9N 2H4

---

Plan to bring pit into compliance

- Engage the services of a legal land surveyor to survey the southern boundary in question. Forward results to AEP for further consultation and possible action.
- Work with AEP to determine final Water Act authorization requirements for filling in the constructed water body.
- Update CRBP as needed.
- Submit non-compliance for construction of water body without authorization.

Timeline

- Non-compliance submission – Week of March 1<sup>st</sup>, 2021.
- Legal survey of southern boundary – Two weeks after closing of CCAA court proceedings.
- Frost free site assessment in relation to erosion concerns and constructed water body – May 15, 2021.
- Water Act submission – TBD in 2021 based on results of consultation with AEP.
- CRBP update submission - TBD in 2021 based on results of consultation with AEP.
- Earthworks to deconstruct water body - TBD in 2021 based on results of consultation with AEP.

Scheduling factors

- Closing date of CCAA court proceedings.

Immediate Plans to operate the pit

- 216 has no immediate plans to operate the pit for production purposes.
- 216 is in negotiations with Skoreyko Crushing Ltd for the assignment of the disposition to Skoreyko Crushing Ltd.

If you have any questions please contact the undersigned.

Regards,



Tyler Pell

Aggregates Resource Manager

JMB Crushing Systems Inc.

[tylerpell@jmbcrushing.com](mailto:tylerpell@jmbcrushing.com)

1.780.815.0139



THIS IS EXHIBIT "J" REFERRED TO IN  
THE AFFIDAVIT OF TYLER PELL  
SWORN BEFORE ME  
THIS 22<sup>ND</sup> DAY OF MARCH, 2021

---

A Commissioner for Oaths in and for the  
Province of Alberta

---

**From:** Nathan Polturak <Nathan.Polturak@gov.ab.ca>  
**Sent:** March 10, 2021 4:51 PM  
**To:** Tyler Pell  
**Cc:** Neil Brad; Heather Dent; Maxwell Harrison; byron.levkulich@rlholdings.com; Cumming, Tom; Josh Inglett  
**Subject:** FW: AEP Response - Written Plan to Resolve Non-Compliance - SML 930040

This message originated from outside of Gowling WLG. | Ce message provient de l'extérieur de Gowling WLG.

With apologies Mr. Pell. Please see the message below.

**Nathan Polturak, P.Biol.**

Environmental Protection Officer  
Regulatory Assurance Division – North District  
Alberta Environment and Parks  
2<sup>nd</sup> Floor, Provincial Building  
9503 Beaverhill Road, Lac La Biche, AB T0A 2C0  
Phone 780-623-5483 / Fax 780-623-4584  
[nathan.polturak@gov.ab.ca](mailto:nathan.polturak@gov.ab.ca)

Classification: Protected A

**From:** Nathan Polturak  
**Sent:** Wednesday, March 10, 2021 4:47 PM  
**Cc:** Neil Brad ([neil.brad@gov.ab.ca](mailto:neil.brad@gov.ab.ca)) <[neil.brad@gov.ab.ca](mailto:neil.brad@gov.ab.ca)>; Heather Dent <[Heather.Dent@gov.ab.ca](mailto:Heather.Dent@gov.ab.ca)>; Maxwell Harrison <[maxwell.harrison@gov.ab.ca](mailto:maxwell.harrison@gov.ab.ca)>; byron.levkulich@rlholdings.com; tom.cumming@gowlingwlg.com; Josh Inglett <[josh.inglett@RLHoldings.com](mailto:josh.inglett@RLHoldings.com)>  
**Subject:** AEP Response - Written Plan to Resolve Non-Compliance - SML 930040

Hello Mr. Pell,

Thank you for providing the requested response. JMB Crushing System Ltd.'s proposed plans contain conditional timelines and outcomes that do not provide the defined, timely, and achievable commitments that AEP requires to be satisfied that the non-compliances will be resolved.

At this time, AEP will have to proceed with alternative regulatory tools in order to ensure these requirements are addressed.

Regards,

**Nathan Polturak, P.Biol.**

Environmental Protection Officer  
Regulatory Assurance Division – North District

Alberta Environment and Parks  
2<sup>nd</sup> Floor, Provincial Building  
9503 Beaverhill Road, Lac La Biche, AB T0A 2C0  
Phone 780-623-5483 / Fax 780-623-4584  
[nathan.polturak@gov.ab.ca](mailto:nathan.polturak@gov.ab.ca)

Classification: Protected A

JP



---

**From:** Nathan Polturak <Nathan.Polturak@gov.ab.ca>  
**Sent:** March 10, 2021 4:47 PM  
**To:** Tyler Pell  
**Cc:** Neil Brad; Heather Dent; Maxwell Harrison; byron.levkulich@rlholdings.com; Cumming, Tom; Josh Inglett  
**Subject:** AEP Response - Written Plan to Resolve Non-Compliance - SML 980116

This message originated from outside of Gowling WLG. | Ce message provient de l'extérieur de Gowling WLG.

---

Hello Mr. Pell,

Thank you for providing the requested response. JMB Crushing System Ltd.'s proposed plans contain conditional timelines and outcomes that do not provide the defined, timely, and achievable commitments that AEP requires to be satisfied that the non-compliances will be resolved.

At this time, AEP will have to proceed with alternative regulatory tools in order to ensure these requirements are addressed.

Regards,

**Nathan Polturak, P.Biol.**  
Environmental Protection Officer  
Regulatory Assurance Division – North District  
Alberta Environment and Parks  
2<sup>nd</sup> Floor, Provincial Building  
9503 Beaverhill Road, Lac La Biche, AB T0A 2C0  
Phone 780-623-5483 / Fax 780-623-4584  
[nathan.polturak@gov.ab.ca](mailto:nathan.polturak@gov.ab.ca)

Classification: Protected A

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**From:** Nathan Polturak <Nathan.Polturak@gov.ab.ca>  
**Sent:** March 10, 2021 4:47 PM  
**Cc:** Neil Brad; Heather Dent; Maxwell Harrison; byron.levkulich@rlholdings.com; Cumming, Tom; Josh Inglett  
**Subject:** AEP Response - Written Plan to Resolve Non-Compliance - SML 930040

This message originated from outside of Gowling WLG. | Ce message provient de l'extérieur de Gowling WLG.

---

Hello Mr. Pell,

Thank you for providing the requested response. JMB Crushing System Ltd.'s proposed plans contain conditional timelines and outcomes that do not provide the defined, timely, and achievable commitments that AEP requires to be satisfied that the non-compliances will be resolved.

At this time, AEP will have to proceed with alternative regulatory tools in order to ensure these requirements are addressed.

Regards,

**Nathan Polturak, P.Biol.**

Environmental Protection Officer  
Regulatory Assurance Division – North District  
Alberta Environment and Parks  
2<sup>nd</sup> Floor, Provincial Building  
9503 Beaverhill Road, Lac La Biche, AB T0A 2C0  
Phone 780-623-5483 / Fax 780-623-4584  
[nathan.polturak@gov.ab.ca](mailto:nathan.polturak@gov.ab.ca)

Classification: Protected A

---

**From:** Nathan Polturak <Nathan.Polturak@gov.ab.ca>  
**Sent:** March 10, 2021 4:47 PM  
**To:** Tyler Pell  
**Cc:** Neil Brad; Heather Dent; Maxwell Harrison; byron.levkulich@rlholdings.com; Cumming, Tom; Josh Inglett  
**Subject:** AEP Response - Written Plan to Resolve Non-Compliance - SML 120027

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This message originated from outside of Gowling WLG. | Ce message provient de l'extérieur de Gowling WLG.

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Hello Mr. Pell,

Thank you for providing the requested response. JMB Crushing System Ltd.'s proposed plans contain conditional timelines and outcomes that do not provide the defined, timely, and achievable commitments that AEP requires to be satisfied that the non-compliances will be resolved.

At this time, AEP will have to proceed with alternative regulatory tools in order to ensure these requirements are addressed.

Regards,

**Nathan Polturak, P.Biol.**  
Environmental Protection Officer  
Regulatory Assurance Division – North District  
Alberta Environment and Parks  
2<sup>nd</sup> Floor, Provincial Building  
9503 Beaverhill Road, Lac La Biche, AB T0A 2C0  
Phone 780-623-5483 / Fax 780-623-4584  
[nathan.polturak@gov.ab.ca](mailto:nathan.polturak@gov.ab.ca)

Classification: Protected A



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**From:** Nathan Polturak <Nathan.Polturak@gov.ab.ca>  
**Sent:** March 10, 2021 4:47 PM  
**To:** Tyler Pell  
**Cc:** Neil Brad; Heather Dent; Maxwell Harrison; byron.levkulich@rlholdings.com; Cumming, Tom; Josh Inglett  
**Subject:** AEP Response - Written Plan to Resolve Non-Compliance - SML 060060

This message originated from outside of Gowling WLG. | Ce message provient de l'extérieur de Gowling WLG.

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Hello Mr. Pell,

Thank you for providing the requested response. 2161889 Alberta Ltd.'s proposed plans contain conditional timelines and outcomes that do not provide the defined, timely, and achievable commitments that AEP requires to be satisfied that the non-compliances will be resolved.

At this time, AEP will have to proceed with alternative regulatory tools in order to ensure these requirements are addressed.

Regards,

**Nathan Polturak, P.Biol.**

Environmental Protection Officer  
Regulatory Assurance Division – North District  
Alberta Environment and Parks  
2<sup>nd</sup> Floor, Provincial Building  
9503 Beaverhill Road, Lac La Biche, AB T0A 2C0  
Phone 780-623-5483 / Fax 780-623-4584  
[nathan.polturak@gov.ab.ca](mailto:nathan.polturak@gov.ab.ca)

Classification: Protected A

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**From:** April Franks <April.Franks@gov.ab.ca>  
**Sent:** March 10, 2021 4:36 PM  
**To:** Tyler Pell  
**Cc:** Josh Inglett; Byron LevKulich (Byron.LevKulich@rlholdings.com); Cumming, Tom  
**Subject:** AEP Response to JMB's written plan package

**Importance:** High

---

This message originated from outside of Gowling WLG. | Ce message provient de l'extérieur de Gowling WLG.

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Hello Mr. Pell,

Thank you for providing the requested response to the February 12, 2021 Notice of Non-Compliance.

JMB proposed plans with regards to MacDonald Pit, the plan contains conditional timelines and outcomes that do not provide the defined, timely, and achievable commitments that AEP requires to be satisfied that the non-compliances will be resolved.

JMB proposed plans with regards to Megley Pit, the plan contains conditional timelines and outcomes that do not provide the defined, timely, and achievable commitments that AEP requires to be satisfied that the non-compliances will be resolved.

JMB proposed plans with regards to Kucy Pit, the plan contains conditional timelines and outcomes that do not provide the defined, timely, and achievable commitments that AEP requires to be satisfied that the non-compliances will be resolved.

JMB proposed plans with regards to Havener Pit, the plan contains conditional timelines and outcomes that do not provide the defined, timely, and achievable commitments that AEP requires to be satisfied that the non-compliances will be resolved.

JMB proposed plans with regards to Buksa Pit, the plan contains conditional timelines and outcomes that do not provide the defined, timely, and achievable commitments that AEP requires to be satisfied that the non-compliances will be resolved.

JMB proposed plans with regards to O'Kane Pit, the plan contains conditional timelines and outcomes that do not provide the defined, timely, and achievable commitments that AEP requires to be satisfied that the non-compliances will be resolved.

At this time, AEP will have to proceed with alternative regulatory tools in order to ensure these requirements are addressed.

Regards,

**April Franks**  
Environmental Protection Officer

Capital - North Region | Regulatory Assurance Division  
Suite #1 250 Diamond Avenue  
Spruce Grove, Alberta T7X 4C7

THIS IS EXHIBIT "K" REFERRED TO IN  
THE AFFIDAVIT OF TYLER PELL  
SWORN BEFORE ME  
THIS 22<sup>ND</sup> DAY OF MARCH, 2021

---

A Commissioner for Oaths in and for the  
Province of Alberta





Regulatory Assurance  
Capital Region  
PO Box 4240 (T7X 3B4)  
250 Diamond Avenue  
Spruce Grove AB T7X 4C7  
Telephone: 780-960-8600

**ENVIRONMENTAL PROTECTION AND ENHANCEMENT ACT**

BEING RSA 2000, c. E-12 (the "Act")

ENVIRONMENTAL PROTECTION ORDER EPO-EPEA-35659-01

JMB Crushing Systems Inc.  
Suite 2300, Bentall 5 550, Burrard Street  
Vancouver BC  
V6C 2B5,  
Canada

Byron Levkulich, Director  
JMB Crushing Systems Inc.  
1400 16<sup>th</sup> Street, Suite 320  
Denver CO 80202  
United States

Aaron Patsch, Director  
JMB Crushing Systems Inc.  
1400 16<sup>th</sup> Street, Suite 320  
Denver CO 80202  
United States

Jeffrey Buck, former Director  
JMB Crushing Systems Inc.  
3439 Keswick Boulevard SW  
Edmonton, AB  
T6W 3B2

Collectively referred to as the "Parties"

WHEREAS JMB Crushing Systems Inc. ("JMB") operates a pit under Registration No. 293051-00-00 located on SE-34-056-07-W4M in the County of St. Paul No.19 (the "MacDonald Pit");

WHEREAS Byron Levkulich and Aaron Patsch are Directors of JMB and Jeffrey Buck is a former Director of JMB ("Parties");

WHEREAS Allan MacDonald owns the land on which the MacDonald Pit is located;

WHEREAS section 2.1.1 of the *Code of Practice for Pits* states "any person who carries out an activity at a pit must do so in accordance with this Code of Practice";

WHEREAS an "activity at a pit" is defined in the *Code of Practice for Pits* to mean the construction, operation or reclamation of a pit;

- 2 -

WHEREAS on January 20, 2020, Alberta Environment and Parks ("AEP") sent an email to JMB stating that the MacDonald Pit security Bond No. BND0015363, in the amount of \$16,695.00, was expiring on March 9, 2020 and AEP had previously on December 3, 2019 requested JMB to provide additional security in the amount of \$60,905.51 for a new total of \$77,600.51;

WHEREAS on May 1, 2020, JMB obtained an initial order from the Court under the *Companies Creditors Arrangement Act* ("CCAA"), R.S.C. 1985, c. C-36, as amended;

WHEREAS on May 22, 2020, JMB withdrew its application submitted to AEP on April 25, 2018 to update the Activities Plan for the MacDonald Pit;

WHEREAS on November 18, 2020, AEP sent a letter to JMB indicating they failed to replace security instruments on 7 pits that were registered to JMB and located on private land, including the MacDonald Pit;

WHEREAS on January 26, 2021, April Franks, an Environmental Protection Officer ("EPO") and Inspector under the *Environmental Protection and Enhancement Act* RSA 2000, c E-12 (the "Inspector"), conducted a review of the MacDonald Pit Activities Plan and 2019 satellite imagery of the area and determined that JMB contravened the *Code of Practice for Pits* by:

- failing to restore the required security as required under section 3.2.2 of the *Code of Practice for Pits*;
- failing to follow the Activities Plan mining sequence including not conducting reclamation noted as required under section 4.1.1 of the *Code of Practice for Pits*;
- failing to comply to the boundary approved in the Registration as required under section 4.1.1 of the *Code of Practice for Pits*;
- failing to report non-compliance issues to the Director as required under section 6.1.1 of the *Code of Practice for Pits*;

WHEREAS reclamation of the disturbed land on MacDonald Pit has not occurred to date;

WHEREAS section 3.2.2 of the *Code of Practice for Pits* states "unless exempted by the Act or the *Conservation and Reclamation Regulation*, as amended from time to time, no person shall commence or continue an activity at a pit unless the full amount of security for that pit has been provided to the Director, as authorized in writing by the Director,"

WHEREAS section 4.1.1 of the *Code of Practice for Pits* states "no person shall conduct any activity at a pit except in accordance with the most recent Activities Plan.;"

WHEREAS section 6.1.1 of the *Code of Practice for Pits* states "in addition to any other reporting required pursuant to this Code of Practice, the Act or the regulations under the Act, any person carrying out an activity at a pit shall immediately report any contravention of this Code of Practice to: (a) the registration holder; and (b) the Director: (i) by telephone at (780) 422-4505, or (ii) by a method:(A) in compliance with the release reporting provisions of the Act and the regulations; or(B) authorized in writing by the Director.;"

WHEREAS on February 12, 2021, AEP issued a Notice of Non Compliance ("NONC") to JMB



- 3 -

stating that AEP had identified issues of non-compliance under the *Code of Practice for Pits* for pits registered to JMB located on private land, including the MacDonald Pit;

WHEREAS the NONC also stated that, by February 18, 2021, JMB was to provide:

- an assessment of the pits against the terms and conditions of the Registration and the *Code of Practice for Pits*, and
- a plan to bring each pit into compliance with the Registration and the *Code of Practice for Pits*;

WHEREAS JMB requested two extension requests that AEP granted to provide the information requested in the NONC;

WHEREAS on February 24, 2021, JMB provided AEP with its response to the NONC, which stated that JMB's intentions with respect to the MacDonald Pit were as follows:

- to submit an updated Activities Plan by March 31, 2021 for the purpose of reclamation,
- to post a security bond as a part of the closing of the CCAA court proceedings upon acceptance of the updated activities plan, and
- implement reclamation within three years of the updated activities plan approval;

WHEREAS on February 24, 2021, the EPO had a conversation with the landowner, Allan MacDonald, who indicated that:

- JMB last operated the MacDonald Pit on or about summer 2019, at which time they hauled approximately 10,000 tonnes of gravel off site without payment to the landowner, and
- JMB breached a number of agreements with Allan MacDonald including payment of royalties and completion of reclamation by December 31, 2020;

WHEREAS section 137 of the *Environmental Protection and Enhancement Act* states that an operator must conserve and reclaim specified land and unless exempted by the regulation, obtain a reclamation certificate in respect of the conservation and reclamation;

WHEREAS the MacDonald Pit is a "pit" as defined in the *Activities Designation Regulation* section 3(3)(d), for the purposes of Division 3 of Schedule 2;

WHEREAS the surface land disturbance in the MacDonald Pit is "specified lands" as defined by the *Conservation and Reclamation Regulation* section 1(t)(v);

WHEREAS the Parties are operators as defined in section 134(b)(i) of *EPEA*, i.e. an approval or registration holder who carries on or has carried on an activity on or in respect of specified land pursuant to an approval or registration, and section 34(b) vii), i.e. a person who acts as principal or agent of a person referred to in any of subclauses (i) to (vi);

WHEREAS section 3.1 of the *Conservation and Reclamation Regulation* states that the *Code of Practice for Pits*, as published by AEP, is adopted and forms part of that regulation and requires that a person carrying on an activity referred to in Column A of the Schedule must



- 4 -

comply with the corresponding Code of Practice in Column B of the Schedule in carrying on that activity;

WHEREAS the Schedule of the *Conservation and Reclamation Regulation* states that the construction, operation or reclamation of a pit that is listed in Schedule 2, Division 3 of the *Activities Designation Regulation* must comply with the *Code of Practice for Pits*;

WHEREAS April Franks, EPO North Region (the "Inspector") has been designated as an Inspector for the purposes of issuing environmental protection orders under section 140 the *Environmental Protection and Enhancement Act*;

WHEREAS the Inspector is of the opinion that the suspension of the operation in the MacDonald Pit and directing the performance of work is necessary in order to conserve and reclaim the MacDonald Pit;

THEREFORE, I April Franks, Inspector, North Region, pursuant to section 140 of the *Environmental Protection and Enhancement Act*, DO HEREBY ORDER:

1. The Parties shall immediately suspend any and all work at the MacDonald Pit, and shall not remove any stockpiled materials.
2. By March 13, 2021, the Parties shall submit to the Inspector for the Inspector's approval, the name and qualifications of a consultant who carries a professional designation authorized to practice reclamation on private land, which the Parties will retain to prepare and sign the below noted reclamation and remedial plan.
3. By March 20, 2021, the Parties shall submit to the Inspector for the Inspector's review and approval a written reclamation and remedial plan ("Plan").
4. The Parties shall include at minimum include all of the following in the Plan:
  - a. Particulars of the characteristics and properties of the land including topography, drainage, soils, vegetation and land capability.
  - b. A historical synopsis of the surface, subsurface and groundwater disturbance.
  - c. A description of the adjacent land uses.
  - d. An accounting of what volume of marketable aggregate is left within the MacDonald pit and its value.
  - e. A description of the reclamation work including the type of equipment, methods and materials that will be used in implementing the Plan.
  - f. A description of the proposed reclaimed land use that includes elevations, soil replacement and re-vegetation.
  - g. A description of how ground water infiltrating open excavations will be addressed and justification for any surface and water related improvements to be left in place.

- 5 -

h. A proposed Schedule of Implementation that shall have September 20, 2022 as the completion date.

i. A 6 month monitoring and maintenance program commencing September 20, 2022.

5. Upon approval of the Plan by the Inspector, the Parties shall conduct the work described in the approved Plan, according to the approved schedule of implementation, unless otherwise authorized in writing by the Inspector.

6. The Parties shall submit progress updates to the Inspector on July 30, 2021, November 30, 2021, March 31, 2022, and July 29, 2022 that include a detailed summary of all reclamation activities undertaken at MacDonald Pit;

7. Within 14 days of the completion of the requirements of this Order, the Parties shall submit to the Inspector a final written report prepared and signed by the consultant describing the work undertaken to comply with this Order.

DATED at the City of Spruce Grove in the Province of Alberta, this Tuesday on the 2<sup>nd</sup> day of March, 2021.



April Franks,  
Inspector,  
Environmental Protection Officer,  
North Region

- 6 -

Section 91 of the *Environmental Protection and Enhancement Act* may provide a right of appeal against this decision to the Alberta Environmental Appeals Board. There may be a strict time limit for filing such an appeal. A copy of section 91 is enclosed. For further information, please contact the Board Secretary at #306 Peace Hills Trust Tower, 10011 - 109 Street, Edmonton, Alberta, T5J 3S8; telephone (780) 427-6207; fax (780) 427-4693.

Notwithstanding the above requirements, the Party shall obtain all necessary approvals in complying with this order.

Take notice that this environmental protection order is a remedial tool only, and in no way precludes any enforcement proceedings being taken regarding this matter under this Act or any other legislation.

Further, contravention of the Environmental Protection Order may lead to additional enforcement proceedings, up to and including prosecution.



#### **Part 4**

### **Environmental Appeals Board**

#### **Environmental Appeals Board established**

**90(1)** There is hereby established the Environmental Appeals Board consisting of persons appointed by the Lieutenant Governor in Council.

**(2)** The Board shall hear appeals as provided for in this Act or any other enactment.

**(3)** The Board may convene a panel of Board members to conduct a hearing of an appeal and appoint a person to chair the panel.

**(4)** Where a panel is convened, the panel has all the powers of the Board and is subject to all the same duties the Board is subject to, and a reference in this Act to the Board is to be read as a reference to the panel.

RSA 2000 cE-12 §90;2003 c42 s6

#### **Notice of appeal**

**91(1)** A notice of appeal may be submitted to the Board by the following persons in the following circumstances:

- (a)** where the Director issues an approval, makes an amendment, addition or deletion pursuant to an application under section 70(1)(a) or makes an amendment, addition or deletion pursuant to section 70(3)(a), a notice of appeal may be submitted

- (i) by the approval holder or by any person who previously submitted a statement of concern in accordance with section 73 and is directly affected by the Director's decision, in a case where notice of the application or proposed changes was provided under section 72(1) or (2), or
  - (ii) by the approval holder or by any person who is directly affected by the Director's decision, in a case where no notice of the application or proposed changes was provided by reason of the operation of section 72(3);
- (b) where the Director refuses
- (i) to issue an approval, or
  - (ii) to make an amendment, addition or deletion in respect of an approval pursuant to an application under section 70(1)(a),
- the applicant may submit a notice of appeal;
- (c) where the Director cancels or suspends an approval under section 70(3)(b) or (4), the approval holder may submit a notice of appeal;
- (d) where the Director cancels a certificate of qualification under section 83(1)(b), the holder of the certificate of qualification may submit a notice of appeal;
- (e) where the Director issues an enforcement order under section 210(1)(a), (b) or (c), the person to whom the order is directed may submit a notice of appeal;
- (f) where an inspector issues an environmental protection order regarding conservation and reclamation under section 140 or 141, the person to whom the order is directed may submit a notice of appeal;
- (g) where the Director issues an environmental protection order under section 129,
- (i) the person to whom the order is directed, and
  - (ii) any person who is directly affected by the designation of the contaminated site
- may submit a notice of appeal;
- (h) where the Director issues an environmental protection order, except an environmental protection order directing

- the performance of emergency measures under section 114, 151 or 160 and an environmental protection order referred to in clause (g), the person to whom the order is directed may submit a notice of appeal;
- (i) where an inspector issues a reclamation certificate under section 138, or the Director or an inspector amends a reclamation certificate under section 139, the operator and any person who receives a copy of the certificate or amendment under section 145 may submit a notice of appeal;
  - (j) where the Director or an inspector cancels a reclamation certificate, the operator may submit a notice of appeal;
  - (k) where the Director or an inspector refuses to accept an application for a reclamation certificate or an inspector refuses to issue a reclamation certificate, the operator may submit a notice of appeal;
  - (l) where the Director or an inspector issues, amends or cancels a remediation certificate under section 117, any person who receives notice of the issuance, amendment or cancellation as provided for in the regulations may submit a notice of appeal;
  - (l.1) where the Director or an inspector refuses to accept an application for a remediation certificate or refuses to issue a remediation certificate under section 117, any person who receives notice of the refusal as provided for in the regulations may submit a notice of appeal;
  - (m) where the Director designates an area as a contaminated site under section 125, any person who is directly affected by the designation may submit a notice of appeal;
  - (n) where the Director requires a person to pay an administrative penalty under section 237, the person to whom the notice is directed may submit a notice of appeal;
  - (o) where the Director refuses a request for confidentiality under section 35(5)(b), the person to whom the notice is directed under section 35(6) may submit a notice of appeal;
  - (p) persons authorized under Part 9 of the *Water Act*, in accordance with Part 9 of the *Water Act*.
- (2) Notwithstanding subsection (1)(b), where the Director refuses to issue an approval pursuant to an order of the Minister under



section 64, no notice of appeal may be submitted in respect of that refusal.

(3) Where an activity prescribed in the regulations for the purposes of this subsection is the subject of an approval and is carried out in stages, and where the Director issues an approval in respect of a stage, no notice of appeal may be submitted in respect of a stage that is already covered by the approval.

(4) A notice of appeal must be submitted to the Board

- (a) not later than 7 days after receipt of a copy of the enforcement order or the environmental protection order, in a case referred to in subsection (1)(e), (f) or (h),
- (b) not later than one year after receipt of a copy of the reclamation certificate, in a case referred to in subsection (1)(i) relating to the issuing of a reclamation certificate, and
- (c) not later than 30 days after receipt of notice of the decision appealed from or the last provision of notice of the decision appealed from, as the case may be, in any other case.

(5) The Board may, on application made before or after the expiry of the appeal period referred to in subsection (4), extend that period, where the Board is of the opinion that there are sufficient grounds for doing so.

(6) A notice of appeal submitted to the Board under this Act or in accordance with the *Water Act* must contain the information and be made in the manner provided for in the regulations.

(7) A notice of appeal initiates an appeal of the decision objected to.

RSA 2000 cE-12 s91;2002 c4 s1;2003 c37 s14;  
2003 c42 s6;2006 c15 s10

#### Additional Information

**92** Where the Board receives a notice of appeal, it may by written notice given to the person who submitted the notice of appeal require the submission of additional information specified in the written notice by the time specified in the written notice.

1992 cE-13.3 s85;1998 c15 s9

THIS IS EXHIBIT "L" REFERRED TO IN  
THE AFFIDAVIT OF TYLER PELL  
SWORN BEFORE ME  
THIS 22<sup>ND</sup> DAY OF MARCH, 2021

---

A Commissioner for Oaths in and for the  
Province of Alberta

---

**From:** April Franks <April.Franks@gov.ab.ca>  
**Sent:** March 12, 2021 11:57 AM  
**To:** Tyler Pell  
**Cc:** Cumming, Tom  
**Subject:** RE: EPO-EPEA-35659-01

**Importance:** High

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Good morning Tyler,

During our phone conversation yesterday you indicated that you would like AEP to provide you with some clarification regarding an update to the Macdonald Pit's Activities Plan and the associated financial security as neither of these items are mentioned in EPO-35659-01 (MacDonald Pit EPO). Since that conversation, AEP has issued EPO-EPEA-35659-02, EPO-EPEA-35659-03, EPO-EPEA-35659-04, EPO-EPEA-35659-05, and EPO-EPEA-35659-06. As it pertains to the above listed orders (including EPO-35659-01), an updated Activities Plan and associated financial securities are not required to be submitted to AEP in addition to the Reclamation Plan as required in each EPO.

As it pertains to EPO-35659-01, EPO-EPEA-35659-02, EPO-EPEA-35659-03, EPO-EPEA-35659-04, EPO-EPEA-35659-05, and EPO-EPEA-35659-06, Clause 4 (d) "accounting of what volume of marketable aggregate is left within the Pit and its value", stands. This is a requirement set out in each of the listed EPOs. The provision of this information relates directly to regulatory compliance and reclamation of the lands.

Please confirm that your request for an extension of time from March 20, 2021 to **March 27, 2021** is on behalf of JMB Crushing Systems Inc. and its associated directors Byron LevKulich and Aaron Patsch.

Regards,

**April Franks**  
Environmental Protection Officer

Capital - North Region | Regulatory Assurance Division  
Suite #1 250 Diamond Avenue  
Spruce Grove, Alberta T7X 4C7

Phone: 780-960-8659 | Cell: 780-619-0711  
Email: [april.franks@gov.ab.ca](mailto:april.franks@gov.ab.ca)

24 Hour Environmental Response Line: 1-800-222-6514

 Alberta Environment and Parks



Classification: Protected A

**From:** Tyler Pell <tylerpell@jmbcrush.com>  
**Sent:** March-11-21 3:08 PM  
**To:** April Franks <April.Franks@gov.ab.ca>  
**Subject:** RE: EPO-EPEA-35659-01

CAUTION: This email has been sent from an external source. Treat hyperlinks and attachments in this email with care.

Hi April

Thanks for reviewing the EPO details and taking my questions today.

As a follow up:

1. Please provide confirmation for whether a Updated Activities Plan ("UAP") application and associated security will still be required for the MacDonald pit reclamation operations and hauling of inventory.
2. We are formally requesting an amendment to the order for #3 Plan submission by March 20, 2021 to a new date of **March 27, 2021**. The rationale for an extension is based on the current volume of JMB responses that are required to be submitted to AEP. The volume is significant and to provide reasonable review time for all applicable stakeholders involved in the current situation and address at least the preliminary details of all the other EPOs, will require more time than AEP put in the order. The proposed date in the submitted JMB February 24, 2021 Written Plan was March 31, 2021. This allowed time to perform due diligence and confirm the older 2018 UAP data and any applicable SIRs against the current 2021 situation. The EPO item #4 (a) to (i) Plan requirements also have to be compared against the 2018 UAP as base. We believe it to reasonable to allow the extra days given the situation.

Regards,

Tyler Pell  
1.780.815.0139

**From:** April Franks <April.Franks@gov.ab.ca>  
**Sent:** March 10, 2021 14:43  
**To:** Tyler Pell <tylerpell@jmbcrush.com>  
**Subject:** RE: EPO-EPEA-35659-01

Yes, I am in at 8am

Classification: Protected A

**From:** Tyler Pell <tylerpell@jmbcrush.com>  
**Sent:** March-10-21 2:42 PM  
**To:** April Franks <April.Franks@gov.ab.ca>  
**Subject:** Re: EPO-EPEA-35659-01

CAUTION: This email has been sent from an external source. Treat hyperlinks and attachments in this email with care.

Yes that will work. Can we do as early as possible?

THIS IS EXHIBIT "M" REFERRED TO IN  
THE AFFIDAVIT OF TYLER PELL  
SWORN BEFORE ME  
THIS 22<sup>ND</sup> DAY OF MARCH, 2021

---

A Commissioner for Oaths in and for the  
Province of Alberta



Regulatory Assurance  
North Region - Capital  
PO Box 4240 (T7X 3B4)  
Suite #1, 250 Diamond Avenue  
Spruce Grove AB T7X 4C7  
Telephone: 780-960-8600

**ENVIRONMENTAL PROTECTION AND ENHANCEMENT ACT**

BEING RSA 2000, c. E-12 (the "Act")

ENVIRONMENTAL PROTECTION ORDER EPO-EPEA-35659-06

JMB Crushing Systems Inc.  
Suite 2300, Bentall 5 550, Burrard Street  
Vancouver BC  
V6C 2B5,  
Canada

Byron Levkulich, Director  
JMB Crushing Systems Inc.  
1400 16<sup>th</sup> Street, Suite 320  
Denver CO 80202  
United States

Aaron Patsch, Director  
JMB Crushing Systems Inc.  
1400 16<sup>th</sup> Street, Suite 320  
Denver CO 80202  
United States

Jeffrey Buck, former Director  
JMB Crushing Systems Inc.  
3439 Keswick Boulevard SW  
Edmonton, AB  
T6W 3B2

Collectively referred to as the "Parties"

WHEREAS JMB Crushing Systems Inc. ("JMB") operates a pit under Registration No. 263318-00-00 located at NE-10-057-06-W4M (O'Kane Pit) in the County of St. Paul No. 19 ("O'Kane Pit");

WHEREAS Byron Levkulich and Aaron Patsch are Directors of JMB and Jeffrey Buck is a former Director of JMB ("Parties");

WHEREAS Aarbo Ranching Ltd. own the land on which the O'Kane Pit is located;

WHEREAS Harvey Aarbo is the director of Aarbo Ranching Ltd;

WHEREAS section 2.1.1 of the *Code of Practice for Pits* states any person who carries out an activity at a pit must do so in accordance with this Code of Practice;



- 2 -

WHEREAS an "activity at a pit" is defined in the *Code of Practice for Pits* to mean the construction, operation or reclamation of a pit;

WHEREAS on January 20, 2020 Alberta Environment and Parks ("AEP") sent an email to JMB stating that the O'Kane Pit security Bond No. BND0015362 in the amount of \$39,805.00 is expiring March 9, 2020.

WHEREAS on May 1, 2020, JMB obtained an initial order from the Court under the *Companies Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended;

WHEREAS on November 18, 2020, AEP sent a letter to JMB indicating they failed to replace financial security instruments on 7 pits that were registered to JMB and located on private land, including the O'Kane Pit;

WHEREAS on January 26, 2021, April Franks, an Environmental Protection Officer ("EPO") and Inspector under the *Environmental Protection and Enhancement Act* RSA 2000, c E-12 (the "Inspector"), conducted a review of the O'Kane Pit Activities Plan and 2019 satellite imagery of the area and determined that JMB contravened the *Code of Practice for Pits* by:

- failing to restore the required financial security as required under section 3.2.2 of the *Code of Practice for Pits*;
- failing to follow the Activities Plan mining sequence including not conducting reclamation as required under section 4.1.1 of the *Code of Practice for Pits*;
- failing to report regulatory non-compliances to the Director as required under section 6.1.1 of the *Code of Practice for Pits*;

WHEREAS reclamation of the disturbed land on O'Kane Pit has not occurred to date;

WHEREAS section 3.2.2 of the *Code of Practice for Pits* states "unless exempted by the Act or the *Conservation and Reclamation Regulation*, as amended from time to time, no person shall commence or continue an activity at a pit unless the full amount of security for that pit has been provided to the Director, as authorized in writing by the Director."

WHEREAS section 4.1.1 of the *Code of Practice for Pits* states "no person shall conduct any activity at a pit except in accordance with the most recent Activities Plan.";

WHEREAS section 6.1.1 of the *Code of Practice for Pits* states "in addition to any other reporting required pursuant to this Code of Practice, the Act or the regulations under the Act, any person carrying out an activity at a pit shall immediately report any contravention of this Code of Practice to: (a) the registration holder; and (b) the Director: (i) by telephone at (780) 422-4505, or (ii) by a method:(A) in compliance with the release reporting provisions of the Act and the regulations; or(B) authorized in writing by the Director.";

WHEREAS on February 12, 2021, AEP issued a Notice of Non Compliance ("NONC") to JMB stating that AEP had identified non-compliances under the *Code of Practice for Pits* for pits registered to JMB located on private land, including the O'Kane Pit;

WHEREAS the NONC also stated that, by February 18, 2021, JMB was to provide:

- 3 -

- an assessment of the pits against the terms and conditions of the Registration and the *Code of Practice for Pits*, and
- a plan to bring each pit into compliance with the Registration and the *Code of Practice for Pits*;

WHEREAS JMB requested two extensions to the deadline to provide the information requested in the NONC, which AEP granted;

WHEREAS on February 24, 2021, JMB provided AEP with its response to the NONC, which stated that JMB's intentions with respect to the O'Kane Pit were as follows:

- to submit an updated Activities Plan by April 30, 2021 for the purpose of reclamation,
- to post a security bond as a part of the closing of the CCAA court proceedings upon acceptance of the updated activities plan, and
- implement reclamation within three years of the updated activities plan approval;

WHEREAS on February 22, 2020 EPO has a conversation with the landowner, Harvey Aarbo, who indicated that:

- JMB last operated the O'Kane Pit on or about summer 2018, at which time they operated without payment of royalties to the landowner;
- Aarbo Ranching Ltd. purchased the property in 2018 and has not had contact with JMB, Harvey Aarbo assumed he was responsible for the reclamation;
- Harvey Aarbo was relying on the security instrument from AEP to offset some reclamation costs and is concerned that JMB has not replaced security;

WHEREAS section 137 of the *Environmental Protection and Enhancement Act* states that an operator must conserve and reclaim specified land and unless exempted by the regulation, obtain a reclamation certificate in respect of the conservation and reclamation;

WHEREAS JMB is an 'operator' under section 134(b)(ii) of the *Environmental Protection and Enhancement Act*;

WHEREAS the O'Kane Pit is a "pit" as defined in the *Activities Designation Regulation* section 3(3)(d), for the purposes of Division 3 of Schedule 2;

WHEREAS the surface land disturbance in the O'Kane Pit is "specified lands" as defined by the *Conservation and Reclamation Regulation* section 1(t)(v);

WHEREAS the Parties are operators as defined in section 134(b)(i) of *EPEA*, i.e. an approval or registration holder who carries on or has carried on an activity on or in respect of specified land pursuant to an approval or registration, and section 34(b) vii), i.e. a person who acts as principal or agent of a person referred to in any of subclauses (i) to (vi);

WHEREAS section 3.1 of the *Conservation and Reclamation Regulation* states that the *Code of Practice for Pits*, as published by AEP, is adopted and forms part of that regulation and requires that a person carrying on an activity referred to in Column A of the Schedule must



- 4 -

comply with the corresponding Code of Practice in Column B of the Schedule in carrying on that activity;

WHEREAS the Schedule of the *Conservation and Reclamation Regulation* states that the construction, operation or reclamation of a pit that is listed in Schedule 2, Division 3 of the *Activities Designation Regulation* must comply with the *Code of Practice for Pits*;

WHEREAS EPO April Franks, North Region (the "Inspector") has been designated as an Inspector for the purposes of issuing environmental protection orders under section 140 the *Environmental Protection and Enhancement Act*;

WHEREAS the Inspector is of the opinion that the suspension of the operation in the O'Kane Pit and directing the performance of work is necessary in order to conserve and reclaim the O'Kane Pit;

WHEREAS the Inspector is of the opinion that the surface land disturbance meets the criteria of "specified lands" defined by the *Conservation and Reclamation Regulation* section 1(t)(v)

THEREFORE, I April Franks, Inspector, North Region, pursuant to section 140 of the *Environmental Protection and Enhancement Act*, DO HEREBY ORDER:

1. The Parties shall immediately suspend any and all work at the O'Kane Pit, and shall not remove any stockpiled materials.
2. By April 13, 2021, the Parties shall submit to the Inspector for the Inspector's approval, the name and qualifications of a consultant who carries a professional designation authorized to practice reclamation on private land, which the Parties will retain to prepare and sign the below noted reclamation and remedial plan.
3. By May 20, 2021, the Parties shall submit to the Inspector for the Inspector's review and approval a written reclamation and remedial plan ("Plan").
4. The Parties shall include at minimum include all of the following in the Plan:
  - a. Particulars of the characteristics and properties of the land including topography, drainage, soils, vegetation and land capability.
  - b. A historical synopsis of the surface, subsurface and groundwater disturbance.
  - c. A description of the adjacent land uses.
  - d. An accounting of what volume of marketable aggregate is left within the O'Kane Pit and its value.
  - e. A description of the reclamation work including the type of equipment, methods and materials that will be used in implementing the Plan.
  - f. A description of the proposed reclaimed land use that includes elevations, soil



- 5 -

replacement and re-vegetation.

- g. A description of how ground water infiltrating open excavations will be addressed and justification for any surface and water related improvements to be left in place.
- h. A proposed Schedule of Implementation that shall have October 29, 2022 as the completion date.
- i. A 6 month monitoring and maintenance program commencing October 29, 2022.

5. Upon approval of the Plan by the Inspector, the Parties shall conduct the work described in the approved Plan, according to the approved schedule of implementation, unless otherwise authorized in writing by the Inspector.

6. The Parties shall submit progress updates to the Inspector on July 30, 2021, November 30, 2021, March 31, 2022, and July 29, 2022 that include a detailed summary of all reclamation activities undertaken at O'Kane Pit;

7. Within 14 days of the completion of the requirements of this Order, the Parties shall submit to the Inspector a final written report prepared and signed by the consultant describing the work undertaken to comply with this Order.

DATED at the City of Spruce Grove in the Province of Alberta, this Thursday on the 11<sup>th</sup> day of March, 2021.



April Franks,  
Inspector,  
Environmental Protection Officer,  
North Region

- 6 -

Section 91 of the *Environmental Protection and Enhancement Act* may provide a right of appeal against this decision to the Alberta Environmental Appeals Board. There may be a strict time limit for filing such an appeal. A copy of section 91 is enclosed. For further information, please contact the Board Secretary at #306 Peace Hills Trust Tower, 10011 - 109 Street, Edmonton, Alberta, T5J 3S8; telephone (780) 427-6207; fax (780) 427-4693.

Notwithstanding the above requirements, the Party shall obtain all necessary approvals in complying with this order.

Take notice that this environmental protection order is a remedial tool only, and in no way precludes any enforcement proceedings being taken regarding this matter under this Act or any other legislation.

Further, contravention of the Environmental Protection Order may lead to additional enforcement proceedings, up to and including prosecution.



Regulatory Assurance  
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 PO Box 4240 (T7X 3B4)  
 Suite #1, 250 Diamond Avenue  
 Spruce Grove AB T7X 4C7  
 Telephone: 780-960-8600

## ENVIRONMENTAL PROTECTION AND ENHANCEMENT ACT

BEING RSA 2000, c. E-12 (the "Act")

ENVIRONMENTAL PROTECTION ORDER EPO-EPEA-35659-05

JMB Crushing Systems Inc.  
 Suite 2300, Bentall 5 550, Burrard Street  
 Vancouver BC  
 V6C 2B5,  
 Canada

Byron Levkulich, Director  
 JMB Crushing Systems Inc.  
 1400 16<sup>th</sup> Street, Suite 320  
 Denver CO 80202  
 United States

Aaron Patsch, Director  
 JMB Crushing Systems Inc.  
 1400 16<sup>th</sup> Street, Suite 320  
 Denver CO 80202  
 United States

Jeffrey Buck, former Director  
 JMB Crushing Systems Inc.  
 3439 Keswick Boulevard SW  
 Edmonton, AB  
 T6W 3B2

Collectively referred to as the "Parties"

WHEREAS JMB Crushing Systems Inc. ("JMB") operates a pit under Registration No. 15048-00-00 located at NE 24-056-07-W4M (Buksa Pit) in the County of St. Paul No. 19;

WHEREAS Byron Levkulich and Aaron Patsch are Directors of JMB and Jeffrey Buck is a former Director of JMB ("Parties");

WHEREAS 302016 Alberta Ltd. owns the land on which Buksa Pit is location;

WHEREAS Harvey Buksa is a Director of 302016 Alberta Ltd.;

WHEREAS section 2.1.1 of the *Code of Practice for Pits* states any person who carries out an activity at a pit must do so in accordance with this Code of Practice;



- 2 -

WHEREAS an "activity at a pit" is defined in the *Code of Practice for Pits* to mean the construction, operation or reclamation of a pit;

WHEREAS on October 20, 2020 Alberta Environment and Parks ("AEP") sent an email to JMB stating that the Buska Pit security Bond No. BND0015360 in the amount of \$50,442.14 expires December 12, 2020.

WHEREAS on May 1, 2020, JMB obtained an initial order from the Court under the *Companies Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended;

WHEREAS on November 18, 2020, AEP sent a letter to JMB indicating they failed to replace financial security instruments on 7 pits that were registered to JMB and are located on private land, including the Buksa Pit;

WHEREAS on January 26, 2021, April Franks, an Environmental Protection Officer ("EPO") and a designated Inspector under the *Environmental Protection and Enhancement Act* RSA 2000, c E-12 (the "Inspector"), conducted a review of the Buksa Pit Activities Plan and 2019 satellite imagery of the area and determined that JMB contravened the *Code of Practice for Pits* by:

- failing to restore the required security as required under section 3.2.2 of the *Code of Practice for Pits*;
- failing to follow the Activities Plan mining sequence including not conducting reclamation as required under section 4.1.1 of the *Code of Practice for Pits*;
- failing to comply to the boundary approved in the Registration as required under section 4.1.1 of the *Code of Practice for Pits*;
- failing to report regulatory non-compliances to the Director as required under section 6.1.1 of the *Code of Practice for Pits*;

WHEREAS section 3.2.2 of the *Code of Practice for Pits* states "unless exempted by the Act or the *Conservation and Reclamation Regulation*, as amended from time to time, no person shall commence or continue an activity at a pit unless the full amount of security for that pit has been provided to the Director, as authorized in writing by the Director."

WHEREAS section 4.1.1 of the *Code of Practice for Pits* states "no person shall conduct any activity at a pit except in accordance with the most recent Activities Plan.";

WHEREAS section 6.1.1 of the *Code of Practice for Pits* states "in addition to any other reporting required pursuant to this Code of Practice, the Act or the regulations under the Act, any person carrying out an activity at a pit shall immediately report any contravention of this Code of Practice to: (a) the registration holder; and (b) the Director: (i) by telephone at (780) 422-4505, or (ii) by a method:(A) in compliance with the release reporting provisions of the Act and the regulations; or(B) authorized in writing by the Director."

WHEREAS on February 12, 2021, AEP issued a Notice of Non Compliance ("NONC") to JMB stating that AEP had identified non-compliances under the *Code of Practice for Pits* on pits registered to JMB located on private land, including the Buksa Pit;

WHEREAS the NONC also stated that, by February 18, 2021, JMB was to provide:

- 3 -

- an assessment of the pits against the terms and conditions of the Registration and the *Code of Practice for Pits*, and
- a plan to bring each pit into compliance with the Registration and the *Code of Practice for Pits*;

WHEREAS JMB requested two extensions to the deadline to provide the information requested in the NONC, which AEP granted;

WHEREAS on February 24, 2021, JMB provided AEP with its response to the NONC, which stated that JMB's intentions with respect to the Buska Pit were as follows:

- to post a security bond as a part of the closing of the CCAA court proceedings upon acceptance of the updated activities plan, and

WHEREAS on February 23, 2021, the EPO had a conversation with the landowner, Harvey Buksa, who indicated that:

- JMB last operated Buksa Pit on or about summer 2018; and
- JMB has not communicated its intentions to reclaim or operate Buksa Pit;

WHEREAS section 137 of the *Environmental Protection and Enhancement Act* states that an operator must conserve and reclaim specified land and unless exempted by the regulation, obtain a reclamation certificate in respect of the conservation and reclamation;

WHEREAS JMB is an 'operator' under section 134(b)(ii) of the *Environmental Protection and Enhancement Act*;

WHEREAS the Buksa Pit is a "pit" as defined in the *Activities Designation Regulation* section 3(3)(d), for the purposes of Division 3 of Schedule 2;

WHEREAS the surface land disturbance in the Buksa Pit is "specified lands" as defined by the *Conservation and Reclamation Regulation* section 1(t)(v);

WHEREAS the Parties are operators as defined in section 134(b)(i) of *EPEA*, i.e. an approval or registration holder who carries on or has carried on an activity on or in respect of specified land pursuant to an approval or registration, and section 34(b) vii), i.e. a person who acts as principal or agent of a person referred to in any of subclauses (i) to (vi);

WHEREAS section 3.1 of the *Conservation and Reclamation Regulation* states that the *Code of Practice for Pits*, as published by AEP, is adopted and forms part of that regulation and requires that a person carrying on an activity referred to in Column A of the Schedule must comply with the corresponding Code of Practice in Column B of the Schedule in carrying on that activity;

WHEREAS the Schedule of the *Conservation and Reclamation Regulation* states that the construction, operation or reclamation of a pit that is listed in Schedule 2, Division 3 of the *Activities Designation Regulation* must comply with the *Code of Practice for Pits*;

WHEREAS EPO April Franks, North Region (the "Inspector") has been designated as an



- 4 -

Inspector for the purposes of issuing environmental protection orders under section 140 the *Environmental Protection and Enhancement Act*;

WHEREAS the Inspector is of the opinion that the suspension of the operation in the Buksa Pit and directing the performance of work is necessary in order to conserve and reclaim the Buksa Pit;

WHEREAS the Inspector is of the opinion that the surface land disturbance meets the criteria of "specified lands" defined by the *Conservation and Reclamation Regulation* section 1(t)(v)

THEREFORE, I April Franks, Inspector, North Region, pursuant to section 140 of the *Environmental Protection and Enhancement Act*, DO HEREBY ORDER:

1. The Parties shall immediately suspend any and all work at the Buksa Pit, and shall not remove any stockpiled materials.

2. By April 13, 2021, the Parties shall submit to the Inspector for the Inspector's approval, the name and qualifications of a consultant who carries a professional designation authorized to practice reclamation on private land, which the Parties will retain to prepare and sign the below noted reclamation and remedial plan.

3. By May 20, 2021, the Parties shall submit to the Inspector for the Inspector's review and approval a written reclamation and remedial plan ("Plan").

4. The Parties shall include at minimum include all of the following in the Plan:

- a. Particulars of the characteristics and properties of the land including topography, drainage, soils, vegetation and land capability.
- b. A historical synopsis of the surface, subsurface and groundwater disturbance.
- c. A description of the adjacent land uses.
- d. An accounting of what volume of marketable aggregate is left within the Buksa Pit and its value.
- e. A description of the reclamation work including the type of equipment, methods and materials that will be used in implementing the Plan.
- f. A description of the proposed reclaimed land use that includes elevations, soil replacement and re-vegetation.
- g. A description of how ground water infiltrating open excavations will be addressed and justification for any surface and water related improvements to be left in place.
- h. A proposed Schedule of Implementation that shall have October 29, 2022 as the completion date.



- 5 -

i. A 6 month monitoring and maintenance program commencing October 29, 2022.

5. Upon approval of the Plan by the Inspector, the Parties shall conduct the work described in the approved Plan, according to the approved schedule of implementation, unless otherwise authorized in writing by the Inspector.

6. The Parties shall submit progress updates to the Inspector on July 30, 2021, November 30, 2021, March 31, 2022, and July 29, 2022 that include a detailed summary of all reclamation activities undertaken at Buksa Pit;

7. Within 14 days of the completion of the requirements of this Order, the Parties shall submit to the Inspector a final written report prepared and signed by the consultant describing the work undertaken to comply with this Order.

DATED at the City of Spruce Grove in the Province of Alberta, this Thursday on 11<sup>th</sup> day of March, 2021.



April Franks,  
Inspector,  
Environmental Protection Officer,  
North Region

- 6 -

Section 91 of the *Environmental Protection and Enhancement Act* may provide a right of appeal against this decision to the Alberta Environmental Appeals Board. There may be a strict time limit for filing such an appeal. A copy of section 91 is enclosed. For further information, please contact the Board Secretary at #306 Peace Hills Trust Tower, 10011 - 109 Street, Edmonton, Alberta, T5J 3S8; telephone (780) 427-6207; fax (780) 427-4693.

Notwithstanding the above requirements, the Party shall obtain all necessary approvals in complying with this order.

Take notice that this environmental protection order is a remedial tool only, and in no way precludes any enforcement proceedings being taken regarding this matter under this Act or any other legislation.

Further, contravention of the Environmental Protection Order may lead to additional enforcement proceedings, up to and including prosecution.



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**ENVIRONMENTAL PROTECTION AND ENHANCEMENT ACT**

BEING RSA 2000, c. E-12 (the "Act")

ENVIRONMENTAL PROTECTION ORDER EPO-EPEA-35659-04

JMB Crushing Systems Inc.  
Suite 2300, Bentall 5 550, Burrard Street  
Vancouver BC  
V6C 2B5,  
Canada

Byron Levkulich, Director  
JMB Crushing Systems Inc.  
1400 16<sup>th</sup> Street, Suite 320  
Denver CO 80202  
United States

Aaron Patsch, Director  
JMB Crushing Systems Inc.  
1400 16<sup>th</sup> Street, Suite 320  
Denver CO 80202  
United States

Jeffrey Buck, former Director  
JMB Crushing Systems Inc.  
3439 Keswick Boulevard SW  
Edmonton, AB  
T6W 3B2

Collectively referred to as the "Parties"

WHEREAS JMB Crushing Systems Inc. ("JMB") operates a pit under Registration No. 17395-01-00 located at NW 16-056-07-W4M (Havener Pit) in the County of St. Paul No. 19 (the "Havener Pit");

WHEREAS Byron Levkulich and Aaron Patsch are Directors of JMB and Jeffrey Buck is a former Director of JMB ("Parties");

WHEREAS Lynne Havener and Gail Havener own the land on which Havener Pit is located;

WHEREAS section 2.1.1 of the *Code of Practice for Pits* states any person who carries out an activity at a pit must do so in accordance with this Code of Practice;



- 2 -

WHEREAS an "activity at a pit" is defined in the *Code of Practice for Pits* to mean the construction, operation or reclamation of a pit;

WHEREAS on January 20, 2020 Alberta Environment and Parks ("AEP") sent an email to JMB stating that Havener Pit security Bond No. BND0015361 in the amount of \$41,872.00 is expiring March 9, 2020.

WHEREAS on May 1, 2020 JMB indicated to AEP that they were entering The Companies Creditors Arrangement Act proceedings;

WHEREAS on May 1, 2020, JMB obtained an initial order from the Court under the *Companies Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended;

WHEREAS on November 18, 2020, AEP sent a letter to JMB indicating they failed to replace financial security instruments on 7 pits that were registered to JMB and located on private land, including the Havener Pit;

WHEREAS on January 26, 2021, April Franks, an Environmental Protection Officer ("EPO") and a designated Inspector under the *Environmental Protection and Enhancement Act* RSA 2000, c E-12 (the "Inspector"), conducted a review of the Havener Pit Activities Plan and 2019 satellite imagery of the area and determined that JMB contravened the *Code of Practice for Pits* by:

- failing to restore the required financial security as required under section 3.2.2 of the *Code of Practice for Pits*;
- failing to follow the Activities Plan mining sequence including not conducting reclamation as required under section 4.1.1 of the *Code of Practice for Pits*;
- failing to comply to the boundary approved in the Registration as required under section 4.1.1 of the *Code of Practice for Pits*;
- failing to report non-compliance issues to the Director as required under section 6.1.1 of the *Code of Practice for Pits*;

WHEREAS reclamation of the disturbed land on Havener Pit has not occurred to date;

WHEREAS section 3.2.2 of the *Code of Practice for Pits* states "unless exempted by the Act or the *Conservation and Reclamation Regulation*, as amended from time to time, no person shall commence or continue an activity at a pit unless the full amount of security for that pit has been provided to the Director, as authorized in writing by the Director."

WHEREAS section 4.1.1 of the *Code of Practice for Pits* states "no person shall conduct any activity at a pit except in accordance with the most recent Activities Plan,";

WHEREAS section 6.1.1 of the *Code of Practice for Pits* states "in addition to any other reporting required pursuant to this Code of Practice, ~~the Act or the regulations~~ under the Act any person carrying out an activity at a pit shall immediately report any contravention of this Code of Practice to: (a) the registration holder; and (b) the Director: (i) by telephone at (780) 422-4505, or (ii) by a method: (A) in compliance with the release reporting provisions of the Act and the regulations; or (B) authorized in writing by the Director.";

- 3 -

WHEREAS on February 12, 2021, AEP issued a Notice of Non Compliance ("NONC") to JMB stating that AEP had identified non-compliances under the *Code of Practice for Pits* on pits registered to JMB located on private land, including the Havener Pit;

WHEREAS the NONC also stated that, by February 18, 2021, JMB was to provide:

- an assessment of the pits against the terms and conditions of the Registration and the *Code of Practice for Pits*, and
- a plan to bring each pit into compliance with the Registration and the *Code of Practice for Pits*;

WHEREAS JMB requested two extensions to the deadline to provide the information requested in the NONC, which AEP granted;

WHEREAS on February 24, 2021, JMB provided AEP with its response to the NONC, which stated that JMB's intentions with respect to the Havener Pit were as follows:

- to submit an updated Activities Plan by May 31, 2021;
- to post a security bond as a part of the closing of the CCAA court proceedings upon acceptance of the updated activities plan, and
- implement reclamation within three years of the updated activities plan approval;

WHEREAS on February 22, 2021 the EPO had a conversation with the landowner, Lynn Havener, who indicated that:

- JMB last operated the Havener Pit on or about summer 2018; and
- JMB breached a contract with Lynn Havener regarding Havener Pit in 2017 and 2018 and still owe payment of royalties to her;

WHEREAS section 137 of the *Environmental Protection and Enhancement Act* states that an operator must conserve and reclaim specified land and unless exempted by the regulation, obtain a reclamation certificate in respect of the conservation and reclamation;

WHEREAS JMB is an 'operator' under section 134(b)(ii) of the *Environmental Protection and Enhancement Act*;

WHEREAS the Havener Pit is a "pit" as defined in the *Activities Designation Regulation* section 3(3)(d), for the purposes of Division 3 of Schedule 2;

WHEREAS the surface land disturbance in the Havener Pit is "specified lands" as defined by the *Conservation and Reclamation Regulation* section 1(t)(v);

WHEREAS the Parties are operators as defined in section 134(b)(i) of *EPEA*, i.e. an approval or registration holder who carries on or has carried on an activity on or in respect of specified land pursuant to an approval or registration, and section 134(b)(vii), i.e. a person who acts as principal or agent of a person referred to in any of subclauses (i) to (vi);

WHEREAS section 3.1 of the *Conservation and Reclamation Regulation* states that the *Code of Practice for Pits*, as published by AEP, is adopted and forms part of that regulation and



- 4 -

requires that a person carrying on an activity referred to in Column A of the Schedule must comply with the corresponding Code of Practice in Column B of the Schedule in carrying on that activity;

WHEREAS the Schedule of the *Conservation and Reclamation Regulation* states that the construction, operation or reclamation of a pit that is listed in Schedule 2, Division 3 of the *Activities Designation Regulation* must comply with the *Code of Practice for Pits*;

WHEREAS April Franks, EPO North Region (the "Inspector") has been designated as an Inspector for the purposes of issuing environmental protection orders under section 140 the *Environmental Protection and Enhancement Act*;

WHEREAS the Inspector is of the opinion that the suspension of the operation in the Havener Pit and directing the performance of work is necessary in order to conserve and reclaim the Havener Pit;

WHEREAS the Inspector is of the opinion that the surface land disturbance meets the criteria of "specified lands" defined by the *Conservation and Reclamation Regulation* section 1(t)(v);

THEREFORE, I April Franks, Inspector, North Region, pursuant to section 140 of the *Environmental Protection and Enhancement Act*, DO HEREBY ORDER:

1. The Parties shall immediately suspend any and all work at the Havener Pit, and shall not remove any stockpiled materials.
2. By April 13, 2021, the Parties shall submit to the Inspector for the Inspector's approval, the name and qualifications of a consultant who carries a professional designation authorized to practice reclamation on private land, which the Parties will retain to prepare and sign the below noted reclamation and remedial plan.
3. By May 20, 2021, the Parties shall submit to the Inspector for the Inspector's review and approval a written reclamation and remedial plan ("Plan").
4. The Parties shall include at minimum include all of the following in the Plan:
  - a. Particulars of the characteristics and properties of the land including topography, drainage, soils, vegetation and land capability.
  - b. A historical synopsis of the surface, subsurface and groundwater disturbance.
  - c. A description of the adjacent land uses.
  - d. An accounting of what volume of marketable aggregate is left within the Havener pit and its value.
  - e. A description of the reclamation work including the type of equipment, methods and materials that will be used in implementing the Plan.



- 5 -

- f. A description of the proposed reclaimed land use that includes elevations, soil replacement and re-vegetation.
  - g. A description of how ground water infiltrating open excavations will be addressed and justification for any surface and water related improvements to be left in place.
  - h. A proposed Schedule of Implementation that shall have October 29, 2022 as the completion date.
  - i. A 6 month monitoring and maintenance program commencing October 29, 2022.
5. Upon approval of the Plan by the Inspector, the Parties shall conduct the work described in the approved Plan, according to the approved schedule of implementation, unless otherwise authorized in writing by the Inspector.
6. The Parties shall submit progress updates to the Inspector on July 30, 2021, November 30, 2021, March 31, 2022, and July 29, 2022 that include a detailed summary of all reclamation activities undertaken at Havener Pit;
7. Within 14 days of the completion of the requirements of this Order, the Parties shall submit to the Inspector a final written report prepared and signed by the consultant describing the work undertaken to comply with this Order.

DATED at the City of Spruce Grove in the Province of Alberta, this Thursday on the 11<sup>th</sup> day of March, 2021.



April Franks,  
Inspector,  
Environmental Protection Officer,  
North Region

- 6 -

Section 91 of the *Environmental Protection and Enhancement Act* may provide a right of appeal against this decision to the Alberta Environmental Appeals Board. There may be a strict time limit for filing such an appeal. A copy of section 91 is enclosed. For further information, please contact the Board Secretary at #306 Peace Hills Trust Tower, 10011 - 109 Street, Edmonton, Alberta, T5J 3S8; telephone (780) 427-6207; fax (780) 427-4693.

Notwithstanding the above requirements, the Party shall obtain all necessary approvals in complying with this order.

Take notice that this environmental protection order is a remedial tool only, and in no way precludes any enforcement proceedings being taken regarding this matter under this Act or any other legislation.

Further, contravention of the Environmental Protection Order may lead to additional enforcement proceedings, up to and including prosecution.



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**ENVIRONMENTAL PROTECTION AND ENHANCEMENT ACT**

BEING RSA 2000, c. E-12 (the "Act")

ENVIRONMENTAL PROTECTION ORDER EPO-EPEA-35659-03

JMB Crushing Systems Inc.  
Suite 2300, Bentall 5 550, Burrard Street  
Vancouver BC  
V6C 2B5,  
Canada

Byron Levkulich, Director  
JMB Crushing Systems Inc.  
1400 16<sup>th</sup> Street, Suite 320  
Denver CO 80202  
United States

Aaron Patsch, Director  
JMB Crushing Systems Inc.  
1400 16<sup>th</sup> Street, Suite 320  
Denver CO 80202  
United States

Jeffrey Buck, former Director  
JMB Crushing Systems Inc.  
3439 Keswick Boulevard SW  
Edmonton, AB  
T6W 3B2

Collectively referred to as the "Parties"

WHEREAS JMB Crushing Systems Inc. ("JMB") operates a pit under Registration No. 306490-00-00 located on NW 17, NE 18 and SE-19-063-09-W4M (Kucy Pit) in the MD of Bonnyville No.87 (the "Kucy Pit");

WHEREAS Byron Levkulich and Aaron Patsch are Directors of JMB and Jeffrey Buck is a former Director of JMB ("Parties");

WHEREAS Robert Niedzielski, Travis Kwiatkowski, John Kwiatkowski, Leo Kwiatkowski, Ron Kucy, and Rita Kucy own the land on which the Kucy Pit is located;

WHEREAS section 2.1.1 of the *Code of Practice for Pits* states any person who carries out an activity at a pit must do so in accordance with this Code of Practice;



- 2 -

WHEREAS an "activity at a pit" is defined in the *Code of Practice for Pits* to mean the construction, operation or reclamation of a pit;

WHEREAS on January 20, 2020, Alberta Environment and Parks ("AEP") sent an email to JMB stating that the Kucy Pit security Bond No. BND0015364 in the amount of \$31,872.25 is expiring March 9, 2020.

WHEREAS on May 1, 2020, JMB obtained an initial order from the Court under the *Companies Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended;

WHEREAS on November 18, 2020, AEP sent a letter to JMB indicating it failed to replace financial security instruments on 7 pits that were registered to JMB and located on private land, including the Kucy Pit;

WHEREAS on January 26, 2021, April Franks, an Environmental Protection Officer ("EPO") and a designated Inspector under the *Environmental Protection and Enhancement Act* RSA 2000, c E-12 (the "Inspector"), conducted a review of the Kucy Pit Activities Plan and 2019 satellite imagery of the area and determined that JMB contravened the *Code of Practice for Pits* by:

- failing to restore the required financial security as required under section 3.2.2 of the *Code of Practice for Pits*;
- failing to follow the Activities Plan mining sequence including not conducting reclamation noted as required under section 4.1.1 of the *Code of Practice for Pits*;
- failing to comply to the boundary approved in the Registration as required under section 4.1.1 of the *Code of Practice for Pits*;
- failing to report regulatory non-compliances to the Director as required under section 6.1.1 of the *Code of Practice for Pits*;

WHEREAS reclamation of the disturbed land on Kucy Pit has not occurred to date;

WHEREAS section 3.2.2 of the *Code of Practice for Pits* states "unless exempted by the Act or the *Conservation and Reclamation Regulation*, as amended from time to time, no person shall commence or continue an activity at a pit unless the full amount of security for that pit has been provided to the Director, as authorized in writing by the Director."

WHEREAS section 4.1.1 of the *Code of Practice for Pits* states "no person shall conduct any activity at a pit except in accordance with the most recent Activities Plan.";

WHEREAS section 6.1.1 of the *Code of Practice for Pits* states "in addition to any other reporting required pursuant to this Code of Practice, the Act or the regulations under the Act, any person carrying out an activity at a pit shall immediately report any contravention of this Code of Practice to: (a) the registration holder; and (b) the Director: (i) by telephone at (780) 422-4505 or (ii) by a method: (A) in compliance with the release reporting provisions of the Act and the regulations; or (B) authorized in writing by the Director.";

WHEREAS on February 12, 2021, AEP issued a Notice of Non Compliance ("NONC") to JMB stating that AEP had identified non-compliances under the *Code of Practice for Pits* on pits registered to JMB located on private land, including the Kucy Pit;

- 3 -

WHEREAS the NONC also stated that, by February 18, 2021, JMB was to provide:

- an assessment of the pits against the terms and conditions of the Registration and the *Code of Practice for Pits*, and
- a plan to bring each pit into compliance with the Registration and the *Code of Practice for Pits*;

WHEREAS JMB requested two extensions to the deadline to provide information requested in the NONC, which AEP granted;

WHEREAS on February 24, 2021, JMB provided AEP with its response to the NONC, which stated that JMB's intentions with respect to the Kucy Pit were as follows:

- to submit an updated Activities Plan by March 31, 2021 for the purpose of reclamation,
- Submit a Water Act application in 2021 based on consultation with AEP
- to post a security bond as a part of the closing of the CCAA court proceedings upon acceptance of the updated activities plan, and
- implement reclamation within three years of the updated activities plan approval;

WHEREAS on February 23, 2021, the EPO had a conversation with the landowner, Ron Kucy, who indicated that:

- JMB last operated the Kucy Pit on or about summer 2018
- JMB does not plan to mine additional gravel at Kucy Pit and Ron Kucy is concerned the land will not be reclaimed

WHEREAS on March 2, 2021, the EPO had a conversation with the landowner, John Kwaitkowski, who indicated that:

- JMB last operated the Kucy Pit on or about summer 2018
- JMB signed a royalty contract with John Kwaitkowski in 2012 and shortly after it hauled gravel off site without payment to the landowner;
- JMB does not plan to mine any additional gravel at Kucy Pit and John Kwaitkowski is concerned the land will not be reclaimed;

WHEREAS section 137 of the *Environmental Protection and Enhancement Act* states that an operator must conserve and reclaim specified land and unless exempted by the regulation, obtain a reclamation certificate in respect of the conservation and reclamation,

WHEREAS JMB is an 'operator' under section 134(b)(ii) of the *Environmental Protection and Enhancement Act*;

WHEREAS the Kucy Pit is a "pit" as defined in the *Activities Designation Regulation* section 3(3)(d), for the purposes of Division 3 of Schedule 2;

WHEREAS the surface land disturbance in the Kucy Pit is "specified lands" as defined by the *Conservation and Reclamation Regulation* section 1(t)(v);



- 4 -

WHEREAS the Parties are operators as defined in section 134(b)(i) of *EPEA*, i.e. an approval or registration holder who carries on or has carried on an activity on or in respect of specified land pursuant to an approval or registration, and section 34(b) vii), i.e. a person who acts as principal or agent of a person referred to in any of subclauses (i) to (vi):

WHEREAS section 3.1 of the *Conservation and Reclamation Regulation* states that the *Code of Practice for Pits*, as published by AEP, is adopted and forms part of that regulation and requires that a person carrying on an activity referred to in Column A of the Schedule must comply with the corresponding Code of Practice in Column B of the Schedule in carrying on that activity;

WHEREAS the Schedule of the *Conservation and Reclamation Regulation* states that the construction, operation or reclamation of a pit that is listed in Schedule 2, Division 3 of the *Activities Designation Regulation* must comply with the *Code of Practice for Pits*;

WHEREAS EPO, April Franks, North Region (the "Inspector") has been designated as an Inspector for the purposes of issuing environmental protection orders under section 140 the *Environmental Protection and Enhancement Act*;

WHEREAS the Inspector is of the opinion that the suspension of the operation in the Kucy Pit and directing the performance of work is necessary in order to conserve and reclaim the Kucy Pit;

WHEREAS the Inspector is of the opinion that the surface land disturbance meets the criteria of "specified lands" defined by the *Conservation and Reclamation Regulation* section 1(t)(v)

THEREFORE, I April Franks, Inspector, North Region, pursuant to section 140 of the *Environmental Protection and Enhancement Act*, DO HEREBY ORDER:

1. The Parties shall immediately suspend any and all work at the Kucy Pit, and shall not remove any stockpiled materials.
2. By April 13, 2021 the Parties shall submit to the Inspector for the Inspector's approval, the name and qualifications of a consultant who carries a professional designation authorized to practice reclamation on private land, which the Parties will retain to prepare and sign the below noted reclamation and remedial plan.
3. By May 20, 2021, the Parties shall submit to the Inspector for the Inspector's review and approval a written reclamation and remedial plan ("Plan").
4. The Parties shall include at minimum include all of the following in the Plan:
  - a. Particulars of the characteristics and properties of the land including topography, drainage, soils, vegetation and land capability.
  - b. A historical synopsis of the surface, subsurface and groundwater disturbance.



- 5 -

- c. A description of the adjacent land uses,
  - d. An accounting of what volume of marketable aggregate is left within the Kucy Pit and its value.
  - e. A description of the reclamation work including the type of equipment, methods and materials that will be used in implementing the Plan,
  - f. A description of the proposed reclaimed land use that includes elevations, soil replacement and re-vegetation,
  - g. A description of how ground water infiltrating open excavations will be addressed and justification for any surface and water related improvements to be left in place.
  - h. A proposed Schedule of Implementation that shall have October 29, 2022 as the completion date.
  - i. A 6 month monitoring and maintenance program commencing October 29, 2022.
5. Upon approval of the Plan by the Inspector, the Parties shall conduct the work described in the approved Plan, according to the approved schedule of implementation, unless otherwise authorized in writing by the Inspector.
6. The Parties shall submit progress updates to the Inspector on July 30, 2021, November 30, 2021, March 31, 2022, and July 29, 2022 that include a detailed summary of all reclamation activities undertaken at Kucy Pit;
7. Within 14 days of the completion of the requirements of this Order, the Parties shall submit to the Inspector a final written report prepared and signed by the consultant describing the work undertaken to comply with this Order.

DATED at the City of Spruce Grove in the Province of Alberta, this Thursday on the 11<sup>th</sup> day of March, 2021.



April Franks,  
Inspector,  
Environmental Protection Officer,  
North Region

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- 6 -

Section 91 of the *Environmental Protection and Enhancement Act* may provide a right of appeal against this decision to the Alberta Environmental Appeals Board. There may be a strict time limit for filing such an appeal. A copy of section 91 is enclosed. For further information, please contact the Board Secretary at #306 Peace Hills Trust Tower, 10011 - 109 Street, Edmonton, Alberta, T5J 3S8; telephone (780) 427-6207; fax (780) 427-4693.

Notwithstanding the above requirements, the Party shall obtain all necessary approvals in complying with this order.

Take notice that this environmental protection order is a remedial tool only, and in no way precludes any enforcement proceedings being taken regarding this matter under this Act or any other legislation.

Further, contravention of the Environmental Protection Order may lead to additional enforcement proceedings, up to and including prosecution.



Regulatory Assurance  
Capital Region  
PO Box 4240 (T7X 3B4)  
Suite #1, 250 Diamond Avenue  
Spruce Grove AB T7X 4C7  
Telephone: 780-960-8600

**ENVIRONMENTAL PROTECTION AND ENHANCEMENT ACT**

BEING RSA 2000, c. E-12 (the "Act")

ENVIRONMENTAL PROTECTION ORDER EPO-EPEA-35659-02

JMB Crushing Systems Inc.  
Suite 2300, Bentall 5 550, Burrard Street  
Vancouver BC  
V6C 2B5,  
Canada

Byron Levkulich, Director  
JMB Crushing Systems Inc.  
1400 16<sup>th</sup> Street, Suite 320  
Denver CO 80202  
United States

Aaron Patsch, Director  
JMB Crushing Systems Inc.  
1400 16<sup>th</sup> Street, Suite 320  
Denver CO 80202  
United States

Jeffrey Buck, former Director  
JMB Crushing Systems Inc.  
3439 Keswick Boulevard SW  
Edmonton, AB  
T6W 3B2

Collectively referred to as the "Parties"

WHEREAS JMB Crushing Systems Inc. ("JMB") operates a pit under Registration No. 149949-00-00 located at SE-35-058-16-W4M and SW 36-058-16-W4M (Megley Pit) in Lamont County (the "Megley Pit");

WHEREAS Byron Levkulich and Aaron Patsch are Directors of JMB and Jeffrey Buck is a former Director of JMB ("Parties");

WHEREAS Sharon Cook, Cheryl Megley, Douglas Megley, Bill Kryzanoski own the land on which the Megley Pit is located;



- 2 -

WHEREAS section 2.1.1 of the *Code of Practice for Pits* states any person who carries out an activity at a pit must do so in accordance with this Code of Practice;

WHEREAS an "activity at a pit" is defined in the *Code of Practice for Pits* to mean the construction, operation or reclamation of a pit;

WHEREAS on January 20, 2020 Alberta Environment and Parks ("AEP") sent an email to JMB stating that the Megley Pit security Bond No. BND0015359 expires March 9, 2020.

WHEREAS on November 18, 2020, AEP sent a letter to JMB indicating it failed to replace security instruments on 7 pits that were registered to JMB and located on private land, including the Megley Pit;

WHEREAS on January 26, 2021, April Franks, an Environmental Protection Officer ("EPO") and a designated Inspector under the *Environmental Protection and Enhancement Act* RSA 2000, c E-12 (the "Inspector"), conducted a review of the Megley Pit Activities Plan and 2019 satellite imagery of the area and determined that JMB contravened the *Code of Practice for Pits* by:

- failing to restore the required financial security as required under section 3.2.2 of the *Code of Practice for Pits*;
- failing to follow the Activities Plan mining sequence including not conducting reclamation as required under section 4.1.1 of the *Code of Practice for Pits*;
- failing to comply to the boundary approved in the Registration as required under section 4.1.1 of the *Code of Practice for Pits*;
- failing to report regulatory non-compliances to the Director as required under section 6.1.1 of the *Code of Practice for Pits*;

WHEREAS reclamation of the disturbed land on Megley Pit has not occurred to date;

WHEREAS section 3.2.2 of the *Code of Practice for Pits* states "unless exempted by the Act or the *Conservation and Reclamation Regulation*, as amended from time to time, no person shall commence or continue an activity at a pit unless the full amount of security for that pit has been provided to the Director, as authorized in writing by the Director."

WHEREAS section 4.1.1 of the *Code of Practice for Pits* states "no person shall conduct any activity at a pit except in accordance with the most recent Activities Plan.";

WHEREAS section 6.1.1 of the *Code of Practice for Pits* states "in addition to any other reporting required pursuant to this Code of Practice, the Act or the regulations under the Act, any person carrying out an activity at a pit shall immediately report any contravention of this Code of Practice to: (a) the registration holder; and (b) the Director: (i) by telephone at (780) 422-4505, or (ii) by a method: (A) in compliance with the release reporting provisions of the Act and the regulations; or (B) authorized in writing by the Director. ;

WHEREAS on February 12, 2021, AEP issued a Notice of Non Compliance ("NONC") to JMB stating that AEP had identified non-compliances under the *Code of Practice for Pits* on pits registered to JMB located on private land, including the Megley Pit;

WHEREAS the NONC also stated that, by February 18, 2021, JMB was to provide:



- 3 -

- an assessment of the pits against the terms and conditions of the Registration and the *Code of Practice for Pits*, and
- a plan to bring each pit into compliance with the Registration and the *Code of Practice for Pits*;

WHEREAS JMB requested two extensions to the deadline to provide the information requested in the NONC, which AEP granted;

WHEREAS on February 24, 2021, JMB provided AEP with its response to the NONC, which stated that JMB's intentions with respect to the Megley Pit were as follows:

- to submit an updated Activities Plan by March 31, 2021 for the purpose of reclamation,
- Submit a Water Act application in 2021 based on consultation with AEP
- to post a security bond as a part of the closing of the CCAA court proceedings upon acceptance of the updated activities plan, and
- implement reclamation within three years of the updated activities plan approval;

WHEREAS on February 18, 2020 EPO had a conversation with the landowner, Douglas Megley, who indicated that:

- JMB last operated the pit on or about winter 2019, at which time they crushed and hauled gravel offsite without payment to the landowner;
- JMB breached its contract held between with Douglas Megley which required payment of royalties to Douglas Megley and completion of reclamation at the pit;
- Douglas Megley is concerned that reclamation will not be completed on Megley Pit

WHEREAS section 137 of the *Environmental Protection and Enhancement Act* states that an operator must conserve and reclaim specified land and unless exempted by the regulation, obtain a reclamation certificate in respect of the conservation and reclamation;

WHEREAS JMB is an 'operator' under section 134(b)(ii) of the *Environmental Protection and Enhancement Act*;

WHEREAS the Megley Pit is a "pit" as defined in the *Activities Designation Regulation* section 3(3)(d), for the purposes of Division 3 of Schedule 2;

WHEREAS the surface land disturbance in the Megley Pit is "specified lands" as defined by the *Conservation and Reclamation Regulation* section 1(t)(v);

WHEREAS the Parties are operators as defined in section 134(b)(i) of *EPEA*, i.e. an approval or registration holder who carries on or has carried on an activity on or in respect of specified land pursuant to an approval or registration, and section 34(b) vii), i.e. a person who acts as principal or agent of a person referred to in any of subclauses (i) to (vi);

WHEREAS section 3.1 of the *Conservation and Reclamation Regulation* states that the *Code of Practice for Pits*, as published by AEP, is adopted and forms part of that regulation and requires that a person carrying on an activity referred to in Column A of the Schedule

- 4 -

must comply with the corresponding Code of Practice in Column B of the Schedule in carrying on that activity;

WHEREAS the Schedule of the *Conservation and Reclamation Regulation* states that the construction, operation or reclamation of a pit that is listed in Schedule 2, Division 3 of the *Activities Designation Regulation* must comply with the *Code of Practice for Pits*;

WHEREAS EPO April Franks, has been designated as an Inspector for the purposes of issuing environmental protection orders under section 140 the *Environmental Protection and Enhancement Act*;

WHEREAS the Inspector is of the opinion that the suspension of the operation in the Megley Pit and directing the performance of work is necessary in order to conserve and reclaim the Megley Pit;

WHEREAS the Inspector is of the opinion that the surface land disturbance meets the criteria of "specified lands" defined by the *Conservation and Reclamation Regulation* section 1(t)(v)

THEREFORE, I April Franks, Inspector, North Region, pursuant to section 140 of the *Environmental Protection and Enhancement Act*, DO HEREBY ORDER:

1. The Parties shall immediately suspend any and all work at the Megley Pit, and shall not remove any stockpiled materials.
2. By April 13, 2021, the Parties shall submit to the Inspector for the Inspector's approval, the name and qualifications of a consultant who carries a professional designation authorized to practice reclamation on private land, which the Parties will retain to prepare and sign the below noted reclamation and remedial plan.
3. By May 20, 2021, the Parties shall submit to the Inspector for the Inspector's review and approval a written reclamation and remedial plan ("Plan").
4. The Parties shall include at minimum include all of the following in the Plan:
  - a. Particulars of the characteristics and properties of the land including topography, drainage, soils, vegetation and land capability.
  - b. A historical synopsis of the surface, subsurface and groundwater disturbance.
  - c. A description of the adjacent land uses.
  - d. An accounting of what volume of marketable aggregate is left within the Megley pit and its value.
  - e. A description of the reclamation work including the type of equipment, methods and materials that will be used in implementing the Plan.
  - f. A description of the proposed reclaimed land use that includes elevations, soil replacement and re-vegetation.



- 5 -

- g. A description of how ground water infiltrating open excavations will be addressed and justification for any surface and water related improvements to be left in place.
  - h. A proposed Schedule of Implementation that shall have October 29, 2022 as the completion date.
  - i. A 6 month monitoring and maintenance program commencing October 29, 2022.
5. Upon approval of the Plan by the Inspector, the Parties shall conduct the work described in the approved Plan, according to the approved schedule of implementation, unless otherwise authorized in writing by the Inspector.
6. The Parties shall submit progress updates to the Inspector on July 30, 2021, November 30, 2021, March 31, 2022, and July 29, 2022 that include a detailed summary of all reclamation activities undertaken at Megley Pit;
7. Within 14 days of the completion of the requirements of this Order, the Parties shall submit to the Inspector a final written report prepared and signed by the consultant describing the work undertaken to comply with this Order.

DATED at the City of Spruce Grove in the Province of Alberta, this Thursday on the 11<sup>th</sup> day of March, 2021.



April Franks,  
Inspector,  
Environmental Protection Officer,  
North Region

- 6 -

Section 91 of the *Environmental Protection and Enhancement Act* may provide a right of appeal against this decision to the Alberta Environmental Appeals Board. There may be a strict time limit for filing such an appeal. A copy of section 91 is enclosed. For further information, please contact the Board Secretary at #306 Peace Hills Trust Tower, 10011 - 109 Street, Edmonton, Alberta, T5J 3S8; telephone (780) 427-6207; fax (780) 427-4693.

Notwithstanding the above requirements, the Party shall obtain all necessary approvals in complying with this order.

Take notice that this environmental protection order is a remedial tool only, and in no way precludes any enforcement proceedings being taken regarding this matter under this Act or any other legislation.

Further, contravention of the Environmental Protection Order may lead to additional enforcement proceedings, up to and including prosecution.

THIS IS EXHIBIT "N" REFERRED TO IN  
THE AFFIDAVIT OF TYLER PELL  
SWORN BEFORE ME  
THIS 22<sup>ND</sup> DAY OF MARCH, 2021

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A Commissioner for Oaths in and for the  
Province of Alberta





**ENVIRONMENTAL PROTECTION AND ENHANCEMENT ACT**

BEING RSA 2000, c. E-12 (the "Act")

ENVIRONMENTAL PROTECTION ORDER EPO-EPEA-35659-07

2161889 Alberta Ltd.  
P.O. Box 6977  
Bonnyville, AB  
T9N 2H4

Byron Levkulich, former Director of 2161889 Alberta Ltd.  
JMB Crushing Systems Inc.  
1400 16<sup>th</sup> Street, Suite 320  
Denver CO 80202  
United States

Aaron Patsch, former Director of 2161889 Alberta Ltd.  
JMB Crushing Systems Inc.  
1400 16<sup>th</sup> Street, Suite 320  
Denver CO 80202  
United States

Jeffrey Buck, former Director of 2161889 Alberta Ltd.  
JMB Crushing Systems Inc.  
3439 Keswick Boulevard SW  
Edmonton, AB  
T6W 3B2

Lisa Ball, former Director of 2161889 Alberta Ltd.  
2161889 Alberta Ltd.  
PO Box 211  
Boyle, AB  
T0A 0M0

541466 Alberta Ltd.  
2300, 10180 – 101 St NW  
Edmonton, AB  
T5J 1V3

Robert W. Beaverford  
52547 RR 223  
Sherwood Park, AB  
T8A 4P7

[Collectively, the "Parties"]

WHEREAS 2161889 Alberta Ltd. ("216") has operated a gravel pit (the "Pit") in 2019 and 2020 on a portion of public land legally described as SW-13-065-18-W4M [the "Lands"] in Athabasca County, in the Province of Alberta;

WHEREAS the Pit covers approximately 11.271 hectares on the Lands and the approximate boundaries of the Pit are shown on the map in Appendix A to this Order;

WHEREAS the *Environmental Protection and Enhancement Act* ("EPEA") section 1(xx) defines pit as an operation on or excavation from the surface of the land for the purpose of removing sand and gravel and includes any associated infrastructure;

WHEREAS the Lands are contained in surface material lease 060060 ("SML 060060") that is a disposition issued to 216 under the *Public Lands Act* as a result of an assignment on March 15, 2019. SML 060060 expires on May 28, 2024;

WHEREAS Byron Levkulich, Aaron Patsch, Jeffrey Buck, and Lisa Ball are former Directors for 216;

WHEREAS Robert W. Beaverford held SML 060060 between June 27, 2008 and March 15, 2019;

WHEREAS 541466 Alberta Ltd. ("541") operated the Pit between May 2017 and March 15, 2019;

WHEREAS Lisa Ball has been a Director for 541 from November 1999 to March 10, 2021 (present);

WHEREAS Clause 8 of Schedule A to SML 060060 – "Operating Conditions to the Agreement" requires the holder to reclaim any land disturbed in accordance with the approved Conservation and Reclamation Business Plan (CRBP). CRBP dated: May 28, 2014;

WHEREAS on May 28, 2014, Alberta Environment and Parks ("AEP") approved the Conservation and Reclamation Business Plan Approval for SML060060 ("CRBP");

WHEREAS on May 10, 2017 an Alberta Environment and Parks ("AEP") Public Lands Officer ["PLO"] inspected the Lands and observed the Lands had been recently logged but not yet been disturbed by mining activities;

WHEREAS on January 22, 2019 Robert Beaverford filed an annual return documenting the removal of 174,965.19 cubic yards of material from SML 060060 during the 2018 operating year;

WHEREAS on March 25, 2019 the Director issued an administrative penalty to 541466 Alberta Ltd. and Robert Beaverford for:

- Entering public land without authorization;
- Cleared public land without authority;
- Causing loss and damage with rutting and vegetation removal by heavy equipment;



- Contravened the terms of the lease by operating during a timing restriction; and
- Caused loss and damage to public land with root removal and vegetation piling and the removal of topsoil, which are all contraventions of the *Public Lands Act* or the SML

WHEREAS on May 1, 2020, 216 entered into proceedings under the *Companies Creditors Arrangement Act* R.S.C., 1985, c. C-36;

WHEREAS Clause 13 of Schedule A to SML 060060 – "Operating Conditions to the Agreement" requires the holder to leave a buffer zone of undisturbed vegetation a minimum width of 100 m between the Lands and all waterbodies and courses;

WHEREAS on October 7, 2020 the AEP PLO inspected the Lands and observed:

- Pit operations had not followed pit development sequencing as required by the CRBP;
- Drainage patterns in the south of the Pit do not match details shown in the CRBP;
- The 3 m vegetation buffer was not in place around the perimeter of the Pit (refer to Appendix A);
- Erosion washing to the adjacent vegetation resulting in trespass of public land ("trespass" on map in Appendix A);
- Rills and gullies formed along southern boundary of the Lands (refer to Appendix A);
- Noxious weeds were present throughout the south of the Pit;
- An end pit lake had formed in the Pit (refer to Appendix A);
- Subsoil and aggregate stockpiles were located on the edges of the end pit lake;
- Stockpiles of topsoil interspersed with stockpiles of non-processed aggregate and subsoil in the Pit; and
- A watercourse that was not identified on the CRBP (refer to "draw" in Appendix A);

WHEREAS Clause 28 of SML 060060 requires the holder to strip and pile topsoil separately from any woody material and subsoil;

WHEREAS Clause 33 of SML 060060 requires the holder to take all precautions and safeguards necessary to prevent soil and surface erosion to the satisfaction of the Department in its sole discretion;

WHEREAS on January 31, 2020 216 filed an annual return documenting the removal of 3,384.41 cubic yards of material from SML 060060 during the 2019 operating year;

WHEREAS on February 10, 2021, 216 filed an annual return documenting the removal of 2,254 cubic yards of (material) from SML 060060 during the 2020 operating year;

WHEREAS on February 10, 2021 an AEP Environmental Protection Officer ["EPO"] identified that the CRBP committed the operator to dry excavation only in the pit sequencing notes;



WHEREAS on February 17, 2021, Nathan Polturak, an Environmental Protection Officer ("EPO") and Inspector under the *Environmental Protection and Enhancement Act* RSA 2000, c E-12 (the "Inspector"), conducted a review of the terms and conditions of SML 060060 and 2019 satellite imagery of the area and determined that 216 contravened the *Public Lands Act* and *Public Lands Administration Regulation* by:

- caused, permitted, or allowed loss or damage to public land;
- caused, permitted, or allowed the creation of conditions likely to result in soil erosion on public land; and
- contravened one or more provisions of the disposition.
- failed to pay fees owing to AEP;
- failed to adhere to disturbance standards;
- allowed or caused loss or damage on the subject land; and
- failed to report these non-compliance issues to the Director.

WHEREAS on February 23, 2021, AEP issued a Notice of Non-Compliance ("NONC") to 216 stating that AEP had identified issues of non-compliance of the *Public Lands Act* under SLM 060060.

WHEREAS on February 26, 2021, 216 provided AEP with its response to the NONC, which stated that since March 2019, 216 has completed minor earthworks and hauling of crushed gravel. It also stated that 216's intentions with respect to the Pit were as follows;

- to engage the services of a legal land surveyor to survey the southern boundary in question. Forward results of the surveyor to AEP for further consultation and possible action;
- to work with AEP to determine final *Water Act* authorization requirements for filling in the constructed water body;
- to update CRBP as needed; and
- to submit non-compliance for construction of water body without authorization.

WHEREAS section 137 of the *Environmental Protection and Enhancement Act* states that an operator must conserve and reclaim specified land and unless exempted by the regulation, obtain a reclamation certificate in respect of the conservation and reclamation;

WHEREAS the surface land disturbance in the Pit is "specified lands" as defined by the *Conservation and Reclamation Regulation* section 1(t)(v);

WHEREAS the Parties are persons who carry on or have carried on an activity on or in respect of specified land other than pursuant to an approval or registration, and are persons who act as principal or agent of person(s) referred to in any of *EPEA* section 134(b)(i) to (vi), and therefore are operators;

WHEREAS Nathan Polturak, Environmental Protection Officer, North Region (the "Inspector") has been designated as an Inspector for the purposes of issuing environmental protection orders under section 140 the *Environmental Protection and Enhancement Act*; and

WHEREAS the Inspector is of the opinion that the suspension of the operation in the Pit and directing the performance of work is necessary in order to conserve and reclaim specified land.

THEREFORE, I Nathan Polturak, Inspector, North Region, pursuant to section 140 of the *Environmental Protection and Enhancement Act*, DO HEREBY ORDER:

1. The Parties shall immediately suspend any and all work at the Pit, and shall not remove any stockpiled materials.

2. By **March 19, 2021**, the Parties shall submit to the Inspector for the Inspector's approval, the name and qualifications of a consultant who carries a professional designation authorized to practice reclamation on private land, which the Parties will retain to prepare and sign the below noted reclamation and remedial plan.

3. By **March 31, 2021**, the Parties shall submit to the Inspector for the Inspector's review and approval a written reclamation and remedial plan ("Plan").

4. The Parties shall include at minimum include all of the following in the Plan:

- a. Particulars of the characteristics and properties of the land including topography, drainage, soils, vegetation and land capability.
- b. A historical synopsis of the surface, subsurface and groundwater disturbance.
- c. A description of the adjacent land uses.
- d. An accounting of what volume of marketable aggregate is left within the Pit and its value.
- e. A description of the reclamation work including the type of equipment, methods and materials that will be used in implementing the Plan.
- f. A description of the proposed reclaimed land use that includes elevations, soil replacement and re-vegetation.
- g. A description of how ground water infiltrating open excavations will be addressed and justification for any surface and water related improvements to be left in place.
- h. A proposed Schedule of Implementation that shall have **September 20, 2022** as the completion date.
- i. A six month monitoring and maintenance program commencing **September 20, 2022**.

5. Upon approval of the Plan by the Inspector, the Parties shall conduct the work described in the approved Plan, according to the approved schedule of implementation, unless otherwise authorized in writing by the Inspector.

6. The Parties shall submit progress updates to the Inspector on **July 30, 2021**, **September 30, 2021**, **March 31, 2022**, and **July 31, 2022** that include a detailed summary of all reclamation activities undertaken at the Pit;



7. Within 14 days of the completion of the requirements of this Order, the Parties shall submit to the Inspector a final written report prepared and signed by the consultant describing the work undertaken to comply with this Order.

DATED at the Town of Lac La Biche in the Province of Alberta, the 12<sup>th</sup> day of March, 2021.



Nathan Polturak  
Inspector,  
Environmental Protection Officer  
North Region

**Section 91 of the *Environmental Protection and Enhancement Act* may provide a right of appeal against this decision to the Alberta Environmental Appeals Board. There may be a strict time limit for filing such an appeal. A copy of section 91 is enclosed. For further information, please contact the Board Secretary at:**

**#306 Peace Hills Trust Tower  
10011 - 109 Street  
Edmonton, Alberta, T5J 3S8  
Telephone (780) 427-6207  
Fax (780) 427-4693.**

**Notwithstanding the above requirements, the Parties shall obtain all necessary authorizations from any regulatory agency (federal, provincial, or municipal) in complying with this order.**

**Take notice that this environmental protection order is a remedial tool only, and in no way precludes any enforcement proceedings being taken regarding this matter under this Act or any other legislation. Failure to comply with this order may result in further enforcement proceedings.**



## APPENDIX A



THIS IS EXHIBIT "O" REFERRED TO IN  
THE AFFIDAVIT OF TYLER PELL  
SWORN BEFORE ME  
THIS 22<sup>ND</sup> DAY OF MARCH, 2021

---

A Commissioner for Oaths in and for the  
Province of Alberta





Regulatory Assurance  
North Region - Capital  
PO Box 4240 (T7X 3B4)  
Suite #1, 250 Diamond Avenue  
Spruce Grove AB T7X 4C7  
Telephone: 780-960-8600

**ENVIRONMENTAL PROTECTION AND ENHANCEMENT ACT**

BEING RSA 2000, c. E-12 (the "Act")

**Amendment No.1**

To

ENVIRONMENTAL PROTECTION ORDER EPO-EPEA-35659-01

JMB Crushing Systems Inc.  
Suite 2300, Bentall 5 550, Burrard Street  
Vancouver BC  
V6C 2B5,  
Canada

Byron Levkulich, Director  
JMB Crushing Systems Inc.,  
1400 16<sup>th</sup> Street, Suite 320  
Denver CO 80202  
United States

Aaron Patsch, Director  
JMB Crushing Systems Inc.  
1400 16<sup>th</sup> Street, Suite 320  
Denver CO 80202  
United States

Jeffrey Buck, former Director  
JMB Crushing Systems Inc.  
3439 Keswick Boulevard SW  
Edmonton, AB  
T6W 3B2

Collectively referred to as the "Parties"

WHEREAS Environmental Protection Order No.35659-01 was issued to the Parties on March 3, 2021;

WHEREAS on March 12, 2021 JMB Crushing Inc. requested an extension to Clause 3 of the Environmental Protection Order, requesting to change the Plan's submission date from March 20, 2021 to March 27, 2021;

WHEREAS section 243 (1) (a) of the *Environmental Protection and Enhancement Act* states the Director may amend a term or condition of an environmental protection order;

- 2 -

THEREFORE, I, Maxwell Harrison, the Director pursuant to section 243 of the *Environmental Protection and Enhancement Act*, DO HEREBY ORDER:

1. In Clause 3 of the Environmental Protection Order, that the date of "March 20, 2021" be deleted and replaced by "**March 27, 2021**".

DATED at the City of Edmonton in the Province of Alberta, this Tuesday on the 16<sup>th</sup> day of March 2021.



Maxwell Harrison,  
Compliance Manager,  
Regulatory Assurance Division, Northern Region

**Section 91 of the *Environmental Protection and Enhancement Act* may provide a right of appeal against this decision to the Alberta Environmental Appeals Board. There may be a strict time limit for filing such an appeal. A copy of section 91 is enclosed. For further information, please contact the Board Secretary at #306 Peace Hills Trust Tower, 10011 - 109 Street, Edmonton, Alberta, T5J 3S8; telephone (780) 427-6207; fax (780) 427-4693.**

**Notwithstanding the above requirements, the Party shall obtain all necessary approvals in complying with this order.**

**Take notice that this environmental protection order is a remedial tool only, and in no way precludes any enforcement proceedings being taken regarding this matter under this Act or any other legislation.**

**Further, contravention of the Environmental Protection Order may lead to additional enforcement proceedings, up to and including prosecution.**

THIS IS EXHIBIT "P" REFERRED TO IN  
THE AFFIDAVIT OF TYLER PELL  
SWORN BEFORE ME  
THIS 22<sup>ND</sup> DAY OF MARCH, 2021

---

A Commissioner for Oaths in and for the  
Province of Alberta

JP



---

**From:** Tyler Pell <tylerpell@jmbcrush.com>  
**Sent:** March 12, 2021 11:39 AM  
**To:** Cumming, Tom; Josh Inglett; Kroeger, Stephen; Anton Trainer  
(anton.trainer@rlholdings.com)  
**Subject:** FW: EPO-EPEA-35659-01, EPO-EPEA-35659-02, EPO-EPEA-35659-03, EPO-EPEA-35659-04, EPO-EPEA-35659-05, EPO-EPEA-35659-06 / Submission of Authorized Designated Professional

This message originated from outside of Gowling WLG. | Ce message provient de l'extérieur de Gowling WLG.

---

Tyler Pell  
1.780.815.0139

**From:** April Franks <April.Franks@gov.ab.ca>  
**Sent:** March 12, 2021 11:29  
**To:** Tyler Pell <tylerpell@jmbcrush.com>  
**Subject:** RE: EPO-EPEA-35659-01, EPO-EPEA-35659-02, EPO-EPEA-35659-03, EPO-EPEA-35659-04, EPO-EPEA-35659-05, EPO-EPEA-35659-06 / Submission of Authorized Designated Professional

Thanks Tyler,

Received.

April Franks

Classification: Protected A

**From:** Tyler Pell <tylerpell@jmbcrush.com>  
**Sent:** March-12-21 9:20 AM  
**To:** April Franks <April.Franks@gov.ab.ca>  
**Subject:** EPO-EPEA-35659-01, EPO-EPEA-35659-02, EPO-EPEA-35659-03, EPO-EPEA-35659-04, EPO-EPEA-35659-05, EPO-EPEA-35659-06 / Submission of Authorized Designated Professional

---

CAUTION: This email has been sent from an external source. Treat hyperlinks and attachments in this email with care.

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Good morning April,

As required in EPO-EPEA-35659-01, EPO-EPEA-35659-02, EPO-EPEA-35659-03, EPO-EPEA-35659-04, EPO-EPEA-35659-05, and EPO-EPEA-35659-06, JMB respectfully submits Tyler Pell, RPFT registration #930009 under the Association of Alberta Forest Management Professionals (AAFMP), as the individual who carries a professional designation that authorizes Tyler to practice reclamation in the province of Alberta. Tyler has over 25 years of experience and is a member in good standing with AAFMP.

If you require further details please let me know.

Regards,

Tyler Pell

THIS IS EXHIBIT "Q" REFERRED TO IN  
THE AFFIDAVIT OF TYLER PELL  
SWORN BEFORE ME  
THIS 22<sup>ND</sup> DAY OF MARCH, 2021

---

A Commissioner for Oaths in and for the  
Province of Alberta





Environment and Parks

---

**WATER ACT**

BEING CHAPTER W-3 R.S.A. 2000 (the "Act")

**ENFORCEMENT ORDER NO. EO-WA-35659-01**

2161889 Alberta Ltd.  
P.O. Box 6977  
Bonnyville, AB  
T9N 2H4

Byron Levkulich, former Director of 2161889 Alberta Ltd.  
JMB Crushing Systems Inc.  
1400 16<sup>th</sup> Street, Suite 320  
Denver CO 80202  
United States

Aaron Patsch, former Director of 2161889 Alberta Ltd.  
JMB Crushing Systems Inc.  
1400 16<sup>th</sup> Street, Suite 320  
Denver CO 80202  
United States

Jeffrey Buck, former Director of 2161889 Alberta Ltd.  
JMB Crushing Systems Inc.  
3439 Keswick Boulevard SW  
Edmonton, AB  
T6W 3B2

Lisa Ball, former Director of 2161889 Alberta Ltd.  
2161889 Alberta Ltd.  
PO Box 211  
Boyle, AB  
T0A 0M0

541466 Alberta Ltd.  
o/a JLG Ball Enterprises  
2300, 10180 – 101 St NW  
Edmonton, AB  
T5J 1V3

Robert W. Beaverford  
52517 RR 292  
Sherwood Park, AB  
T8A 4P7

[Collectively, the "Parties"]

WHEREAS 2161889 Alberta Ltd. ("216") has operated a gravel pit (the "Pit") in 2019 and 2020 on a portion of public land legally described as SW-13-065-18-W4M [the "Lands"] in Athabasca County, in the Province of Alberta;

WHEREAS the Pit covers approximately 11.271 hectares on the Lands and the approximate boundaries of the Pit are shown on the map in Appendix A to this Order;

WHEREAS the Lands are contained in surface material lease 060060 ("SML 060060") that is a disposition issued to 216 under the *Public Lands Act* as a result of an assignment on March 15, 2019. SML 060060 expires on May 28, 2024;

WHEREAS Byron Levkulich, Aaron Patsch, Jeffrey Buck, and Lisa Ball are former Directors for 216;

WHEREAS Robert W. Beaverford held SML 060060 between June 27, 2008 and March 15, 2019;

WHEREAS 541466 Alberta Ltd. ("541") operated the Pit between May 2017 and March 15, 2019;

WHEREAS Lisa Ball has been a Director for 541 from November 1999 to March 10, 2021 (present);

WHEREAS Clause 6 of Schedule A to SML 060060 – "Operating Conditions to the Agreement" requires the holder to reclaim any land disturbed in accordance with the approved Conservation and Reclamation Business Plan (CRBP). CRBP dated: May 28, 2014;

WHEREAS on May 28, 2014, Alberta Environment and Parks ("AEP") approved the Conservation and Reclamation Business Plan Approval for SML060060 ("CRBP");

WHEREAS Clause 13 of Schedule A to SML 060060 – "Operating Conditions to the Agreement" requires the holder to leave a buffer zone of undisturbed vegetation a minimum width of 100 m between the Lands and all waterbodies and courses;

WHEREAS on May 10, 2017, an AEP Public Lands Officer ["PLO"] inspected the Lands and observed that the Lands had been recently logged, but had not yet been disturbed by mining activities;

WHEREAS on January 22, 2019 Robert Beaverford filed an annual return documenting the removal of 174,985.19 cubic yards of material from SML 060060 during the 2018 operating year;

WHEREAS on March 26, 2019 the Director issued an administrative penalty to 541466 Alberta Ltd. and Robert Beaverford, for:

- Entering public land without authorization;



- Cleared public land without authority;
- Causing loss and damage with rutting and vegetation removal by heavy equipment;
- Contravened the terms of the lease by operating during a timing restriction; and
- Caused loss and damage to public land with root removal and vegetation piling and the removal of topsoil, which are all contraventions of the *Public Lands Act* or SML 0600060;

WHEREAS on May 1, 2020, 216 entered into proceedings under the *Companies Creditors Arrangement Act* R.S.C., 1985, c. C-36;

WHEREAS on October 7, 2020, the PLO inspected the Lands, took photos, and identified:

- An end pit waterbody ("Lake") in the Pit (refer to Appendix A);
- Drainage patterns in the south of the Pit do not match details shown in the CRBP;
- Erosion washing to the adjacent vegetation resulting in trespass of public land ("trespass" on map in Appendix A);
- Rills and gullies formed along southern boundary of the Lands (refer to Appendix A);
- Subsoil and aggregate stockpiles were located on the edges of the Lake;
- A trench ("Ditch A") that was not identified on the CRBP that functioned as outflow for the Lake;
- The trench exited the Lands near a small waterbody located across from the northwest corner of SML 060060 in SE-14-065-18-W4M; and
- Siltation occurring to the small waterbody;

WHEREAS on January 31, 2020 216 filed an annual return documenting the removal of 3,384.41 cubic yards of material from SML 060060 during the 2019 operating year;

WHEREAS on February 10, 2021 216 filed an annual return documenting the removal of 2,254 cubic yards of material from SML 060060 during the 2020 operating year;

WHEREAS the *Public Lands Administration Regulation* section 105(c) defines operations as the removal of surface material from public land described in a lease;

WHEREAS the *Public Lands Administration Regulation* section 105(g) defines surface material means sand and gravel;

WHEREAS on February 10, 2021, an AEP Environmental Protection Officer ("EPO") identified that the approved CRBP committed to dry excavation only in the pit sequencing;

WHEREAS on February 10, 2021, the EPO conducted a search of the AEP Authorization Viewer for the Lands for a *Water Act* Approval to conduct activities and determined there is no authorization on record;

WHEREAS on February 17, 2021, Nathan Polturak, an EPO and Inspector under the *Water Act*



RSA 2000, c W-3 (the "Inspector"), conducted a review of the terms and conditions of SML 060060 and 2019 satellite imagery of the area and determined that 216 contravened the *Public Lands Act* and the *Water Act* by:

- Contravened one or more provisions of the disposition; and
- commencing or continuing an activity except pursuant to an approval where no authorization was granted

WHEREAS on February 23, 2021, AEP issued a Notice of Non-Compliance ("NONC") to 216 stating that AEP had identified issues of non-compliance of the *Public Lands Act* under SLM 060060.

WHEREAS the NONC stated that, by February 26, 2021 216 was to provide a written plan:

- detailing its assessment of the disposition against the terms and conditions of SML 060060, the *Public Lands Act* and the *Public Lands Administration Regulation*;
- describing how 216 plans to bring the disposition into compliance with the *Public Lands Act*, *Public Lands Administration Regulation*, and the terms and conditions of the disposition, including a timeline to completion; and
- stating its immediate plans to operate the pit on the lands contained in SML 060060.

WHEREAS on February 26, 2021, 216 provided AEP with its response to the NONC, which clarified with respect to SML 060060, that since March 2019, 216 has completed minor earthworks and hauling of crushed gravel and stated that 216's intentions were as follows:

- engage the services of a legal land surveyor to survey the southern boundary in question. Forward results to AEP for further consultation and possible action;
- work with AEP to determine final *Water Act* authorization requirements for filling in the constructed water body;
- update CRBP as needed; and
- submit non-compliance for construction of water body without authorization.

WHEREAS on February 26, 2021, the EPO identified off-site impacts to a waterbody due to erosion and siltation originating from the Lake. The observation was made on the Athabasca County MuniSight website using the 2019 ortho base layer. Observed impacts include silty water in a small waterbody across from the northwest corner of SML 060060 in SE-14-065-18-W4M as well as a siltation plume (refer to Appendix A) extending north from the small waterbody into a wetland complex ("the waterbodies") that empties to Amisk Lake;

WHEREAS altering the flow, direction of flow or level of water or changing the location of water for the purpose of drainage is an "activity" as defined in Section 1(1)(b)(i) and (ii) of the *Water Act*;

WHEREAS the maintaining, removing or disturbing ground or carrying out of any undertaking that causes, may cause or may become capable of causing the siltation of water is an "activity" as defined in Section 1(1)(b)(i) of the *Water Act*;

WHEREAS section 36(1) of the *Water Act* states that no person shall commence or continue an activity except pursuant to an approval unless otherwise authorized under the *Act*;

WHEREAS AEP has not issued an approval or licence to any of the Parties or to any person for the creation of the Lake and this activity is not otherwise authorized under the *Water Act*;

WHEREAS AEP has not issued an approval or licence to any of the Parties or to any person for any undertaking resulting in the siltation of the waterbodies and this activity is not otherwise authorized under the *Water Act*;

WHEREAS section 135(1) of the *Water Act* states the Director may issue an enforcement order to any person if, in the Director's opinion, that person has contravened this *Act*, whether or not that person has been charged or convicted in respect of the contravention;

WHEREAS Heather Dent, Compliance Manager, Alberta Environment and Parks, has been designated as a Director for the purpose of issuing enforcement orders under the *Water Act* [ the "Director"];

WHEREAS the Director is of the opinion that the Parties have contravened Section 36(1) of the *Water Act* by commencing or continuing an activity without an approval;

THEREFORE, I, Heather Dent, the Director, pursuant to Sections 135(1) and 136(1) of the *Water Act*, DO HEREBY ORDER THAT:

1. The Parties shall immediately cease all unauthorized activities on the Lands, including any work on, in or around the Lake.
2. The Parties shall submit to the Director, for the Director's approval, the name and qualifications of a Professional who is a member in good standing with a Professional Regulatory Organization, with experience in preparing a remedial plan and managing groundwater by **March 19, 2021**.
3. The Parties shall submit to the Director, for the Director's approval, a written remedial plan ("Remedial Plan") signed and stamped by the Professional by **March 31, 2021**.
4. The Parties shall include in the Remedial Plan all of the following:
  - a. A detailed assessment of the Lands including drainage, soils, vegetation, water (ground/surface) and any affected areas surrounding the Lands;
  - b. Apply for required authorization to conduct remedial activities of the Land;



- c. A detailed map to determine:
    - i. The source of the water in the Lake;
    - ii. The original drainage prior to any activity on the Lands; and
    - iii. The current drainage including the extent water is discharging off the Lands.
  - d. A hydrological assessment of:
    - i. the amount of water that is discharging off of the Lands annually; and
    - ii. The sediment load eroded from the Lands annually;
  - e. A detailed description of how the Lake on the Lands will be reclaimed;
  - f. A detailed plan on how water will be managed on the Lands and be returned to the natural drainage system once the Lake has been decommissioned;
  - g. A description of the type of equipment, methods, and materials that will be used in implementing the Remedial Plan;
  - h. A description of the long-term monitoring and maintenance measures that will be implemented to ensure that remedial works remain effective at achieving the goals in Paragraphs 4E and 4F of this Order; and
  - i. A schedule of implementing the Remedial Plan with a completion date no later than **October 1, 2021**.
5. In the Water Act Remedial Plan, the Parties must include a detailed plan to permanently render ineffective Ditch A
  6. The Parties shall implement the Remedial Plan as approved in writing by the Director in accordance with the schedule of implementation approved by the Director.
  7. The Parties shall provide the Director with a minimum of 2 business days' notice by email prior to commencing any work under the Remedial Plan.
  8. The Parties shall submit progress updates to the Director on **July 15, 2021**; **November 15, 2021**; **May 15, 2022**; and **July 31, 2022** that include a detailed summary of all remedial activities undertaken pursuant to this Enforcement Order.
  9. The Parties shall submit a final report prepared and signed by the approved Professional describing the work undertaken to comply with this Order by **October 30, 2022**.



DATED at the City of Edmonton in the Province of Alberta, this 12th day of March 2021.

---

Heather Dent  
Compliance Manager  
Boreal North Region

Section 115 of the *Water Act* may provide a right of appeal against this decision to the Alberta Environmental Appeals Board. There may be a strict time limit for filing such an appeal. A copy of section 115 is enclosed. For further information, please contact the Board Secretary at:

#306 Peace Hills Trust Tower  
10011 - 109 Street  
Edmonton, Alberta, T5J 3S8  
Telephone (780) 427-6207  
Fax (780) 427-4693.

Notwithstanding the above requirements, the Parties shall obtain all necessary authorizations from any regulatory agency (federal, provincial, or municipal) in complying with this order.

Take notice that this environmental protection order is a remedial tool only, and in no way precludes any enforcement proceedings being taken regarding this matter under this Act or any other legislation. Failure to comply with this order may result in further enforcement proceedings.

## APPENDIX A





THIS IS EXHIBIT "R" REFERRED TO IN  
THE AFFIDAVIT OF TYLER PELL  
SWORN BEFORE ME  
THIS 22<sup>ND</sup> DAY OF MARCH, 2021

---

A Commissioner for Oaths in and for the  
Province of Alberta

CF

**ENVIRONMENTAL PROTECTION AND ENHANCEMENT ACT**

BEING CHAPTER E-12 R.S.A. 2000 (the "Act")

**ENVIRONMENTAL PROTECTION ORDER NO. EPO-EPEA-35659-09**

JMB Crushing Systems Inc.  
Suite 2300, Bentall 5 550, Burrard Street  
Vancouver BC  
V6C 2B5,  
Canada

Byron Levkulich, Director  
Suite 2300, Bentall 5 550, Burrard Street  
Vancouver BC  
V6C 2B5,  
Canada

Aaron Patsch, Director  
Suite 2300, Bentall 5 550, Burrard Street  
Vancouver BC  
V6C 2B5,  
Canada

Jeffrey Buck, former Director  
JMB Crushing Systems Inc.  
3439 Keswick Boulevard SW  
Edmonton, AB  
T6W 3B2

[Collectively, the "Parties"]

WHEREAS JMB Crushing Systems Inc. ["JMB"; the "Operator"] has operated a gravel pit [the "Pit"] on a portion of public land legally described as SW-21-063-12-W4M [the "Lands"] in Lac La Biche County, in the Province of Alberta;

WHEREAS the Pit is approximately 5.850 hectares in area. Appendix A to this Order contains a map showing the dimensions, location and features of the Pit;

~~WHEREAS the Environmental Protection and Enhancement Act ("EPEA") section 1(x) defines pit~~  
as an operation on or excavation from the surface of the land for the purpose of removing sand and

gravel and includes any associated infrastructure;

WHEREAS the Lands are contained in surface material lease 980116 ("SML 980116") that is a disposition issued to JMB under the *Public Lands Act* on February 16, 1999;

WHEREAS Byron Levkulich, Aaron Patsch are Directors for JMB and Jeffrey Buck is a former Director of JMB;

WHEREAS the disposition agreement for SML 980116 currently in force dates to February 16, 1999;

WHEREAS on October 25, 1999 Alberta Environment and Parks ("AEP") approved the Conservation and Reclamation Plan ("CORP") for SML 980116;

WHEREAS on May 16, 2008 an Alberta Environment and Parks ("AEP") Public Lands Officer ["PLO"] inspected the Lands. Inspection notes record:

- The client does not need the pit anymore as gravel removal is complete;
- Reclamation is to be done that year;
- The Pit should be renewed for a short time to allow reclamation;
- Department is to send a letter outlining reclamation timeline and to request an increase the security deposit to ensure compliance; and
- Outstanding work includes brush disposal, levelling and back sloping, and vegetation establishment;

WHEREAS on February 15, 2009 SML 980116 expired;

WHEREAS on September 4, 2015 an AEP PLO inspected the Lands. Inspection notes record:

- Renewal not recommended, no indication the gravel pit is still in operation;
- Cattle currently grazing the site;
- Top soil piles are present;
- Invasive plants on site (Canada thistle) in concentrated areas by the top soil piles and along the access; and
- Reclamation remains outstanding;

WHEREAS on September 16, 2015 the PLO sent a letter to JMB requiring them to distribute the remaining topsoil pile be distributed evenly over the Pit;

WHEREAS on May 1, 2020 JMB entered into proceedings under the *Companies Creditors Arrangement Act*, R.S.C., 1985, c. C-36;

WHEREAS on December 18, 2020 the AEP EPO completed an inspection of the Lands and found:

- Access was barred by a locked gate. Access appeared shared with a CNRL installation;
- Cattle were present on the Lands;
- Good revegetation observed through sparse snow around the site including grasses, forbs,



trees, and shrubs; and

- A stockpile observed against the treeline on the northwest side. The stockpile was covered with grasses. Material was not determined due to the cattle present.

WHEREAS on February 23, 2021 the EPO spoke with Tyler PELL of JMB who stated:

- JMB's staff and consultants visited the pit December 11, 2020;
- JMB cannot comment on the nature of the stockpile;
- The Lands looked highly used by the cattle. There is no record of allowing grazing and he is concerned about the impact of cattle trails and use on reclamation;
- Thistle was present, but he wondered if this is due to cattle;
- There is a wet area off the access road, west of the line of spruce in the middle of the SML. Appeared to attract cattle; and
- They will need to assess if there is enough material to cover the outstanding reclamation area.

WHEREAS on March 15, 2021 the EPO identified that the access through the Pit was issued under an LOC in 1989;

WHEREAS the Parties are persons who carry on or have carried on an activity on or in respect of specified land other than pursuant to an approval or registration, and are persons who act as principal or agent of person(s) referred to in any of the *Environmental Protection and Enhancement Act* section 134(b)(i) to (vi), and therefore are operators;

WHEREAS the surface land disturbance in the Pit is "specified lands" as defined by the *Conservation and Reclamation Regulation* section 1(t)(v);

WHEREAS Clause 12 of the Indenture to SML 980116 commits the Operator to delivering the Lands to the Minister in a satisfactory condition upon cancellation of the lease [sic];

WHEREAS Clause 13 of the Indenture to SML 980116 commits the Operator to reclaiming the surface of the land in a manner satisfactory to the Minister;

WHEREAS Nathan Polturak, Environmental Protection Officer, North Region (the "Inspector"), has been designated as an Inspector for the purpose of issuing Environmental Protection Orders under section 140 of the *Environmental Protection and Enhancement Act*;

WHEREAS the Inspector is of the opinion that directing the performance of work is necessary in order to conserve and reclaim specified land;

THEREFORE, I, Nathan Polturak, Inspector, North Region pursuant to Section 140 of the *Environmental Protection and Enhancement Act*, DO HEREBY ORDER THAT:

1. The Parties shall not remove any stockpiled materials.
2. By **March 26, 2021**, the Parties shall submit to the Inspector for the Inspector's approval, the name and qualifications of a consultant who carries a professional designation authorized to practice reclamation on private land, which the Parties will retain to prepare and sign the below noted reclamation and remedial plan.
3. By **May 31, 2021**, the Parties shall submit to the Inspector for the Inspector's review and approval a written reclamation and remedial plan ("Plan").
4. The Parties shall include at minimum include all of the following in the Plan:
  - a. Particulars of the characteristics and properties of the land including topography, drainage, soils, vegetation and land capability.
  - b. A historical synopsis of the surface, subsurface and groundwater disturbance.
  - c. A description of the adjacent land uses.
  - d. An accounting of what volume of marketable aggregate is left within the Pit and its value.
  - e. A description of the reclamation work including the type of equipment, methods and materials that will be used in implementing the Plan.
  - f. A description of the proposed reclaimed land use that includes elevations, soil replacement and re-vegetation.
  - g. A description of how ground water infiltrating open excavations will be addressed and justification for any surface and water related improvements to be left in place.
  - h. A proposed Schedule of Implementation that shall have **September 20, 2022** as the completion date.
  - i. A six month monitoring and maintenance program commencing **September 20, 2022**.
5. Upon approval of the Plan by the Inspector, the Parties shall conduct the work described in the approved Plan, according to the approved schedule of implementation, unless otherwise authorized in writing by the Inspector.
6. The Parties shall submit progress updates to the Inspector on **July 30, 2021**, **November 30, 2021**, **March 31, 2022**, and **July 29, 2022** that include a detailed summary of all reclamation activities undertaken at the Pit;
7. Within 14 days of the completion of the requirements of this Order, the Parties shall

submit to the Inspector a final written report prepared and signed by the consultant describing the work undertaken to comply with this Order.

DATED at the Town of Lac La Biche in the Province of Alberta, this 19<sup>th</sup> day of March 2021.



Nathan Polturak  
Inspector,  
Environmental Protection Officer  
North Region

Section 91 of the *Environmental Protection and Enhancement Act* may provide a right of appeal against this decision to the Alberta Environmental Appeals Board. There may be a strict time limit for filing such an appeal. A copy of Section 91 is enclosed. For further information, please contact the Board Secretary at:

#306 Peace Hills Trust Tower  
10011 - 109 Street  
Edmonton, Alberta, T5J 3S8  
Telephone (780) 427-6207  
Fax (780) 427-4693.

Notwithstanding the above requirements, the Parties shall obtain all necessary authorizations in complying with this order.

Take notice that this Environmental Protection Order is a remedial tool only, and in no way precludes any enforcement proceedings being taken regarding this matter under this Act or any other legislation.



## APPENDIX A



JP





**ENVIRONMENTAL PROTECTION AND ENHANCEMENT ACT**

BEING CHAPTER E-12 R.S.A. 2000 (the "Act")

**ENVIRONMENTAL PROTECTION ORDER NO. EPO-EPEA-35659-10**

JMB Crushing Systems Inc.  
Suite 2300, Bentall 5 550, Burrard Street  
Vancouver BC  
V6C 2B5,  
Canada

Byron Levkulich, Director  
Suite 2300, Bentall 5 550, Burrard Street  
Vancouver BC  
V6C 2B5,  
Canada

Aaron Patsch, Director  
Suite 2300, Bentall 5 550, Burrard Street  
Vancouver BC  
V6C 2B5,  
Canada

Jeffrey Buck, former Director  
JMB Crushing Systems Inc.  
3439 Keswick Boulevard SW  
Edmonton, AB  
T6W 3B2

(Collectively, the "Parties")

WHEREAS JMB Crushing Systems Inc. ("JMB") has operated a gravel pit (the "Pit") on a portion of public land legally described as SW-30-063-08-W4M (the "Lands") in the Municipal District of Bonnyville, in the Province of Alberta;

WHEREAS Byron Levkulich and Aaron Patsch are Directors of JMB and Jeffrey Buck is a former Director of JMB ("Parties");

WHEREAS the Pit is approximately 0.347 Hectares in area. Appendix A to this Order contains a map showing the dimensions, location and features of the Pit;

WHEREAS a "pit" is defined in the *Environmental Protection and Enhancement Act* ("EPEA") to mean an operation on or excavation from the surface of the land for the purpose of removing sand and gravel and includes any associated infrastructure;



WHEREAS the Lands are contained in surface material lease 120027 ("SML 027") that is a disposition issued to JMB under the *Public Lands Act* on January 13, 2020. SML 027 expires on January 12, 2030;

WHEREAS the Lands were held by JMB under SMC 110019 from May 26, 2011 to June 26, 2015;

WHEREAS on June 11, 2012 JMB was issued TFA 123579, authorizing early entry to SML 120027;

WHEREAS TFA 123579 was subject to the following conditions:

- The holder shall reclaim all disturbed land surfaces within two growing seasons, to occur concurrently with operations;
- Final surface reclamation must meet the requirements for the specific activity in place at time of abandonment;
- Initial efforts at re-establishing a vegetative cover on disturbed surface must be accomplished by planting native tree and shrub species; and
- The holder shall take all precautions and safeguards necessary to prevent soil and surface erosion to the satisfaction of the department in its sole discretion;

WHEREAS on January 31, 2013 JMB filed an annual return documenting the removal of 14,768.57 cubic yards of material from SML 027 during the 2012 operating year;

WHEREAS in 2014, JMB filed an annual return documenting the removal of 3,625 cubic yards of material from SML 027 during the 2013 operating year;

WHEREAS on January 13, 2020 AEP approved the Conservation and Reclamation Business Plan ("CRBP") for SML 027;

WHEREAS Clause 13 of Schedule A – Operating Conditions to the Agreement requires the Operator to reclaim any land disturbed in accordance with the approved conservation, operation and reclamation plans;

WHEREAS on May 1, 2020, JMB obtained an initial order from the Court under the *Companies Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended;

WHEREAS on May 11, 2020 Alberta Environment and Parks ("AEP") Public Lands Officer ("PLO") completed an inspection on the Lands and identified the following:

- the Lands were dormant and appeared to be in the stages of final reclamation;
- lack of topsoil replacement on a large portion of the pit

WHEREAS on December 4, 2020 JMB indicated they will not be completing any further reclamation works on the Lands;

WHEREAS on February 17, 2021, Nathan Pollurak, an Environmental Protection Officer ("EPO") and Inspector under the *Environmental Protection and Enhancement Act* RSA 2000, c. E-12 (the "Inspector"), conducted a review of the terms and conditions of SML 027 and 2019 satellite imagery of the area and determined that JMB contravened the *Public Lands Act* and Public Lands Administration Regulation by allowing erosion and sedimentation on or adjacent to the Lands;

WHEREAS on February 23, 2021, AEP issued a Notice of Non-Compliance ("NONC") to JMB stating that AEP had identified issues of non-compliance of the *Public Lands Act* under SLM 027.

WHEREAS on February 26, 2021, 216 provided AEP with its response to the NONC, which stated that SML 027 is depleted and 99% of reclamation is complete;

WHEREAS section 137 of the *Environmental Protection and Enhancement Act* states that an operator must conserve and reclaim specified land and unless exempted by the regulation, obtain a reclamation certificate in respect of the conservation and reclamation;

WHEREAS the surface land disturbance in the Pit is "specified lands" as defined by the Conservation and Reclamation Regulation section 1(t)(v);

WHEREAS the Parties are persons who carry on or have carried on an activity on or in respect of specified land other than pursuant to an approval or registration, and are persons who act as principal or agent of person(s) referred to in any of EPEA section 134(b)(i) to (vi), and therefore are operators;

WHEREAS Nathan Polturak, Environmental Protection Officer, North Region (the "Inspector") has been designated as an Inspector for the purposes of issuing Environmental Protection Orders under section 140 the *Environmental Protection and Enhancement Act*; and

WHEREAS the Inspector is of the opinion that the suspension of the operation in the Pit and directing the performance of work is necessary in order to conserve and reclaim specified land.

THEREFORE, I Nathan Polturak, Inspector, North Region, pursuant to section 140 of the *Environmental Protection and Enhancement Act*, DO HEREBY ORDER:

1. By **March 26, 2021**, the Parties shall submit to the Inspector for the Inspector's approval, the name and qualifications of a consultant who carries a professional designation authorized to practice reclamation, which the Parties will retain to prepare and sign the below noted reclamation and remedial plan.
2. By **May 31, 2021**, the Parties shall submit to the Inspector for the Inspector's review and approval a written reclamation and remedial plan ("Plan").
3. The Parties shall include at minimum include all of the following in the Plan:
  - a. Particulars of the characteristics and properties of the land including topography, drainage, soils, vegetation and land capability.
  - b. A description of the adjacent land uses.
  - c. A description of the reclamation work including the type of equipment, methods and materials that will be used in implementing the Plan.
  - d. A description of the proposed reclaimed land use that includes elevations, soil replacement and re-vegetation.



- e. A proposed Schedule of Implementation that shall have **June 30, 2022** as the completion date.
  - f. A six month monitoring and maintenance program commencing **June 30, 2022**.
4. Upon approval of the Plan by the Inspector, the Parties shall conduct the work described in the approved Plan, according to the approved schedule of implementation, unless otherwise authorized in writing by the Inspector.
  5. The Parties shall submit progress updates to the Inspector on **July 30, 2021, November 30, 2021, March 31, 2022, and July 29, 2022** that include a detailed summary of all reclamation activities undertaken at the Pit;

DATED at the Town of Lac La Biche in the Province of Alberta, this 19<sup>th</sup> day of March 2021.



Nathan Polturak  
Inspector  
Environmental Protection Officer  
North Region

Section 91 of the *Environmental Protection and Enhancement Act* may provide a right of appeal against this decision to the Alberta Environmental Appeals Board. There may be a strict time limit for filing such an appeal. A copy of Section 91 is enclosed. For further information, please contact the Board Secretary at:

#306 Peace Hills Trust Tower  
10011 - 109 Street  
Edmonton, Alberta, T5J 3S8  
Telephone (780) 427-6207  
Fax (780) 427-4693.

Notwithstanding the above requirements, the Parties shall obtain all necessary authorizations in complying with this order.

Take notice that this enforcement order is a remedial tool only, and in no way precludes any enforcement proceedings being taken regarding this matter under this Act or any other legislation.



## APPENDIX A



**ENVIRONMENTAL PROTECTION AND ENHANCEMENT ACT**

BEING CHAPTER E-12 R.S.A. 2000 (the "Act")

**ENVIRONMENTAL PROTECTION ORDER NO. EPO-EPEA-35659-08**

JMB Crushing Systems Inc.  
Suite 2300, Bentall 5 550, Burrard Street  
Vancouver BC  
V6C 2B5,  
Canada

Byron Levkulich, Director  
Suite 2300, Bentall 5 550, Burrard Street  
Vancouver BC  
V6C 2B5,  
Canada

Aaron Patsch, Director  
Suite 2300, Bentall 5 550, Burrard Street  
Vancouver BC  
V6C 2B5,  
Canada

Jeffrey Buck, former Director  
JMB Crushing Systems Inc.  
3439 Keswick Boulevard SW  
Edmonton, AB  
T6W 3B2

George Shandro  
Box 7556  
Bonnyville, AB  
T9N 2H8

[Collectively, the "Parties"]

WHEREAS JMB Crushing Systems Inc. ["JMB"; the "Operator"] has operated a gravel pit [the "Pit"] on a portion of public land legally described as 08-23-061-07-W4M [the "Lands"] in the Municipal District of Bonnyville, in the Province of Alberta;

WHEREAS the Pit is approximately XXXX hectares in area. Appendix A to this Order contains a map showing the dimensions, location and features of the Pit;



WHEREAS the *Environmental Protection and Enhancement Act* ("EPEA") section 1(xx) defines pit as an operation on or excavation from the surface of the land for the purpose of removing sand and gravel and includes any associated infrastructure;

WHEREAS Byron Levkulich, Aaron Patsch are Directors for JMB and Jeffrey Buck is a former Director of JMB;

WHEREAS George Shandro was issued surface material lease ["SML 930040"] on July 29, 1993;

WHEREAS the disposition agreement for SML 930040 currently in force dates to January 14, 2004;

WHEREAS JMB [the "Operator"] was assigned SML 930040 on December 15, 2008;

WHEREAS the last documented activity at the pit was recorded in an annual return for the period ending July 28, 2010;

WHEREAS on January 29, 2013 an Alberta Environmental and Parks ["AEP"] Public Lands Officer ["PLO"] inspected the Lands and observed:

- The Pit was heavily recreated by all-terrain vehicles;
- The Pit is basically a big hole;
- Due to relatively small size of the SML and large size of the Pit there is little opportunity to continue operations; and
- The field recommended the SML not be renewed and the Operator seek reclamation in accordance with the field officer;

WHEREAS on July 28, 2013 SML 930040 expired;

WHEREAS on October 17, 2016 an AEP PLO inspected the Lands and noted the Pit appeared to be a depression in the snow with some vegetation growth;

WHEREAS on March 17, 2017 AEP issued JMB a letter cancelling SML 930040;

WHEREAS on May 1, 2020 JMB entered into proceedings under the *Companies Creditors Arrangement Act*, R.S.C., 1985, c. C-36;

WHEREAS on May 28, 2020 an AEP Environmental Protection Officer ["EPO"] completed an inspection of the Lands and found:

- An open pit impacted by ATV use; and
- Garbage located around the site.

WHEREAS on December 18, 2020 the AEP EPO completed an inspection of the Lands and found:

- There was no recent activity at the pit;
- The pit is approximately 3.5 m deep; and
- Small mounds of an undetermined material were present on the north and west edges of the pit.

WHEREAS on February 23, 2021 the EPO spoke with Tyler Pell of JMB who stated:

- JMB visited the pit in October 2020;

- JMB observed rooting and grass growing from the soil piles north of the pit; and
- JMB will need to assess if there is enough material to cover the outstanding reclamation area.

WHEREAS the Parties are persons who carry on or have carried on an activity on or in respect of specified land other than pursuant to an approval or registration, and are persons who act as principal or agent of person(s) referred to in any of *Environmental Protection and Enhancement Act* section 134(b)(i) to (vi), and therefore are operators;

WHEREAS the surface land disturbance in the Pit is "specified lands" as defined by the *Conservation and Reclamation Regulation* section 1(t)(v);

WHEREAS Clause 12 of the Indenture to SML 930040 commits the Operator to delivering the Lands to the Minister in a satisfactory condition upon cancellation of the lease;

WHEREAS Clause 13 of the Indenture to SML 930040 commits the Operator to reclaiming the surface of the land in a manner satisfactory to the Minister;

WHEREAS Nathan Polturak, Environmental Protection Officer, North Region (the "Inspector"), has been designated as an Inspector for the purpose of issuing Environmental Protection Orders under section 140 of the *Environmental Protection and Enhancement Act*;

WHEREAS the Inspector is of the opinion that directing the performance of work is necessary in order to conserve and reclaim specified land;

THEREFORE, I, Nathan Polturak, Inspector, North Region pursuant to Section 140 of the *Environmental Protection and Enhancement Act*, DO HEREBY ORDER THAT:

1. The Parties shall not remove any saleable aggregate materials from SML 930040;
2. By **March 26, 2021**, the Parties shall submit to the Inspector for the Inspector's approval, the name and qualifications of a consultant who carries a professional designation authorized to practice reclamation, which the Parties will retain to prepare and sign the below noted reclamation and remedial plan.
3. By **May 31, 2021**, the Parties shall submit to the Inspector for the Inspector's review and approval a written reclamation and remedial plan ("Plan").
4. The Parties shall at minimum include all of the following in the Plan:
  - a. Particulars of the characteristics and properties of the land including topography, drainage, soils, vegetation and land capability.
  - b. A historical synopsis of any surface, subsurface and groundwater disturbance.
  - c. A description of the adjacent land uses.
  - d. An accounting of what volume of marketable aggregate is left within the Pit and

its value.

- e. A description of the reclamation work including the type of equipment, methods and materials that will be used in implementing the Plan.
- f. A description of the proposed reclaimed land use that includes elevations, soil replacement and re-vegetation.
- g. A description of how ground water infiltrating open excavations will be addressed and justification for any surface and water related improvements to be left in place.
- h. A proposed Schedule of Implementation that shall have **September 20, 2022** as the completion date.
- i. A six month monitoring and maintenance program commencing **September 20, 2022**.

5. Upon approval of the Plan by the Inspector, the Parties shall conduct the work described in the approved Plan, according to the approved schedule of implementation, unless otherwise authorized in writing by the Inspector.

6. The Parties shall submit progress updates to the Inspector on **July 30, 2021**, **November 30, 2021**, **March 31, 2022**, and **July 29, 2022** that include a detailed summary of all reclamation activities undertaken at the Pit;

7. Within 14 days of the completion of the requirements of this Order, the Parties shall submit to the Inspector a final written report prepared and signed by the consultant describing the work undertaken to comply with this Order.

DATED at the Town of Lac La Biche in the Province of Alberta, this 19<sup>th</sup> day of March 2021.



Nathan Polturak  
Inspector  
Environmental Protection Officer  
North Region

Section 91 of the *Environmental Protection and Enhancement Act* may provide a right of appeal against this decision to the Alberta Environmental Appeals Board. There may be a strict time limit for filing such an appeal. A copy of Section 91 is enclosed. For further information, please contact the Board Secretary at:



**#306 Peace Hills Trust Tower  
10011 - 109 Street  
Edmonton, Alberta, T5J 3S8  
Telephone (780) 427-6207  
Fax (780) 427-4693.**

**Notwithstanding the above requirements, the Parties shall obtain all necessary authorizations in complying with this order.**

**Take notice that this Environmental Protection Order is a remedial tool only, and in no way precludes any enforcement proceedings being taken regarding this matter under this Act or any other legislation.**

## APPENDIX A







THIS IS EXHIBIT "S" REFERRED TO IN  
THE AFFIDAVIT OF TYLER PELL  
SWORN BEFORE ME  
THIS 22<sup>ND</sup> DAY OF MARCH, 2021

---

A Commissioner for Oaths in and for the  
Province of Alberta

---

**From:** Tyler Pell <tylerpell@jmbcrush.com>  
**Sent:** March 21, 2021 10:49 AM  
**To:** Kroeger, Stephen  
**Subject:** FW: EPO-EPEA-35659-08, EPO-EPEA-35659-09, and EPO-EPEA-35659-10 / Designated Professional for EPO Plans

This message originated from outside of Gowling WLG. | Ce message provient de l'extérieur de Gowling WLG.

---

Tyler Pell  
1.780.815.0139

**From:** Tyler Pell  
**Sent:** March 21, 2021 10:46  
**To:** Nathan Polturak (nathan.polturak@gov.ab.ca) <nathan.polturak@gov.ab.ca>  
**Cc:** Cumming, Tom <Tom.Cumming@gowlingwlg.com>  
**Subject:** EPO-EPEA-35659-08, EPO-EPEA-35659-09, and EPO-EPEA-35659-10 / Designated Professional for EPO Plans

Good morning Nathan

As required in EPO-EPEA-35659-08, EPO-EPEA-35659-09, and EPO-EPEA-35659-10 JMB respectfully submits Tyler Pell, RPFT registration #930009 under the Association of Alberta Forest Management Professionals (AAFMP), as the individual who carries a professional designation that authorizes Tyler to practice reclamation in the province of Alberta. Tyler has over 25 years of experience and is a member in good standing with AAFMP. Tyler will be leading the preparation and will sign off on the EPO Plans.

If you require further details please let me know.

Regards,

Tyler Pell  
1.780.815.0139

JP

THIS IS EXHIBIT "T" REFERRED TO IN  
THE AFFIDAVIT OF TYLER PELL  
SWORN BEFORE ME  
THIS 22<sup>ND</sup> DAY OF MARCH, 2021

---

A Commissioner for Oaths in and for the  
Province of Alberta



---

**From:** Heather Dent <Heather.Dent@gov.ab.ca>  
**Sent:** March 18, 2021 5:01 PM  
**To:** Tyler Pell <tylerpell@jmbcrush.com>  
**Cc:** Nathan Polturak <Nathan.Polturak@gov.ab.ca>  
**Subject:** RE: EPO-EPEA-35659-07 / EO-WA-35659-01 : SML 060060 Operations

Good afternoon Mr. Pell,

Based on this scenario you've described below, I would recommend 2161889 Alberta Ltd. put forward a request to AEP for an amendment to or sublease of SML 060060 (as per section 146 of the Public Lands Administration Regulation). Additional information on these processes can be found at: <https://www.alberta.ca/disposition-management-post-issuance.aspx#jumplinks-2>.

Regards

**Heather Dent**  
*Compliance Manager*  
Alberta Environment and Parks  
Regulatory Assurance Division  
Phone: 780.427.9335  
[Heather.Dent@gov.ab.ca](mailto:Heather.Dent@gov.ab.ca)

The logo for the province of Alberta, featuring the word "Alberta" in a stylized, cursive script font.

To report an environmental emergency, incident, or complaint please phone the 24-hour Environmental Response Centre at 1-800-222-6514.

Classification: Protected A

Handwritten initials, possibly "JP", in the bottom right corner of the page.

**From:** Tyler Pell <tylerpell@jmbcrush.com>  
**Sent:** March 17, 2021 2:02 PM  
**To:** Heather Dent <Heather.Dent@gov.ab.ca>; Nathan Polturak <Nathan.Polturak@gov.ab.ca>  
**Subject:** EPO-EPEA-35659-07 / EO-WA-35659-01 : SML 060060 Operations

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CAUTION: This email has been sent from an external source. Treat hyperlinks and attachments in this email with care.

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Hi Heather and Nathan

A question has come in regards to continued pit extracting and processing.

Whether under the SML lease authority, under the EPO Plan, and/or under the EO Remedial Plan, is there an option to operate portions of SML that are not contentious with AEP and possibly during the same time as the implementation of the Plans?

We would like to have Skoreyko Crushing utilize the remaining resource that is viable for his operational set up. The operations would be under the current SML lease authority and conditions of 2161889 Alberta Ltd, and if a viable option for AEP, laid out in the EPO Plan, an updated CRBP, or via a separate operational plan that aligns with the EPO Plan and is approved by AEP.

In summary is there a regulatory option to have Skoreyko utilize the aggregate resource under 2161889 Alberta Ltd before the EPO and EO is closed?

If you need further clarification please let me know.

Regards,

Tyler Pell  
1.780.815.0139

THIS IS EXHIBIT "U" REFERRED TO IN  
THE AFFIDAVIT OF TYLER PELL  
SWORN BEFORE ME  
THIS 22<sup>ND</sup> DAY OF MARCH, 2021

---

A Commissioner for Oaths in and for the  
Province of Alberta



Holder	No.	Name	PRE / POST November 1 <sup>st</sup> , 2018 Disturbance of native vegetation or disturbance of native topsoil or agriculture topsoil
<b>Active 216 Dispositions</b>			
216	SML 080085	JLG 3	No disturbances
216	SML 110025	JLG 5	PRE
216	SML 110026	JLG 6	PRE
216	SML 110045	JLG 7	PRE
216	SML 110046	JLG 8	PRE
216	SML 110047	JLG 9	POST
216	SML 120005	JLG 10	POST
216	SML 120006	JLG 11	No disturbances
216	SML 120100	JLG 12	No disturbances
216	SML100085	JLG 4	No disturbances
<b>Inactive 216 Dispositions</b>			
216	SML 060060	SML 060060	PRE The construction of the water body and all other disturbances existed before 216 was assigned SML 060060 in March 2019. JLG Ball Enterprises is believed to be the operator of the pit prior to March 2019. 216 has not operated in the water body since being assigned the disposition. 216's operations since March 2019 have not increased the overall disturbance footprint of the disposition or further disturbed areas logged of trees but not previously striped of the original root mat. Only a very minor amount of earthworks was completed on area already devoid of native topsoil. This was necessary to support the hauling of saleable crushed material produced by the previous operator of the SML.
216	DLO 170011	SML 060060 Access	PRE
216	DLO 200059		No disturbances
216	DML 200017		No disturbances
216	TFA 201094		No disturbances
216	TFA 201290		No disturbances
<b>EPEA Registrations for Active Royalty Agreements</b>			
JMB	308161-00-00	Shankowski	PRE and POST
JMB	17395-01-00	Havener	PRE
<b>EPEA Registrations for Inactive Royalty Agreements</b>			
JMB	306490-00-00	Hoye / Kucy	PRE
JMB	293051-00-00	MacDonald	PRE
JMB	149949-00-00	Megley	PRE

Holder	No.	Name	PRE / POST November 1 <sup>st</sup> , 2018 Disturbance of native vegetation or disturbance of native topsoil or agriculture topsoil
JMB	263318-00-00	O'Kane	PRE
JMB	15048-03-02	Buksa	PRE
<b>Inactive JMB Dispositions</b>			
JMB	SML 120027	SML 120027 (Sand)	PRE
JMB	SML 930040	SML 930040	PRE
JMB	SML 980116	SML 980116 (Sand)	PRE
JMB	DML 120032	N/A	PRE
JMB	SME 150106	N/A	No disturbances
JMB	SME 200009	N/A	No disturbances
JMB	TFA 194837		No disturbances

Form 49  
Rule 13.19

Clerk's Stamp

COURT FILE NO. 2001-05482

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, RSC 1985, c C-36, as amended

AND IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF JMB CRUSHING SYSTEMS INC. and 2161889 ALBERTA LTD.

AND IN THE MATTER OF A PLAN OF ARRANGEMENT OF JMB CRUSHING SYSTEMS INC. and MANTLE MATERIALS GROUP, LTD. UNDER THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, RSC 1985, c C-36, as amended, and the *BUSINESS CORPORATIONS ACT*, SBC 2002, c 57, as amended

APPLICANTS JMB CRUSHING SYSTEMS INC., 2161889 ALBERTA LTD., MANTLE MATERIALS GROUP, LTD. and 2324159 ALBERTA INC.

DOCUMENT **AFFIDAVIT OF TYLER PELL**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT **Gowling WLG (Canada) LLP**  
1600, 421 – 7<sup>th</sup> Avenue SW  
Calgary, AB T2P 4K9

Attn: **Tom Cumming/Caireen E. Hanert/Stephen Kroeger**  
Phone: 403.298.1938/403.298.1992/403.298.1018  
Fax: 403.263.9193  
File No.: A163514

**AFFIDAVIT OF TYLER PELL**  
sworn March 22, 2021

I, **TYLER PELL**, of the City of Beaumont, in the Province of Alberta, **MAKE OATH AND SAY THAT:**

- I am the Aggregate Resources Manager of the Applicant JMB Crushing Systems Inc. ("**JMB**"). As such, I have personal knowledge of the matters herein deposed to, except

SK



- 2 -

where stated to be based upon information and belief, in which case I verily believe same to be true.

2. In preparing this Affidavit, I have consulted with legal, financial and other advisors of the Applicants and members of the Applicants' management team. I have also reviewed the business records of the Applicants relevant to these proceedings and have satisfied myself that I am possessed of sufficient information and knowledge to swear this Affidavit.
3. I am authorized to swear this Affidavit as a corporate representative of the JMB.
4. I make this Affidavit in support of relief sought by JMB, 2161889 Alberta Ltd. ("**216**"), Mantle Materials Group, Ltd. ("**Mantle**") and 2324159 Alberta Inc. in the within proceedings and summarized in paragraph 6 of the Affidavit of Byron Levkulich sworn March 4, 2021.

#### **JMB and My Role at JMB**

5. I have over 25 years experience in the environmental services industry and my focus during my professional life has been on natural resource development, environmental evaluation and environmental management in the Province of Alberta on both public and private lands. I am also a Registered Professional Forest Technologist in good standing with the Association of Alberta Forest Management Professionals.
6. JMB's business is the extraction, processing, transportation and sale of gravel, sand, and other aggregates in Alberta. JMB depends on its interest in and access to aggregate pits located on both public Crown lands and privately owned lands across Alberta. JMB and 216 hold interests in public lands pursuant to dispositions ("**Dispositions**") granted by Alberta Environment and Parks ("**AEP**") pursuant to the *Public Lands Act*, RSA 2000, c P-4 (the "**PLA**"). These Dispositions consist principally of surface material leases ("**SMLs**").
7. JMB also has access to privately owned lands pursuant to aggregate royalty agreements (each, a "**Royalty Agreement**") with landowners. The extraction and processing of aggregate from privately owned lands is a regulated activity under the *Environmental*

*Protection and Enhancement Act*, RSA 2000, c E-12, the *Conservation and Reclamation Regulation*, AR 115/93 and the other regulations and instruments issued thereunder pertaining to aggregate pits, including the *Code of Practice for Pits* (collectively, the “**EPEA**”). The EPEA requires operators of aggregate pits on privately owned land obtain a registration for each such aggregate pit from the AEP (an “**EPEA Registration**”).

8. Attached hereto as **Exhibit “A”** is a list of the active and inactive aggregate pits in respect of which JMB and 216 hold Dispositions or EPEA Registrations.
9. I was hired by JMB in October 2018 as Aggregate Resource Manager. In my role I am responsible for all matters relating to the administration of JMB’s and 216’s secured and contracted aggregate sources. I am also responsible for bringing JMB and 216 into compliance with the EPEA, the PLA and other relevant regulatory legislation, which requires preparing Updated Activities Reports (“**UAP**”), five-year plans, and regulatory submissions, and reporting to the AEP. Since I joined JMB, my role has required me to be in regular and frequent communication with the AEP.
10. I have developed a professional rapport with various AEP staff, and in general I am known as a professional who is well respected for my consultative approaches with all stakeholders, including the AEP. I have shown that I am reasonable to work with and genuine in my approach when dealing with regulatory matters.
11. Prior to the commencement of proceedings under the *Companies’ Creditors Arrangement Act* (the “**CCAA Proceedings**”) for JMB and 216, I was in the process of preparing or addressing the requirements of two separate UAP applications for certain JMB private land pits:
  - (a) Shankowski Pit – EPEA Registration Number 308161-00-00; and
  - (b) MacDonald Pit – EPEA Registration Number 293051-00-00.
12. The process of preparing and submitting UAPs requires regular communication with the AEP in order to ensure that all concerns of the AEP with respect to these aggregate pits are addressed by the UAPs. However, before the UAPs for the Shankowski Pit and the



- 4 -

MacDonald Pit were approved by the AEP, JMB and 216 commenced the CCAA Proceedings. I informed Stephen Abioye, WA/EPEA Approvals Team Lead at the AEP, of this development on May 21, 2020 by email. Mr. Abioye subsequently suggested that JMB withdraw the UAP applications pending the outcome of the CCAA Proceedings. Accordingly, on May 22, 2020, I withdrew the UAP applications.

### **Original Purchase Agreement**

13. Under the amended and restated asset purchase agreement dated September 28, 2020 (the “**Original Purchase Agreement**”) between JMB and 216 as vendors and Mantle as purchaser, Mantle was to acquire the core assets of JMB and 216 (the “**Core Assets**”, and such transaction, the “**Original Transaction**”), which included the following:
  - (a) ten out of eleven of 216’s SMLs; and
  - (b) three out of seven of JMB’s Royalty Agreements and associated EPEA Registrations.
14. Under the PLA and EPEA, the assignment and transfer of Dispositions and EPEA Registrations requires the prior consent of the AEP. I am advised by Tom Cumming, counsel for JMB and 216, and believe that the Original Transaction could not be completed unless the AEP approved the assignment and transfers of the Dispositions and EPEA Registrations described above.
15. I am advised by Mr. Cumming and believe that immediately before October 1, 2020, FTI Consulting Canada Inc., the Monitor of JMB and 216 in the CCAA Proceedings (the “**Monitor**”) and JMB and 216 applied to the Court of Queen’s Bench of Alberta (the “**Court**”) for a series of Orders (the “**Original Orders**”) to implement the Original Transaction, including a sale approval and vesting order, a reverse vesting order, an assignment order and a plan sanction order. I am further advised by Mr. Cumming and believe that counsel for each of the AEP, the Monitor, JMB, 216 and Mantle were not able to agree upon the form of the Original Orders. However, on October 16, 2020, Justice Eidsvik granted the Original Orders.

SK



**Discussions with the AEP**

16. Once the Original Orders were granted, it was my responsibility to make the necessary arrangements with the AEP to assign the Dispositions (the “**Assignments**”) and transfer the EPEA Registrations (the “**Transfers**”).
17. From October 20, 2020 to the end of November 2020, JMB’s counsel, Mantle and myself, on behalf of JMB and 216, prepared and submitted to the AEP applications to assign Dispositions and transfer EPEA registrations and attempted to determine and resolve issues relating to such assignments and transfers with the AEP. This unusually long, and ultimately ineffective, period of correspondence included the following:
  - (a) On October 20, 2020, I submitted to the AEP applications to approve assignments in favour of Mantle of SMLs included in the Core Assets;
  - (b) On October 22, 2020, I confirmed with the AEP that it had received the assignments and that I would be available for a call to discuss them on Monday October 26, 2020;
  - (c) On October 22, 2020, Mantle and I submitted additional information with respect to the assignments of the SMLs to the AEP;
  - (d) On October 23, 2020, JMB and Mantle requested a conference call with AEP to discuss the applications, which request was followed up on Monday October 26, 2020;
  - (e) On October 26, 2020, JMB, Mantle and the AEP had a call to discuss the assignments;
  - (f) On October 28, 2020, the AEP requested confirmation from me that I was acting as an agent for both JMB and Mantle, which confirmation was provided;
  - (g) On October 29, 2020, I submitted to the AEP assignments to 216 of SMLs and other Dispositions that were not included in the Core Assets;

- 6 -

- (h) Later on October 29, 2020, JMB and Mantle requested an update from the AEP and were advised that a letter had been prepared, but that they were waiting for responses from field representatives before it could be sent;
- (i) On October 30, 2020, JMB and Mantle requested a further update from the AEP and were advised that they were still working on a response and hoped to provide it that day or on Monday November 2, 2020;
- (j) On November 2, 2020, I requested an update from the AEP with respect to the field review;
- (k) On November 3, 2020, the AEP responded to indicate that they hoped to have an answer soon;
- (l) On November 3, 2020, Mr. Cumming called counsel for the AEP to request an update;
- (m) On November 4, 2020, the AEP responded to Mr. Cumming to indicate that the matter was still subject to field review;
- (n) On November 10, 2020, I contacted the AEP requesting an update, and the AEP responded to advise that the matter was still being reviewed by the field and that they hoped to have information on November 16, 2020;
- (o) On November 16, 2020, the AEP wrote to me to advise that the lands subject to certain SMLs and other Dispositions that had expired (and that were not included in the Core Assets) must be reclaimed, but did not address the applications to approve the assignments. The AEP required a response by 4:30 pm on November 30, 2020 (the "**November 16<sup>th</sup> Letter**");
- (p) On November 18, 2020, the AEP advised that before the AEP would consider applications to approve the assignment of EPEA Registrations to Mantle (for Royalty Agreements included in the Core Assets) and 216 (for Royalty Agreements excluded from the Core Assets), the following steps must be taken:



- 7 -

- (i) the Reclamation Security that the AEP permitted to expire without being drawn upon must be replaced;
- (ii) JMB must provide a plan for the operation or reclamation of the pits subject to Royalty Agreements excluded from the Core Assets; and
- (iii) the consent of counterparties to the Royalty Agreements included in the Core Assets must be provided,

and the AEP required a response by 4:30 pm on December 30, 2020 (the “**November 18<sup>th</sup> Letter**”);

- (q) On November 19, 2020, Mr. Cumming responded to advise that the transaction was at risk and requested a meeting with the AEP (the “**November 19<sup>th</sup> Gowling Letter**”);
- (r) On November 23, 2020, the AEP advised that certain steps must be taken before the AEP would proceed to make a decision on the application to assign certain SMLs to Mantle, including, among other things:
  - (i) the payment of outstanding 2019 royalties in respect of such surface material leases in the amount of \$163,934.71;
  - (ii) the filing of returns in respect of such surface material leases and the payment of any royalties;
  - (iii) the surrender by Fiera Private Debt Fund VI LP and Fiera Private Debt Fund V LP (collectively, “**Fiera**”) of the conditional surrender of leases granted to Fiera as security; and
  - (iv) the provision of replacement letters of credit as Reclamation Security in respect of the surface material leases (the “**November 23<sup>rd</sup> Letter**”);
- (s) On November 25, 2020, a conference call was held between JMB, Mantle, the AEP and counsel for each of the AEP, JMB, Mantle, the Monitor, Fiera and ATB



- 8 -

Financial, during which JMB and Mantle advised the AEP that it would provide a proposal with respect to the issues raised by the AEP in the November 16<sup>th</sup> Letter, November 18<sup>th</sup> Letter and November 23<sup>rd</sup> Letter; and

- (t) On November 27, 2020, Mr. Cumming wrote to counsel for the AEP with the proposal that had been discussed on the November 25, 2020 conference call (the “**November 27<sup>th</sup> Gowling Letter**”).

Copies of the November 16<sup>th</sup> Letter, November 18<sup>th</sup> Letter, November 19<sup>th</sup> Gowling Letter, November 23<sup>rd</sup> Letter, and November 27<sup>th</sup> Gowling Letter are collectively attached as **Exhibit “B”**.

- 18. Despite the efforts of JMB, 216, Mantle and their counsel, no agreement could be reached with the AEP before the end of the year.
- 19. I am advised by Mr. Cumming and believe that on January 22, 2021 he sent a draft Reclamation Obligations Agreement (“**ROA**”) to the AEP for review and comment, a copy of which is attached hereto as **Exhibit “C”**. I am further advised by Mr. Cumming that while the AEP did not reject the ROA, it did not engage counsel to provide a response with respect to any concerns, or negotiate the terms of the ROA or any other prior proposal.
- 20. On February 3, 2021, in anticipation of the Original Transaction closing, I had a phone call with the AEP regarding certain pits to confirm the technical permitting tasks for ensuring that the pits were brought back into compliance with environmental legislation. On that call, the AEP advised me that in order to consider the applications to assign Dispositions and transfer EPEA Registrations, all compliance issues including the lapsed Reclamation Security would need to be addressed before the EPEA Registrations could be transferred to Mantle.
- 21. I am informed by Mr. Cumming and believe that on February 8, 2021, he made a further attempt to reconcile the AEP’s outstanding concerns by providing the AEP with an updated form of the ROA, a copy of which is attached hereto as **Exhibit “D”**. Mr. Cumming advised that the Original Transaction was in jeopardy and was required to close by February 12, 2021, because JMB has a time sensitive supply contract with the Municipal

- 9 -

District of Bonnyville (the “**MD**”). Thus proposal, like those before it, was rejected by the AEP. I am further advised by Mr. Cumming that later in February 2021 the MD extended the time for JMB to supply aggregate pursuant to the contract.

### **Non-Compliance Letters and Written Plans**

22. On February 12, 2021, the deadline provided by Mr. Cumming to close the Original Transaction, the AEP sent JMB a Letter of Non-Compliance (the “**February 12<sup>th</sup> Letter**”) in respect of the following pits:
- (a) EPEA Registration No. 149949-00-00 in respect of the Megley Pit located at SE 35-58-16-4 (the “**Megley Pit**”);
  - (b) EPEA Registration No. 15048-03-00 in respect of the Buksa Pit located at NE 24-56-7-4 (the “**Buksa Pit**”);
  - (c) EPEA Registration No. 17395-01-00 in respect of the Havener Pit located at NW 16-56-7-4 (the “**Havener Pit**”);
  - (d) EPEA Registration No. 263318-00-00 in respect of the O’Kane Pit located at NE 10-57-6-4 (the “**O’Kane Pit**”);
  - (e) EPEA Registration No. 293318-00-00 in respect of the MacDonald Pit located at SE 34-56-7-4 (the “**MacDonald Pit**”);
  - (f) EPEA Registration No. 306490-00-00 in respect of the Kucy Pit located at NW 17, NE 18 & SE 19-63-9-4 (the “**Kucy Pit**”); and
  - (g) EPEA Registration No. 308161-00-00 in respect of the Shankowski Pit located at SW 21-56-7-4 (the “**Shankowski Pit**”).
23. In the February 12<sup>th</sup> Letter, the AEP advised JMB that on January 26, 2021, 119 days after the Original Orders were granted, the AEP conducted a review of the pits referred to in the paragraph above and determined that for one or all of the pits, JMB had failed to restore the required security, to submit the required 5-year report, to follow the Activities Plan



- 10 -

mining sequence with absence of reclamation noted on all pits, to comply to the boundary approved by the EPEA Registration and to report non-compliance issues to the Director (as that term is defined in the EPEA). As a result, the AEP demanded that JMB submit a written plan to resolve non-compliance identified in the February 12<sup>th</sup> Letter by February 18, 2021, which deadline was subsequently extended by agreement to February 26, 2021. Attached hereto as **Exhibit "E"** is a copy of the February 12<sup>th</sup> Letter.

24. On February 23, 2021, the AEP followed up with two letters of non-compliance to JMB and 216 (collectively, the "**February 23<sup>rd</sup> Letters**") in respect of the following pits:
  - (a) SML 930040 located at 08-23-061-07-W4M (Expired) ("**SML 930040**");
  - (b) SML 980116 located at SW-21-063-12-W4M (Expired) ("**SML 980116**");
  - (c) SML 120027 located at NW-20-074-08-W4M (Active) ("**SML 120027**"); and
  - (d) SML 060060 located at SW-13-065-18 W4M (the "**SML 060060**")
  
25. In February 23<sup>rd</sup> Letters, the AEP advised JMB and 216 that based on the review of the terms and conditions of the dispositions listed above that JMB and 216, among other things, caused, permitted, or allowed an undesirable excavation to exist on public land, caused, permitted, or allowed the creation of conditions likely to result in soil erosion on public land, and contravened one or more provisions of the dispositions. The AEP demanded that JMB and 216 (as applicable) submit a written plan to resolve the non-compliance issues identified in the February 23<sup>rd</sup> Letters by February 26, 2021. Attached hereto as **Exhibit "F"** are copies of the February 23<sup>rd</sup> Letters.
  
26. On February 24, 2021, on behalf of JMB, I provided the AEP with:
  - (a) a written plan to resolve the compliance issues in respect of the Buksa Pit, the Havener Pit, the Kucy Pit, the MacDonald Pit, the Megley Pit, and the O'Kane Pit; and
  - (b) a written plan to resolve the compliance issues with respect to the Shankowski Pit.



- 11 -

Collectively attached hereto as **Exhibit "G"** are copies of the written plans.

27. On February 26, 2021, on behalf of JMB, I provided the AEP with a written plan to resolve the compliance issues with respect to SML 930040, SML 980116 and SML 120027. JMB did not receive any comments from the AEP with respect to the written plans described above until March 19, 2021, when the AEP served environmental protection orders as set out below. Attached hereto as **Exhibit "H"** is a copy of the written plan.
28. On February 26, 2021, on behalf of 216, I provided the AEP with a written plan to resolve the compliance issues with respect to SML 060060. I also advised the AEP that 216 intended to market and assign SML 060060 to another crushing operator. The new operator would then replace 216's reclamation security and bring SML 060060 into compliance. Attached hereto as **Exhibit "I"** is a copy of the written plan.
29. On March 10, 2021, the AEP advised JMB and 216 in a series of emails that the proposed written plans contain conditional timelines and outcomes that do not provide the defined, timely and achievable commitments that the AEP requires to be satisfied that the non-compliances will be resolved. The AEP further advised that it would have to proceed with alternative regulatory measures to ensure these requirements were addressed. Attached hereto as **Exhibit "J"** are copies of the emails.

#### **The Environmental Protection Orders and Environmental Order**

30. Prior to denying the written plans, and without providing any feedback on the written plans, the AEP served an environmental protection order (an "**EPO**") on March 3, 2021 in respect of the MacDonald Pit (the "**MacDonald EPO**") on JMB, its current directors and a former director. A copy of the MacDonald EPO is attached hereto as **Exhibit "K"**.
31. On March 11, 2021, I had a conversation with the AEP, in which I was advised that JMB and 216 were going to be served with additional EPOs. On that date, I sent an email to the AEP to request an extension of time to submit the plan required by the MacDonald EPO and confirmation as to whether an UAP application and associated security would be required for the MacDonald Pit reclamation obligation and hauling of inventory. On March 12, 2021, the AEP responded that an UAP and associated financial security

- 12 -

received to March 12, 2021, are not required to be submitted to the AEP in addition to the reclamation plan and confirming that my request for an extension of time is on behalf of JMB and its current directors. Attached hereto as **Exhibit "L"** is a copy of the email and the AEP response.

32. On March 11, 2021, the AEP served EPOs on JMB, its current directors and a former director with respect to the O'Kane Pit, the Buksa Pit, the Havener Pit, the Kucy Pit and the Megley Pit (collectively, the "**March 11<sup>th</sup> EPOs**") and served an EPO on 216, its current directors, two former directors, 541466 Alberta Ltd. (a former operator) and Robert Beaverford (a former holder of the SML) with respect to SML 060060 (the "**060 EPO**"). Attached hereto as **Exhibit "M" and "N"** are copies of the March 11<sup>th</sup> EPOs and the 060 EPO.
33. Prior to service of the Havener Pit EPO, I had begun the process of preparing and developing an UAP for the Havener Pit including soil analysis and mapping of the subject area.
34. The orders contained in the MacDonald EPO and March 11<sup>th</sup> EPOs are identical in their terms other than, in the case of the MacDonald EPO, the dates by which plans must be submitted and reclamation completed, and provide, among other things, for the following:
  - (a) JMB, its current directors and the former director are required to immediately suspend work at the respective pits and not remove any stockpiled materials;
  - (b) JMB, its current directors and the former director shall submit to the AEP Environmental Protection Officer and an inspector under the EPEA (an "**Inspector**") responsible for these matters, the name and qualifications of a consultant (the "**Consultant**") authorized to practice reclamation on private land, which Consultant will be retained by JMB, the current directors and former director to prepare and sign a reclamation and remedial plan;
  - (c) JMB, its current directors and the former director shall submit a written reclamation and remedial plan by May 20, 2021 with respect to the March 11<sup>th</sup> EPOs and March 27, 2021, for the MacDonald EPO (for each pit, a "**Plan**");

OK



- 13 -

- (d) the Plans are required to be comprehensive and must be approved by the Inspector;
  - (e) JMB is required to submit progress reports on July 30, 2021, November 30, 2021, March 31, 2022 and July 29, 2022; and
  - (f) the reclamation is to be completed by September 20, 2022 under the MacDonald EPO, and by October 29, 2022 under the March 11<sup>th</sup> EPOs.
35. The deadline for submission of a Plan with respect to the MacDonald Pit has subsequently been extended to March 27, 2021 by agreement with the AEP. Attached hereto as **Exhibit "O"** is a copy of the amendment to the MacDonald EPO.
36. On March 12, 2021, I sent an email to the AEP submitting myself as the Consultant for the Buksa Pit, the Havener Pit, O'Kane Pit, the MacDonald Pit, the Megley Pit and the Kucy Pit. Attached hereto as **Exhibit "P"** is a copy of the email. The AEP has since approved me as the Consultant for the stated pits.
37. On March 12, 2021, the AEP served an Environmental Order pursuant to the *Water Act*, RSA 2000, c W-3 (the "**Water Act**") on 216, its current directors, its former directors, 541466 Alberta Ltd. and Robert W. Beaverford in respect of SML 060060 (the "**060 EO**"). Attached hereto as **Exhibit "Q"** is a copy of the 060 EO.
38. The 060 EO states, among other things, the following:
- (a) JMB is required immediately cease all unauthorized activities on the lands, including any work on, in or around the lake;
  - (b) JMB is required to submit for approval, the name and qualifications of a professional (the "**EO Consultant**") who is a member in good standing with a professional regulatory organization with experience in preparing a remedial plan and managing groundwater by March 19, 2021; and
  - (c) JMB is required to submit a comprehensive remedial plan to the Director by March 31, 2021, which plan must be approved by the Director.



- 14 -

39. On March 17, 2021, 216 submitted the name of an EO Consultant for approval. On March 18, 2021 the AEP approved 216's EO Consultant submission.
40. On March 19, 2021, the AEP agreed to extend the plan submission date for the 060 EPO and 060 EO to May 31, 2021.
41. On March 19, 2021, the AEP served EPOs on JMB, its current directors and a former director with respect to SML 980116, SML 120027 and SML 930040 (collectively, the "**March 19<sup>th</sup> EPOs**"). Collectively attached hereto as **Exhibit "R"** are copies of the March 19<sup>th</sup> EPOs.
42. The March 19<sup>th</sup> EPOs provide for the following:
  - (a) For SML 980116, JMB, its current directors and a former director shall not remove any stockpiled materials;
  - (b) For SML 930040, JMB, its current directors and a former director shall not remove any saleable aggregate materials;
  - (c) By March 26, 2021, JMB, its current directors and a former director submit to the Inspector the name and qualifications of a Consultant who will be retained by JMB, its current directors and a former director to prepare and sign a reclamation and remedial plan;
  - (d) JMB, its current directors and a former director will submit a plan by May 31, 2021;
  - (e) The plans are required to be comprehensive and must be approved by the Inspector;
  - (f) JMB is required to submit progress reports on July 30, 2021, November 30, 2021, March 31, 2022 and July 29, 2022; and
  - (g) The reclamation is to be completed by September 20, 2022 under the EPOs for SML 980116 and SML 930040, and by June 30, 2022 under the EPO for SML 120027.



- 15 -

43. On March 21, 2021, I sent an email to the AEP submitting myself as the Consultant for SML 980116, SML 120027 and SML 930040. Attached hereto as **Exhibit "S"** is a copy of the email.

#### **Issues with the Environmental Protection Orders**

44. The Original Orders were granted over 150 days ago. In a span of 16 days, the AEP has served nine EPOs and one EO on JMB and 216. Each of the EPOs requires a comprehensive plan as early as March 20, 2021 and no later than May 31, 2021.
45. In order to prepare a plan, careful consideration and significant work is required. In addition, it is necessary, given the number of plans required within a very compressed timeline, to retain external consultants.
46. The EO Consultant will be required to complete a field assessment in frost-free conditions before they are able to sign off on a plan. This is a due diligence requirement of the profession. In addition, further issues include:
- (a) the EO Consultant will be required to travel to the site and will only be able to do so if the weather conditions are appropriate; and
  - (b) the EO Consultant will need time to prepare the report.
47. Further, pursuant to the 060 EPO, the AEP has imposed a deadline of October 1, 2021 for completion of the physical reclamation work. As stated above, the reclamation plan has not been completed and at this time it is not possible to properly evaluate the time required to complete the physical reclamation. As a result, the SML 060060 sale is in jeopardy and will be lost if the AEP and JMB cannot agree to an extension of the timelines. On March 18, 2021, JMB emailed the AEP to inquire about an option to operate the pit subject to SML 060060 before the conclusion of the timelines in the 060 EPO and 060 EO. On March 18, 2021, the AEP responded and recommended that 216 put forward a request to the AEP for an amendment to or sublease of SML 060060. Attached hereto and marked as **Exhibit "T"** is a copy of JMB's email and the AEP's response.



- 16 -

48. In addition, there are inaccuracies in the MacDonald EPO and certain of the March 11<sup>th</sup> EPOs as follows:
- (a) MacDonald EPO – The AEP states that reclamation of the disturbed land on the MacDonald Pit has not occurred to date. From my review of JMB’s records, reclamation has been completed on disturbed land that was included in the April 23, 2018, UAP submission for the MacDonald Pit to cover the area disturbed outside the registration boundary;
  - (b) Megley EPO – The AEP states that reclamation of the disturbed land on the Megley Pit has not occurred to date. From my review of JMB’s records, some reclamation has been completed on disturbed land that was included inside the current registered boundary and some reclamation has occurred on some disturbed area outside the registered boundary;
  - (c) Kucy EPO – The AEP states that JMB failed to follow the Activities Plan mining sequence including not conducting reclamation. From my review of the current Kucy Pit Activities Plan, I believe the mining sequence was followed but not completed;
  - (d) Buksa EPO – The AEP states that JMB failed to comply to the boundary approved in the EPEA Registration. From my review of JMB’s records, the current Buksa EPEA Registration covers all of the current disturbances and I believe there is no current contravention on file for failing to comply with the approved EPEA Registration Boundary; and
  - (e) O’Kane EPO – The AEP states that reclamation of the disturbed land on the O’Kane Pit has not occurred to date. From my review of JMB’s records, some reclamation has been completed on disturbed land that was included inside the current registered boundary and reclamation has been completed on some disturbed area outside the registered boundary.
49. JMB, 216, Mantle and their counsel have attempted since October 16, 2020, to engage the AEP and resolve outstanding issues, but it was not until the February 12<sup>th</sup> Letter and

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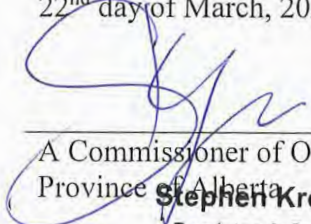


February 23<sup>rd</sup> Letters that JMB and 216 were advised of the full extent of non-compliance identified by the AEP.

50. Shortly after I began working for JMB, Resource Land Fund V, LP through its wholly owned subsidiary Canadian Aggregate Resources Corp., acquired a majority interest in JMB Crushing Systems Inc. as of November 21, 2018 through a series of transactions. Attached hereto as Exhibit "U" is a chart of the pre- and post-November 1, 2018 disturbances of native vegetation, disturbance of native topsoil or agriculture topsoil related to the Dispositions and EPEA Registrations of JMB and 216 (collectively the "Disturbances"), which demonstrates that the vast majority of the Disturbances occurred before November 1, 2018.

51. I was not physically present before the Commissioner of Oaths, but was connected to him by video technology and followed the process for remote commissioning.

SWORN BEFORE ME at the City of )  
Beaumont, in the Province of Alberta, this )  
22<sup>nd</sup> day of March, 2021. )



\_\_\_\_\_)  
A Commissioner of Oaths in and for the )  
Province of Alberta )  
**Stephen Kroeger** )  
*Barrister & Solicitor* )

\_\_\_\_\_) **TYLER PELL**

A Notary Public/Commissioner for Oaths  
in and for the Province of Alberta

My Commission expires at the pleasure of  
the Lieutenant Governor in Council

THIS IS EXHIBIT "A" REFERRED TO IN  
THE AFFIDAVIT OF TYLER PELL  
SWORN BEFORE ME  
THIS 22<sup>ND</sup> DAY OF MARCH, 2021



A Commissioner for Oaths in and for the  
Province of Alberta

**Stephen Kroeger**

*Barrister & Solicitor*

A Notary Public/Commissioner for Oaths  
in and for the Province of Alberta

My Commission expires at the pleasure of  
the Lieutenant Governor in Council

## JMB Dispositions, 216 Dispositions, EPEA Registrations and Permits

Holder	No.	Name
<b>Active 216 Dispositions</b>		
216	SML 080085	JLG 3
216	SML 110025	JLG 5
216	SML 110026	JLG 6
216	SML 110045	JLG 7
216	SML 110046	JLG 8
216	SML 110047	JLG 9
216	SML 120005	JLG 10
216	SML 120006	JLG 11
216	SML 120100	JLG 12
216	SML100085	JLG 4
<b>Inactive 216 Dispositions</b>		
216	SML 060060	SML 060060
216	DLO 170011	SML 060060 Access
216	DLO 200059	
216	DML 200017	
216	TFA 201094	
216	TFA 201290	
<b>EPEA Registrations for Active Royalty Agreements</b>		
JMB	308161-00-00	Shankowski
JMB	17395-01-00	Havener
<b>EPEA Registrations for Inactive Royalty Agreements</b>		
JMB	306490-00-00	Hoye / Kucy
JMB	293051-00-00	MacDonald
JMB	149949-00-00	Megley
JMB	263318-00-00	O'Kane
JMB	15048-03-02	Buksa
<b>Inactive JMB Dispositions</b>		
JMB	SML 120027	SML 120027 (Sand)
JMB	SML 930040	SML 930040
JMB	SML 980116	SML 980116 (Sand)
JMB	DML 120032	N/A

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Holder	No.	Name
JMB	SME 150106	N/A
JMB	SME 200009	N/A
JMB	TFA 194837	

THIS IS EXHIBIT "B" REFERRED TO IN  
THE AFFIDAVIT OF TYLER PELL  
SWORN BEFORE ME  
THIS 22<sup>ND</sup> DAY OF MARCH, 2021



A Commissioner for Oaths in and for the  
Province of Alberta  
**Stephen Kroeger**  
*Barrister & Solicitor*

A Notary Public/Commissioner for Oaths  
in and for the Province of Alberta  
My Commission expires at the pleasure of  
the Lieutenant Governor in Council

sk



Lands Division  
5<sup>th</sup> floor, South Petroleum Plaza  
9915 – 108 Street  
Edmonton, Alberta, T6K 2G8  
[www.aep.alberta.ca](http://www.aep.alberta.ca)

File No: DML120032  
SME200009  
SML120027  
SML930040  
SML980116  
SML060060

November 16, 2020

Mr. Tom Cumming  
Gowling WLG  
1600, 421 7th Avenue SW  
Calgary, AB T2P 4K9  
[tom.cumming@gowlingwlg.com](mailto:tom.cumming@gowlingwlg.com)

JMB Crushing Systems Inc. and 2161889 Alberta Ltd.  
PO Box 6977  
Bonnyville, AB  
T9N 2H4

Dear Sir:

**Re: JMB Crushing Systems Inc. and 2161889 Alberta Ltd. – Outstanding Reclamation Obligations**

Alberta Environment and Parks (AEP) has recently conducted a file review of *Public Lands Act* dispositions issued to JMB Crushing Systems Inc. and 2161889 AB Ltd. Departmental records show the dispositions listed below are inactive, at various stages of development and have associated outstanding reclamation obligations. Section 21(1)(f) of the *Public Lands Administration Regulation* requires that the disposition holder reclaim the lands subject to the disposition to equivalent land capability on expiration.

JMB Crushing Systems Inc. must immediately take measures to complete all end of life obligations for the lands subject to the dispositions listed below:

- DML120032
- SME200009 (expired September 19, 2020)
- SML120027
- SML930040 (expired July 28, 2013)
- SML980116 (expired on February 15, 2009)

2161889 AB Ltd. must immediately take measures to complete all end of life obligations for the lands subject to SML060060.

AEP expects a response no later than 4:30pm, November 30, 2020. If you have any questions regarding this matter, please contact Darrell Kentner at 780-778-7255.

Sincerely,

Darrell Kentner  
Approvals Manager

Cc: David Pochailo, Approvals Manager  
Joanne Sweeney, Aggregate Unit Team Lead  
Shelly Currie, Continuations Unit Team Lead  
Pantelis Kyriakakis, Associate [pkiriakakis@mccarthy.ca](mailto:pkiriakakis@mccarthy.ca)





Regulatory Assurance Division  
 Capital District – North Region  
 111, 4999 98 Avenue NW  
 Twin Atria Building  
 Edmonton, AB T6B 2X3  
 Telephone: 780-427-5296  
[www.aep.alberta.ca](http://www.aep.alberta.ca)

November 18, 2020

File No's: JMB Registered Pits

Mr. Tyler Pell  
[tylerpell@jmbcrush.com](mailto:tylerpell@jmbcrush.com)  
 Aggregate Resource Manager  
 JMB Crushing Systems Inc  
 PO Box 6977  
 Bonnyville AB T9N 2H4

Dear Mr. Pell:

Re: JMB Crushing System Inc. Registered Pits -- Advice Letter

With respect to your request to transfer certain *Environmental Protection and Enhancement Act* (EPEA) registrations from JMB Crushing Systems Inc. (JMB) to Mantle Materials Group Ltd (Mantle). Alberta Environment and Parks (AEP) has identified the following items that need to be resolved before AEP will consider your request to transfer these registrations:

1. Expired or Expiring Security Deposits

The following pits are currently registered to JMB Crushing Systems Inc., with their respective securities held:

- a. 15048-03-00 - Buksa Pit NE 24-056-07-W4M - \$50,442.14 expiring Dec. 12/20 – **request to be transferred;**
- b. 17394-00-00 – E 35-056-06-W4M – cash \$7,800.00;
- c. 17395-01-00 – Havener Pit NW 16-056-07-W4M - \$41,872.00 expiring Mar. 9/20 – request to be transferred;
- d. 149949-00-00 – Megley Pit SE 35-058-16-W4M - \$\$74,683.81 expired Mar. 9/20;
- e. 263318-00-00 - O'Kane Pit NE 10-057-06-W4M - \$\$39,805.00 expired Mar. 9/20;
- f. 293051-00-00 – MacDonald Pit SE 34-056-07-W4M - \$16,695.00 expired Mar. 9/20
- g. 306490-00-00 – Kucy Pit NW 17, NE 18 & SE 19-063-09-W4M - \$31,872.25 expired Mar. 9/20; and
- h. 308161-00-00 – Shankowski Pit SW 21-056-07-W4M – \$180,120.57 expired Nov. 13/20 – **request to be transferred.**

The security posted for each of the registered pits listed above is either expired or expiring this month or in December.

The expired security puts JMB in contravention of section 3.2.2 – 3.3.2 of the *Code of Practice for Pits* (Code) and s.84 of the *Environmental Protection and Enhancement Act* (EPEA). AEP requires that **every pit is in good standing prior to transfer**, which includes having a security deposit in form and amount acceptable to AEP.

Also, pursuant to section 5.4 and 5.5 of the Guide to the Code of Practice for Pits (Guide), a new registration holder is required to provide security prior to a transfer becoming effective. The security will be calculated based on full cost of reclamation and must be in AEP's acceptable form. Also, all pits that are currently in contravention of the Code due to either pit's boundary exceedance or trespasses would require these contraventions to be resolved prior to AEP making a decision about the transfer.

2. JMB's Plan for Registered Pits not part of the request to transfer

With only the 3 (in bold writings above) out of these 7 registered pits proposed for the transfer, what is JMB's plan and timing as it relates to operation or reclamation of the remaining 4 registered pits?

3. Landowner Consent Required

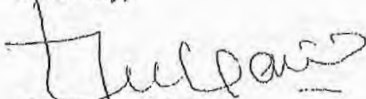
Moreover, as a requirement for pit operators on private lands, a written landowner permission is needed pursuant to section 3.2.1 of the Code. Please, provide the documents confirming the new permission for Mantle to operate from the landowner for each of the registered pit proposed to be transferred.

Please note that AEP has received court documents that indicate that Jerry Shankowski, the private landowner associated with pit registration 308161-00-00, objects to the transfer of this registration to Mantle.

Please, report all contravention of the EPEA or *Water Act* to the provincial Environmental Hotline at 1-800-222-6514.

AEP expects a response no later than 4:30 p.m. on December 2, 2020. If you have any questions or concerns, please contact Stephen Abioye at 780-427-6451 or at [stephen.abioye@gov.ab.ca](mailto:stephen.abioye@gov.ab.ca).

Sincerely,



Muhammad Aziz  
Designated Director under the Act

cc: Valerie Collins, Regulatory Approval Center (RAC)  
Colette Strap, AEP  
Jon Eeuwes, AEP  
Nathan Polturak, AEP  
Stephen Abioye, AEP





November 19, 2020

Via E-mail

Vivienne M Ball  
 Barrister and Solicitor  
 Environmental Law Team, Legal Services Division  
 Justice and Solicitor General, Government of Alberta  
 8th Floor, Oxbridge Place  
 9826 - 106 Street  
 Edmonton, AB T5K 2J6  
 Email: [Vivienne.Ball@gov.ab.ca](mailto:Vivienne.Ball@gov.ab.ca)

Tom Cumming  
 Direct +1 403 298 1938  
[tom.cumming@gowlingwlg.com](mailto:tom.cumming@gowlingwlg.com)  
 File no. T1020877

Melissa N. Burkett  
 Barrister & Solicitor  
 Legal Services Division, Civil Litigation  
 Justice and Solicitor General, Government of Alberta  
 Suite 1710, 639 5 Ave SW  
 Calgary, AB T2P 0M9  
 Email: [Melissa.Burkett@gov.ab.ca](mailto:Melissa.Burkett@gov.ab.ca)

Dear M. Ball and Ms. Burkett

Re: **JMB Crushing Systems Inc. ("JMB") and 2161889 Alberta Ltd. ("216") proceedings under the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36 (as amended, the "CCAA")**

We are counsel for JMB and its subsidiary 216 in their proceedings under the *Companies' Creditors Arrangement Act* (the "CCAA", and such proceedings, the "CCAA Proceedings"). As you are aware, pursuant to an asset purchase agreement dated September 28, 2020 (as amended, the "APA") between JMB and 216 as vendors, and Mantle Materials Group, Ltd. ("Mantle") as purchaser, Mantle has agreed to purchase certain assets of JMB and 216 (such purchase and sale transaction being the "Transaction").

The majority of the shares in the capital of JMB was acquired by Canadian Aggregate Resources Corporation ("CARC") in November of 2018. CARC is a wholly owned subsidiary of Resource Land Holdings, LLC ("RLH"), a private equity fund based in Denver, Colorado. However, because of a combination of the general downturn in the oil and gas services industry and serious sustained mismanagement and accounting irregularities of the former owners of JMB and their management team, JMB was not financially viable. Notwithstanding that CARC made significant capital injections into JMB and 216, JMB could not be made financially viable. Further, JMB was unable to comply with its obligations to its principal lenders, ATB Financial ("ATB") and Fiera Private Debt Fund VI LP and Fiera Private Debt Fund V LP ("Fiera").





As a result of their financial difficulties, JMB and 216 commenced the CCAA Proceedings and were given protection by the Court of Queen's Bench of Alberta (the "**Court**") under the CCAA pursuant to an Initial Order of the Honourable Madam Justice Eidsvik pronounced on May 1, 2020, as amended by an amended and restated Initial Order pronounced on May 11, 2020, under which FTI Consulting Canada Inc. was appointed as monitor (the "**Monitor**") of JMB and 216. Pursuant to the latter Order, a sale and investment solicitation process (the "**SISP**") under the direction and control of the Monitor was approved. Sequeira Partners was appointed as sale advisor under the SISP to market the assets of JMB and 216 and to administer the SISP.

Because of the economic dislocation caused by current COVID-19 health situation, many sale processes carried out in insolvency proceedings have failed to identify any buyers for businesses or assets. In an attempt to ensure that the property and assets of JMB and 216 were not simply abandoned as a result of a failed SISP, RLH incorporated Mantle, another wholly owned subsidiary, to make a bid to purchase that portion of the business and assets of JMB and 216 that were economically viable. Unfortunately, that was the only bid that was made for a substantial portion of the business and assets. RLH has committed to provide a limited amount of capital to Mantle in order to ensure that it is economically viable.

Under the APA, Mantle agreed to purchase a substantial portion of the assets of JMB and 216 (the "**Assets**"), including the following dispositions and agreements giving JMB and 216 the right to extract aggregate from certain lands:

- (a) surface material lease ("**SML**") 080085 in favour of 216 in respect of the lands on which a pit identified as JLG 3 is located;
- (b) SML 110025 in favour of 216 in respect of the lands on which a pit identified as JLG 5 is located;
- (c) SML 110026 in favour of 216 in respect of the lands on which a pit identified as JLG 6 is located;
- (d) SML 110045 in favour of 216 in respect of the lands on which a pit identified as JLG 7 is located;
- (e) SML 110046 in favour of 216 in respect of the lands on which a pit identified as JLG 8 is located;
- (f) SML 110047 in favour of 216 in respect of the lands on which a pit identified as JLG 9 is located;
- (g) SML 120005 in favour of 216 in respect of the lands on which a pit identified as JLG 10 is located;
- (h) SML 120006 in favour of 216 in respect of the lands on which a pit identified as JLG 11 is located;
- (i) SML 120100 in favour of 216 in respect of the lands on which a pit identified as JLG 12 is located;
- (j) SML100085 in favour of 216 in respect of the lands on which a pit identified as JLG 4;



- (k) an aggregate royalty agreement (a "**Royalty Agreement**") with 302016 Alberta Limited (the "**Buksa Agreement**") in respect of the extraction and processing of aggregate from lands in respect of which Registration No. 15048-03-02 (the "**Buksa Registration**") has been issued under the *Environmental Protection and Enhancement Act* (the "**EPEA**");
- (l) a Royalty Agreement with Gail Havener and Helen Havener (the "**Havener Agreement**") in respect of which Registration No. 17395-01-00 (the "**Havener Registration**") has been issued under the *EPEA*;
- (m) a Royalty Agreement with Jerry Shankowski and 945441 Alberta Ltd. (the "**Shankowski Agreement**") in respect of which Registration No. 308161-00-00 (the "**Shankowski Registration**") and together with the Buksa Registration and Havener Registration, the "**Registrations**") has been issued under the *EPEA*;
- (n) a Royalty Agreement with Lafarge Canada Inc. ("**Lafarge**", and such Royalty Agreement, the "**Moose River Agreement**") in respect of which Registration No. 15215-01-01 has been issued under the *EPEA*; and
- (o) a Royalty Agreement with Lafarge (the "**Oberg Agreement**") in respect of the lands subject to SML 100043, which SML is held by Lafarge,

(the SMLs listed in paragraphs (a) to (j) are referred to collectively as the "**SML Dispositions**").

As you are aware, on notice to Alberta Environment and Parks (the "**AEP**"), the Monitor, JMB and 216 made applications to the Court for the following Orders, which Orders were pronounced by Justice Eidsvik on October 16, 2020 (collectively, the "**Mantle Transaction Orders**"):

- (a) a sale approval and vesting order, approving the Transaction and vesting the Assets in Mantle free and clear of all claims;
- (b) a reverse vesting order (the "**RVO**"), vesting in 216 all of the liabilities of JMB that were not assumed by Mantle pursuant to the APA and all of the assets of JMB that were not acquired by Mantle;
- (c) an assignment order, assigning to Mantle certain agreements; and
- (d) a sanction order, sanctioning a plan of arrangement of JMB under the British Columbia *Business Corporations Act* and the *CCAA*.

The Transaction and the steps contemplated by the Mantle Transaction Orders are conditional, among other things, on the receipt of regulatory approvals. If the regulatory approvals are not obtained, or the requirement therefor is not waived by Mantle, the Transaction will not be completed. Because there are no other bids for the Assets, in those circumstances it is likely that the *CCAA* Proceedings will be terminated and JMB and 216 will simply cease any operations or activities.

Following the issuance of the Mantle Transaction Orders, the following has been submitted to Alberta Environment and Parks (the "**AEP**"):

- (i) by letter dated October 19, 2020, assignments to Mantle of the SML Dispositions (collectively, the "**SML Assignments**"); and





- (ii) by letter dated October 29, 2020, assignments to 216 of SML 120027 and DML 120032 (collectively, the "216 Assignments"),

(collectively, the "Applications").

In addition, we anticipate filing the following with the AEP:

- (i) consents of JMB and Mantle to transfer the Registrations;
- (ii) applicable materials to satisfy the additional requirements to transfer the 216 Assignments pursuant to the November 2, 2020 Reply (as defined below); and
- (iii) request for letters of clearance for SME 150106 and SME 200009 in favor of JMB.

To date, notwithstanding many attempts to follow up with the AEP, the AEP has not provided a meaningful or helpful response. These attempts to follow up have consisted of the following:

- (a) on Tuesday October 20, 2020, we submitted the SML Assignments on behalf of JMB and Mantle;
- (b) on Thursday October 22, 2020, Tyler Pell of Mantle confirmed with Jane Fletcher that she had received the SML Assignments and requested a conference call to discuss the SML Assignments further. Jane stated that she would not be available for a call until Monday, October 26, 2020 and would follow up with a time;
- (c) later on October 22, 2020, Tyler Pell submitted Version 2 of Schedule A of the SML Assignments to the AEP and then submitted Version 3 of Schedule A of the SML Assignments to the AEP, but the designated contact for the AEP was on vacation;
- (d) on Friday October 23, 2020, Tyler Pell sent an email to Jane Fletcher with the AEP requesting a conference call to review submission and obtain answers to questions from counsel;
- (e) on Monday October 26, 2020, Tyler Pell sent a follow-up email to Jane Fletcher requesting a conference call;
- (f) later on October 26, 2020, Tyler Pell had a conference call with Jane Fletcher and members of JMB and 216's counsel to determine the status of the SML Applications and to further discuss the 216 Assignments;
- (g) on Wednesday October 28, 2020, Jane Fletcher emailed Tyler Pell to confirm that he was acting as agent for both JMB and Mantle in respect of the SML Assignments, which Tyler Pell confirmed;
- (h) on Thursday October 29, 2020, we submitted the 216 Assignments on behalf of JMB and 216;
- (i) later on Thursday October 29, 2020, Tyler Pell emailed Jane Fletcher for an update and she stated that she had a response letter to the submitted SML Assignments prepared, but was waiting on a response from the field representative;





- (j) on Friday October 30, 2020, Tyler Pell emailed Jane Fletcher requesting an update on the field review. Jane Fletcher responded that she is aware they are working on it and she hoped for a response either that day or on Monday November 2, 2020;
- (k) on Monday November 2, 2020, Tyler Pell emailed Jane Fletcher requesting an update on the field review;
- (l) on Tuesday November 3, 2020, Jane Fletcher responded to indicate that she hoped to have an answer soon;
- (m) on Tuesday November 3, 2020, the writer left messages for both Vivienne Ball, counsel with the Environmental Law Team of the Legal Services Division of Justice and Solicitor General of Alberta, and Jane Fletcher;
- (n) on Wednesday November 4, 2020, Jane Fletcher called the writer, but would only say that the matter was still subject to field review, and would provide no information with respect to the status of the matter or any concerns that the AEP might have;
- (o) on Thursday November 5, 2020, Vivienne Ball emailed the writer to indicate that she was advised that the writer spoke with Jane Fletcher and that she had responded to the writer's enquiry; and
- (p) on Tuesday November 10, 2020, Tyler Pell called Jane Fletcher and left message asking for an update, which Jane Fletcher responded to by email stating the field is still reviewing and hope to have information on November 16, 2020.

On Monday November 2, 2020 (the "**November 2, 2020 Reply**"), the Lands Division of the AEP wrote to the writer to indicate that it required the following to transfer the 216 Assignments:

- (i) payment of assignment fee in the amount of \$3,150.00;
- (ii) written verification from the taxing authorities that all taxes with respect to the 216 Assignments have been paid;
- (iii) confirmation that the balance in the accounts of the 216 Assignments are current;
- (iv) a security deposit for each 216 Assignment; and
- (v) discharge of any encumbrances registered against the 216 Assignments.

On Monday November 16, 2020 (the "**November 16, 2020 Reply**"), the Lands Division of the AEP also wrote to the writer, JMB and 216 to indicate that it has reviewed its file and required that:

- (i) JMB must remediate certain lands subject to dispositions, namely DML 120032, SME 200009 (expired September 19, 2020), SML 120027, SML 930040 (expired July 28, 2013) and SML 980116 (expired February 16, 2009); and
- (ii) 216 must remediate certain lands subject to SML 060060.

**In the November 16 Reply, the AEP did not provide any other feedback with respect to the Applications, including whether, if those steps were taken, the Applications would be granted.**





Further, the AEP imposed a time deadline for JMB and 216 to respond to the November 16, 2020 Reply by 4:30 pm on November 30, 2020.

On Wednesday November 18, 2020 (the "**November 18 Reply**"), the Regulatory Assurance Division of the AEP provided a letter to JMB with respect to certain pits currently registered to JMB and imposed a deadline for JMB to respond to the November 18, 2020 Reply by 4:30 pm on December 2, 2020. The November 18 Reply does not indicate whether, if the matters raised therein are addressed, the application will be granted. **It simply says that these matters need to be resolved before the AEP will consider the request to transfer the registrations.**

In the November 18 Reply, the AEP referred to five pits where the security expired on March 9, 2020. The AEP previously wrote to JMB on January 20, 2020 indicating that those bonds were to expire on March 9, 2020, and that if replacement security was not provided, the AEP would demand payment under the bonds. **In fact, the AEP did not demand payment under the bonds and allowed the March 9, 2020 expiry date to pass without taking action.** The AEP now requests that these bonds be replaced, but there is no party available to provide replacement bonds. We do note that Mantle intends to provide replacement security for the Buksa Pit, the Havener Pit and the Shankowski Pit. The remaining pits referred to in the November 18 Reply are not being acquired by Mantle and therefore remain the responsibility the estate. We note that upon the Reverse Vesting Order becoming effective, all of the liabilities of JMB that are not assumed by Mantle are transferred to and vested in 216, and cease to be liabilities of JMB. This would include any liabilities to provide security.

In the November 18 Reply, the AEP requests evidence of the consent of the Haveners with respect to the Havener pit, and Shankowski with respect to the Shankowski pit. We can provide you with copies of the agreements with these parties. While Jerry Shankowski has subsequently attempted to back out of his agreement with Mantle and is currently in breach of that agreement, it remains binding upon him.

As you are aware, on November 12, 2020 there was an application to the Court to extend the stay of proceedings in the CCAA Proceedings. Because the Transaction has not yet closed, we provided an update on its status to Justice Eidsvik, including that the regulatory condition precedent remained unsatisfied and that the AEP had not yet taken a position with respect to the Application. Justice Eidsvik expressed concern that counsel for the AEP:

- (a) had required a two week adjournment of the October 2, 2020 hearing, which was the original date scheduled for the hearing of the application for the Mantle Transaction Orders;
- (b) had requested and obtained changes to the Mantle Transaction Orders; and
- (c) was unwilling to take steps to assist in or expedite the regulatory application process.

Justice Eidsvik has requested that you to attend the next application to explain the AEP's position and the delays in responding to the Applications.

The AEP has not provided a response as to whether or not it will consent to the Applications, or what conditions, if any it requires to be satisfied before it consents. It has simply said that it will not consider the Applications until certain steps have been taken. This puts the Transaction at risk, and if it does not close, the business will be lost and there will be no alternative to the SML Dispositions being surrendered to the AEP. Since the Transaction has been structured to avoid an outcome like this, it would be very unfortunate if the passage of time made it inevitable.



JMB and Mantle would like to meet with the AEP to discuss the status of the Application and whether it is possible to address concerns of the AEP. This meeting could be by video conference, which we are happy to arrange.

We look forward to hearing from you at your earliest convenience.

Yours truly,

Gowling WLG (Canada) LLP

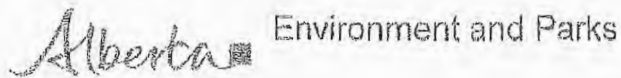
*Tom Cumming*

Tom Cumming

TSC

Encl.





Lands Division  
 Land Policy and Programs Branch  
 Public Lands Disposition Management  
 Section  
 5<sup>th</sup> floor, South Petroleum Plaza  
 9915 - 108 Street NW  
 Edmonton, Alberta T5K 2G8  
 Fax: 780-422-2545  
[www.alberta.ca](http://www.alberta.ca)

File Nos. SML 110025, SML 110026  
 SML 110045, SML 110046  
 SML 110047, SML 120005  
 SML 120006, SML 120100  
 SML 080085, SML 100085

November 23, 2020

2161889 Alberta Ltd.  
 PO Box 6977  
 Bonnyville, Alberta T9N 2H4

**Attention: Tyler Pell**

Application to assign dated October 20, 2020  
 From: 2161889 Alberta Ltd. To: Mantle Materials Group, Ltd.  
 SML 110025, SML 110026, SML 110045, SML 110046, SML 110047,  
 SML 120005, SML 120006, SML 120100, SML 080085, SML 100085

The department has received the request to assign the dispositions listed above.

#### **Outstanding Deficiencies in the Application**

However, before the department can proceed to make a decision on the application to assign these dispositions, the following is required:

1. An assignment fee in the amount of \$3,150.00.
2. A surface materials return for the period of January 1, 2020 to October 20, 2020 from 2161889 Alberta Ltd. and any royalty payment due for this period for the above SML's.
3. A replacement security deposit (Letter of Credit see attached) for each of the dispositions listed above that 2161889 Alberta Ltd. has applied to assign to Mantle Group Materials, Ltd. in the name of Mantle Group Materials, Ltd. Attached is a list of acceptable forms of security deposits for your information.
4. Payment in full of any outstanding balance payable to the department in the account for each disposition listed above. See attached.
5. The Lender must discharge all Conditional Surrender of Leases registered against the dispositions listed above.

- 2 -

6. The Assignment of Disposition-Industrial dated October 20, 2020 is incorrect as the assignee should be Mantle Materials Group, Ltd. Please send in a corrected copy.

Please forward these requirements no later than 30 days from the date of this letter.

#### **Outstanding Regulatory Obligations to Reclaim**

2161889 Alberta Ltd. is also the holder of SML 060060, which is not part of this application to assign. In its November 16, 2020 letter, the Department notified you that 2161889 Alberta Ltd. has outstanding reclamation obligations as it relates to the public lands subject to SML 060060.

Section 21(1)(f) of the *Public Land Administration Regulation* (PLAR) requires 2161889 Alberta Ltd. as disposition holder, to reclaim the lands subject to SML 060060 to equivalent land capability, as defined in PLAR, on expiry.

#### **Next Steps**

Once the application to assign is complete, the department will proceed to review the application in accordance with the department's normal process, the *Public Lands Act* and the PLAR. Pursuant to section 15.1 of *Public Lands Act*, the Department can refuse to assign a disposition if the applicant is in non-compliance with the Public lands Act. The department may consider any outstanding regulatory obligations of the applicant as part of the department's review.

If you have any questions regarding this matter, please contact myself at 780-415-4672, in Edmonton.

Sincerely,



Jane Fletcher  
Land Policy and Programs

cc: AEP Upper Athabasca Region, South District  
cc: Zafar B. Jaffer ([zafar.jaffer@gowlingwlg.com](mailto:zafar.jaffer@gowlingwlg.com))  
cc: Pantelis Kyriakakis ([pkyriakakis@mccarthy.ca](mailto:pkyriakakis@mccarthy.ca))  
cc: Tom Cumming ([tom.cumming@gowlingwlg.com](mailto:tom.cumming@gowlingwlg.com))  
cc: Tyler Pell ([tyler.pell@mantlegroup.ca](mailto:tyler.pell@mantlegroup.ca))

Assignment of Disposition – Industrial

Lands Division

Assignment of Disposition

BETWEEN

2161889 ALBERTA LTD.  
PO BOX 6977, BONNYVILLE ALBERTA T9N 2H4  
(hereinafter called the "Assignor")

and

Mantle Group Materials, Ltd.  
Suite 2300, Bentall 5, 550 Burrard Street, Vancouver, BC V6C 2B5  
(hereinafter called the Assignee")

The assignor, being the holder of disposition(s) noted on Schedule "A" in consideration of the sum of \$ 10.00, payment of which is hereby acknowledged by the Assignor, hereby assigns the disposition(s) to the Assignee, and the Assignee(s) hereby accept(s) and agree(s) to be bound by this assignment.

Dated this 20th day of October, 2020

BLAKE ELYEA

[Signature]  
(WITNESS)

[Signature]  
(ASSIGNOR)

BYRON LEVKULICH - DIRECTOR

[Signature]  
(WITNESS)

[Signature]  
(ASSIGNEE)

NOTE: The affidavits of execution overleaf must be completed unless executed under corporation seal.

The personal information contained on this form is collected under the authorization of Section 33(c) of the Freedom of Information and Protection of Privacy (FOIP) Act and is managed in accordance with Part 2 of the FOIP Act. It will be used for the purpose of monitoring public land utilization in accordance with the Public Lands Act. Alberta Environment & Parks will disclose all information contained on this form, including personal information, to anyone requesting a copy in accordance with Section 166-167 of the Public Lands Administration Regulation. For further information, please contact Provincial Programs Branch, Operations Division, Alberta Environment and Parks, 5th Floor, South Petroleum Plaza, 9915-108 Street, Edmonton, Alberta, T5K 2G8, telephone 780-427-3570.

OK





**Schedule "A"**

SML Assignments (2161880 Alberta Ltd to Mantle Group Materials, Ltd.)

October 22, 2020

SML 110025
SML 110026
SML 110045
SML 110046
SML 110047
SML 120005
SML 120006
SML 120100
SML 080085
SML 100085

SK

Outstanding Debts (Interest included to Dec. 22/20)

SML 110025 - \$10,622.54

SML 110026 - \$1,082.29

SML 110045 - \$11,164.71

SML 110046 - \$544.26

SML 110047 - \$641.27

SML 120005 - \$132,618.97

SML 120006 - \$415.23

SML 120100 - \$1,277.65

SML 080085 - \$605.47

SML 100085 - \$593.94

SML 060060 - \$4,898.75

DLO 170011 - \$110.90



Security deposits Held by Letter of Credit

SML 110025 - \$79,690.00

SML 110026 - \$77,540.00

SML 110045 - \$57,030.00

SML 110046 - \$44,380.00

SML 110047 - \$46,110.00

SML 120005 - \$78,110.00

SML 120006 - \$25,690.00

SML 120100 - \$29,650.00

SML 080085 - \$19,540.00

SML 100085 - \$42,010.00

SK

## Acceptable forms of security deposit

### Cash

Cash is defined as money, cheques, certified cheques, bank drafts, and money orders.

Please ensure all cheques, certified cheques, bank drafts, and money orders are payable to: **Government of Alberta**. If paying by cheque, please include on the cheque:

- For Security
- Application Number (new dispositions only) or Disposition Number (amendment and/or renewal of an existing disposition)

**NOTE: The department will not pay interest on security held for public land activities.**

### Irrevocable Letter of Credit or Letters of Guarantee

An Irrevocable letter of credit or letter of guarantee from a Chartered Bank, a Credit Union, a Trust Company or the Alberta Treasury Branch guaranteeing payment upon presentation to the issuer.

- An Automatic Renewal Clause should be added whenever possible for securities that are for a term of over 1 year.
- Partial withdrawals should be permitted.
- The Activity ID should be referenced on the letter that the security covers.

Please ensure all beneficiaries/assignees are payable to: **Her Majesty the Queen in Right of Alberta as represented by the Minister of Environment and Parks**

### Redeemable Term Deposits, Certificate of Deposit, Redeemable Guaranteed Investment Certificate

Issued by a Chartered Bank, a Credit Union, a Trust Company, or Alberta Treasury Branches. These must be in negotiable form and assigned to **Her Majesty the Queen in Right of Alberta as represented by the Minister of Environment and Parks**, as to principal only. Assignment documents must be acknowledged as accepted by banks or financial institutions as issuer.

**NOTE: Mortgage Corporation Certificates are not acceptable as they are not pre-encashable prior to maturity.**

Please ensure all beneficiaries/assignees are payable to: **Her Majesty the Queen in Right of Alberta as represented by the Minister of Environment and Parks**.

Find more land forms: <https://www.alberta.ca/lands-forms.aspx>

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## Contact

The contact person for questions regarding securities is:

- Sandra Moore, Securities Analyst
- Phone: 780-427-9110  
Email: [AEP.FinancialSecurities@gov.ab.ca](mailto:AEP.FinancialSecurities@gov.ab.ca)  
Gurpreet Sohanpal, Team Lead, Revenues

All securities should be mailed to the following address:

- Ministry of Environment and Parks  
Attention: Securities Analyst  
Main Floor, South Petroleum Plaza  
9915 – 108 Street  
Edmonton, Alberta T5K 2G8





Tom Cumming  
 Direct +1 403 298 1938  
 Direct Fax +1 403 263 9193  
[tom.cumming@gowlingwlg.com](mailto:tom.cumming@gowlingwlg.com)  
 File No. A163514

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November 27, 2020

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Dear Sirs and Madams:

**Re: JMB Crushing Systems Inc. ("JMB") and 2161889 Alberta Ltd. ("216") proceedings under the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36 (as amended, the "CCAA")**

We are writing to respond to the letters from Alberta Environment and Parks (the "AEP") dated November 16, 2020 (the "**Nov 16 Letter**"), November 18, 2020 (the "**Nov 18 Letter**") and November 23, 2020 (the "**Nov 23 Letter**"), and together with the Nov 16 Letter and Nov 18 Letter, the "**AEP Letters**"), and as a follow up to our letter dated November 19, 2020 addressed to Vivienne Ball and Melissa Burkett with Justice and Solicitor General, and to the conference call (the "**Conference Call**") held today between Vivienne Ball, Melissa Burkett, Lee Plumb, Pantelis Kyriakakis (counsel for FTI Consulting Canada Inc., the Court appointed Monitor of JMB and 216), Tom Gusa (counsel for ATB Financial) and Kyla Mahar (counsel for Fiera Private Debt Fund VI LP and Fiera Private Debt Fund V LP ("**Fiera**")).

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The purchase and sale transaction (the "**Transaction**") under the Asset Purchase Agreement dated September 28, 2020 (the "**APA**") between JMB and 216 as vendors and Mantle Materials Group Ltd. ("**Mantle**") is subject to the condition precedent that the AEP consent to the transfer to Mantle of the Included SMLs and the Included Registrations (as such terms are defined below) and the transfer to 216 of the Excluded SMLs. The completion of the Transaction will result in the majority, but not all, of the issues in the AEP Letters being addressed. If the regulatory condition in the APA is to be satisfied or waived, Mantle requires the conditions to regulatory approval to be clearly set out. However, the AEP Letters contemplate that all of the actions be taken before the AEP determines whether or not to approve the transfers of the Included SMLs and Included Registrations. Because any actions that are taken would have to be funded by Mantle, and such funding is dependent on the Transaction closing, there is a difficult timing problem that must be resolved in order for this matter to progress.

In an effort to resolve the timing issue, Mantle has instructed us to make the following proposal to the AEP:

1. The AEP will confirm in writing that provided the SML Conditions (as defined below) are satisfied, the AEP will take the following steps (collectively, the "**Disposition Approvals**"):
  - (a) the AEP will approve the transfer by 216 to Mantle of SML 080085, SML 110025, SML 110026, SML 110045, SML 110046, SML 110047, SML 120005, SML 120006, SML 120100 and SML100085 (collectively, the "**Included SMLs**");
  - (b) the AEP will approve the transfer by JMB to 216 of DLO 170011, SML 120027, SML 930040, SML 980116 and DML 120032 (which, together with SML 060060, are collectively referred to as the "**Excluded SMLs**");
  - (c) the AEP will register new Conditional Surrenders of Lease in favour of Fiera against the Included SMLs;
  - (d) the AEP will permit the return of security in respect of SME 200009 (the "**SME 200009 Security**"); and
  - (e) provided a purchaser of SML 060060 is found that is acceptable to the AEP, the AEP will consent to the transfer to such purchaser of that disposition.
  
2. The Disposition Approvals will be subject to the satisfaction of the following conditions (collectively, the "**Disposition Conditions**"):
  - (a) Mantle will submit a corrected Assignment of Disposition – Industrial to replace the October 20, 2020 Assignment of Disposition – Industrial;
  - (b) Mantle will pay unpaid 2019 royalties under the Included SMLs;
  - (c) 216 will file the 2020 Returns in respect of the Included SMLs and Mantle will pay any unpaid 2020 royalties;
  - (d) Mantle will arrange for Canadian Western Bank (or an alternative bank or financial institution) to issue to the AEP as security for the reclamation obligations relating to the Included SMLs, subject to the return of the letters of credit that they are replacing;





- (e) Mantle will pay the assignment fee of \$3,150 for the assignment of the Included SMLs;
  - (f) Fiera will provide releases of the Conditional Surrenders of Leases granted to it by 216 in respect of the Included SMLs; and
  - (g) JMB will fund the reclamation by 216 of the lands subject to the Excluded SMLs in accordance with a reclamation plan mutually agreed to by JMB and the AEP, provided the reclamation security posted in respect of the Excluded SML's is returned to JMB to fund such reclamation.<sup>1</sup>
3. The AEP will confirm in writing to JMB and Mantle that provided the Registration Conditions (as defined below) are satisfied, the AEP will take the following steps (collectively, the "**Registration Approvals**"):
- (a) the AEP will approve the transfer by JMB to Mantle of registration nos. 15048-03-02 (in respect of the lands subject to the aggregate royalty agreement dated December 31, 2018 between JMB and 302016 Alberta Limited), 17395-01-00 (in respect of the lands subject to the aggregate royalty agreement dated November 8, 2018 between Helen Havener, Gail Havener and JMB), 308161-00-00 ((in respect of the lands subject to the aggregate royalty agreement dated October 29, 2018 between JMB, Jerry Shankowski and 945441 Alberta Ltd.) and 17395-01-00 (real property owned by JMB) (collectively, the "**Included Registrations**"); and
  - (b) the AEP will call on the bond with respect to registration 15048-03-02 (Buksa Royalty Agreement), in the amount of \$50,442.14, to secure the reclamation obligations in respect of the Excluded Royalty Lands.
4. The Registration Approvals will be subject to the satisfaction of the following conditions (collectively, the "**Registration Conditions**"):
- (a) Mantle will provide replacement security in respect of the Included Registrations;
  - (b) Mantle will provide the Schedule 3 filing in respect of registration no. 17395-01-00;
  - (c) Mantle will provide a copy of the amending agreement between Mantle, Lynne Havener (as Executor of the Estate of Helen Havener) and Gail Havener, the amended and restated aggregate royalty agreement between Mantle, Lynne Havener and Gail Havener, and the amending agreement between Mantle, Jerry Shankowski and 945441 Alberta Ltd., evidencing the respective consents of Lynne Havener, Gail Havener, Jerry Shankowski and 945441 Alberta Ltd. to the assignment of their respective aggregate royalty agreements with JMB;
  - (d) Mantle will provide a consent of 302016 Alberta Limited to the transfer to Mantle of the aggregate royalty agreement dated December 31, 2018 between JMB and 302016 Alberta Limited; and

<sup>1</sup> Subject to JMB's due diligence with respect to the reclamation obligations for the Excluded SMLs.

SK.





- (e) the application by Shankowski to set aside the amending agreement between Mantle, Jerry Shankowski and 945441 Alberta Ltd. shall be dismissed.
5. Upon the completion of the Transaction, the aggregate royalty agreements in respect of registration nos. 306490-00-00 (Hoye/Kucy Royalty Agreement), 293051-00-00 (MacDonald Royalty Agreement), 149949-00-00 (Megley Royalty Agreement) and 263318-00-00 (Okane Royalty Agreement) will vest in 216, subject to all liabilities associated with such aggregate royalty agreements. 216 is not funded to provide replacement security for the bonds posted in respect of such registrations in the amounts of \$39,805, \$77,600, \$74,683 and \$39,805 which the AEP permitted to expire.

The forgoing would resolve the timing issue because it would provide Mantle with the assurance that it requires that provided the Disposition Conditions and the Registration Conditions are satisfied, the AEP will provide the Disposition Approvals and Registration Approvals. This will, in turn, permit Mantle to proceed with closing the Transaction without the Disposition Approvals and Registration Approvals being issued, but on the strength of the AEP's assurances.

At the Conference call, it was agreed that there would be follow up discussions between JMB, 216, Mantle and the AEP, together with counsel for these entities, the Monitor, ATB Financial and Fiera. Given the urgency of this matter, we propose that the follow up video meetings take place on Monday November 30, 2020. Please let us know what a convenient time would be. If different groups within the AEP require different times, and would prefer separate meetings, we are happy to accommodate that.

We look forward to discussing the foregoing with you.


Yours truly,

Gowling WLG (Canada) LLP

Tom Cumming

cc. Tyler Pell, Josh Inglett and Byron Levkulich  
Caireen Hanert and Stephen Kroeger  
Pantelis Kyriakakis, Tom Gusa and Kyla Mahar

THIS IS EXHIBIT "C" REFERRED TO IN  
THE AFFIDAVIT OF TYLER PELL  
SWORN BEFORE ME  
THIS 22<sup>ND</sup> DAY OF MARCH, 2021



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A Commissioner for Oaths in and for the  
Province of Alberta

**Stephen Kroeger**  
*Barrister & Solicitor*  
A Notary Public/Commissioner for Oaths  
in and for the Province of Alberta  
My Commission expires at the pleasure of  
the Lieutenant Governor in Council

## RECLAMATION OBLIGATIONS AGREEMENT

THIS Agreement is dated as of January 9, 2021

BETWEEN:

**JMB Crushing Systems Inc. ("JMB") and 2161889 Alberta Ltd. ("216")**

**Mantle Materials Group, Ltd. ("Mantle")**

**ATB Financial ("ATB")**

**Fiera Private Debt Fund VI LP**, by its general partner **Fiera Private Debt Fund GP Inc. ("Fund VI")** and **Fiera Private Debt Fund V LP**, by its general partner **Fiera Private Debt Fund GP Inc.**, acting in its capacity as collateral agent for and on behalf of and for the benefit of Fund VI (collectively, "**Fiera**")

**Alberta Environment and Parks (the "AEP")**

**CONTEXT:**

A. JMB and its wholly owned subsidiary 216 (collectively, the "**Companies**") carried on the business of extracting, processing and marketing Aggregate in the Province of Alberta (the "**Business**"). JMB's principal customers were road builders, municipalities, private land developers and the oil and gas service industry.

B. Canadian Aggregate Resources Corporation ("**CARC**") acquired the majority of the shares in JMB pursuant to a share purchase that closed in November of 2018 and J Buck and Sons Inc. ("**JBS**"), representing the Canadian management of the Companies, was a minority shareholder. CARC is wholly owned by Resource Land Fund V LP ("**RLF**"), a US private equity fund which based in Denver, Colorado.

C. JMB and 216 owned or had interests in over fifty Aggregate pits and/or the lands associated therewith on **Schedule "A"** (collectively, the "**Aggregate Pits**", and each individually, an "**Aggregate Pit**"). JMB and 216 held their respective interests in the Aggregate Pits (1) pursuant to certain Dispositions issued by the AEP under the *Public Lands Act*, RSA 2000, Ch P-40 and the *Public Lands Administration Regulation*, AR 187/2011 (collectively with all other applicable regulations and rules thereunder, the "**PLA**", and such Aggregate Pits of JMB and 216, the "**Public Pits**"), (2) pursuant to certain aggregate royalty agreements with private land holders (such Aggregate Pits being the "**Private Pits**"), and (3) in the case of two pits, in fee simple (the "**Owned Lands**").

D. The extraction and processing of Aggregate, and the reclamation of the lands on which Aggregate Pits are located, is regulated by the AEP under the *Environmental Protection and Enhancement Act*, RSA 2000, Ch E-12, the *Conservation and Reclamation Regulation*, AR 115/93, the *Approvals and Registrations Procedure Regulation*, AR 113/93 and the *Activities Designation Regulation*, AR 276/2003 (collectively with all other applicable regulations and rules thereunder, the "**EPEA**"). In addition, in the case of the Private Pits and Owned Lands, the extraction and processing of Aggregate and reclamation of land is regulated by the *Code of Practice for Pits* under the EPEA (the "**Code**", and together with the EPEA and PLA, the "**Regulatory Legislation**").



E. ATB provided a senior operating loan and Fiera provided senior term loans to JMB, each of which were secured by Security Interests against all of the property and assets of JMB and 216, with ATB's Security Interests ranking first against the accounts receivable and inventory of JMB and 216 and a parcel of real property owned by JMB and Fiera's Security Interests ranking first against all other property and assets of JMB and 216, other than certain equipment subject to purchase money security interests in favour of or leases by certain third parties.

F. Almost immediately after CARC acquired its majority interest in JMB in November of 2018, it became apparent JMB was suffering a severe and sustained cash flow shortfall, which appeared to arise from the ongoing downturn in the oil and gas industry and in Alberta's economy. This financial impairment became significantly worse as a result of the public health measures to combat the COVID-19 pandemic.

G. In order to improve the Companies' financial viability and provide a process for recapitalizing or refinancing the Companies, the Companies applied to the Court of Queen's Bench of Alberta (the "**Court**") for protection under the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended (the "**CCAA**"). On May 1, 2020, the Honourable Madam Justice Eidsvik pronounced an initial order which, among other things, declared the Companies were companies to which the CCAA applied, stayed all proceedings against the Companies, and appointed FTI Consulting Canada Inc. as the monitor of the Companies (the "**Monitor**"). The initial order was amended and restated by a further order of Justice Eidsvik pronounced on May 11, 2020 (as amended, the "**Initial Order**").

H. Under the Initial Order, the Court approved a sale and investment solicitation process (the "**SISP**") and appointed Sequeira Partners as sale advisor (the "**Sale Advisor**") under the SISP. The Sale Advisor conducted an extensive, two phase marketing process under the SISP, approaching approximately • potential strategic and financial investors and purchasers. Because of the possibility that CARC might submit a reserve or stalking horse bid in the SISP, the SISP was placed under the supervision and control of the monitor in order to ensure the independence and integrity of the process. Further, neither the Monitor nor the Sale Advisor provided information to CARC, RLF or the Companies' management with respect to actual or potential bids.

I. By June 26, 2020, JMB had completed its obligations under a supply agreement with the Municipal District of Bonnyville No. 87 and thereafter reduced its operations to a minimum and terminated all but six of its employees and contractors. In June of 2020, the president of JMB departed.

J. In June of 2020, CARC submitted a bid in the first phase of the SISP, and then in July of 2020, Mantle, which was a newly created affiliate of CARC which was also a wholly owned subsidiary of RLF, submitted a bid in the second phase to purchase the Core Assets. There were no other realistic bids and therefore Monitor negotiated the terms of the bid on behalf of the Companies and after consulting with ATB, Fiera and other stakeholders.

K. Pursuant to an asset purchase agreement dated September 27, 2020 (which, as amended on November •, 2020 and from time to time subsequently, is referred to as the "**APA**") between the Companies and Mantle, it was agreed that Mantle would purchase the Core Assets for a purchase price payable by a partial assumption of the indebtedness owing by the Companies to ATB and Fiera, by the assumption of certain other liabilities of the Companies, and in part by the payment of cash. The Core Assets include the Included Public Pits, the Included Private Pits and the Included Owned Land.



L. Pursuant to the APA, JMB and Mantle filed with the Court a plan of arrangement under the CCAA and *Business Corporations Act*, SBC 2002, c 57 (the “**CCAA Plan**”) under which, upon the completion of the transactions contemplated by the APA (the “**Transaction**”), the shares of JBS in the capital of JMB will be cancelled and the shares of CARC in the capital of JMB will be transferred to Mantle, and Mantle will assume the Assumed ATB Debt and Assumed Fiera Debt.

M. The Transaction is to be completed and implemented pursuant to and in accordance with (1) a sale approval and vesting order (the “**SAVO**”), vesting certain core assets of JMB and 216 in Mantle, (2) a reverse vesting order (the “**RVO**”), vesting assets and liabilities excluded from the Transaction in 216, (3) an assignment order, assigning certain key contracts of JMB and 216 to Mantle, and (4) a sanction order, sanctioning the CCAA Plan (collectively, the “**Mantle Transaction Orders**”).

N. The Transaction Closing is conditional upon the AEP approving assignments of the Dispositions and transfers of the Registrations in respect of the Included Public Pits, the Included Private Pits, the Included Owned Land. Certain Reclamation Obligations exist in respect of the Included Public Pits, the Included Private Pits, the Included Owned Land and the Excluded Pits, the quantum of which is estimated by the Companies as set out on **Schedule “A”**, and in order to provide certainty with respect to the manner in which Reclamation Obligations are to be addressed, and to obtain the approval by the AEP of the assignment of the Dispositions and transfer of the Registrations, the Parties have undertaken certain obligations on the terms and subject to the conditions contained herein.

**NOW THEREFORE** the Parties agree as follows:

## 1. DEFINITIONS AND INTERPRETATION

### 1.1 Definitions

The following capitalized terms will have the meanings set out below:

- (a) “**216**” is defined in the introductory paragraph of this Agreement.
- (b) “**AEP**” is defined in the introductory paragraph of this Agreement.
- (c) “**Aggregate**” means aggregates including granular base course gravels, asphalt pavement aggregates, concrete and weeping tile rock, sand and other aggregates.
- (d) “**Aggregate Pits**” and “**Aggregate Pit**” are defined in Recital C.
- (e) “**Agreement**” means this reclamation obligation agreement, including the Schedule, as it may be amended, modified, supplemented or restated from time to time.
- (f) “**APA**” is defined in Recital K.
- (g) “**Applicable Law**” means, with respect to any Person, property, transaction, event, business or other matter, any federal, state, provincial, local, domestic or foreign constitution, treaty, law, statute, regulation, code, ordinance, principle of

common law or equity, rule, municipal by-law, Permit, order or other requirement of any Governmental Authority whether or not having the force of law relating or applicable to such Person, property, transaction, event, business or other matter.

- (h) **"ATB"** is defined in the introductory paragraph of this Agreement.
- (i) **"Buksa Royalty Agreement"** means the aggregate royalty agreement dated December 31, 2018 between 302016 Alberta Limited, Rose Short and JMB.
- (j) **"Business"** is defined in Recital A.
- (k) **"Business Day"** means any day other than a Saturday, Sunday or statutory holiday in Edmonton, Alberta.
- (l) **"CARC"** is defined in Recital B.
- (m) **"CCAA"** is defined in Recital G.
- (n) **"CCAA Plan"** is defined in Recital L.
- (o) **"Code"** is defined in Recital D.
- (p) **"Communication"** means any notice, demand, request, consent, approval or other communication which is required or permitted by this Agreement to be given or made by a Party.
- (q) **"Contractor"** is defined in Section 3.5(f).
- (r) **"Core Assets"** means all of the right, title, benefit, estate and interest of JMB and 216 in and to certain assets to be acquired by Mantle under and pursuant to the APA.
- (s) **"Court"** is defined in Recital G.
- (t) **"CWB"** means Canadian Western Bank.
- (u) **"CWB LC Facility"** means the letter of credit facility created by CWB in favour of JMB and 216, and was assigned to and assumed by Mantle pursuant to the Transaction, for the purposes of providing the CWB LCs to the AEP as Security.
- (v) **"CWB LCs"** means letters of credit issued by CWB in favour of AEP.
- (w) **"Dispositions"** means the surface material leases and other dispositions of public lands issued by the AEP to JMB or 216 under the PLA, and **"Disposition"** means any one of the Dispositions.
- (x) **"EPEA"** is defined in Recital E.
- (y) **"Excluded Aggregate Inventory"** means Aggregate that, as of the date this Agreement is fully executed by the Parties, has been extracted and is located on the lands subject to the Excluded Royalty Agreements.



- (z) **"Excluded Private Pits"** the Aggregate Pits governed by the aggregate royalty agreements listed on **Schedule "A"** under the heading of *"Excluded Private Pits"* and identified as the Hoye/Kucy Royalty Agreement, the MacDonald Royalty Agreement, the Megley Royalty Agreement and the Okane Royalty Agreement.
- (aa) **"Excluded Public Pits"** means the Aggregate Pits governed by the Dispositions listed on **Schedule "A"** under the heading of *"Excluded Public Pits"* and identified as SML 120027, SML 930040, SML 980116 and DML 120032.
- (bb) **"Excluded Royalty Agreements"** means the aggregate royalty agreements relating to the Excluded Private Pits, being the Hoye/Kucy Royalty Agreement, the MacDonald Royalty Agreement, the Megley Royalty Agreement and the Okane Royalty Agreement, and **"Excluded Royalty Agreement"** means any one of them.
- (cc) **"Excluded Royalty Lands"** means each of the lands on which the Excluded Public Pits are located and to which an Excluded Royalty Agreements applies.
- (dd) **"Excluded Reclamation Amount"** is defined in Section 3.5(b).
- (ee) **"Fiera"** is defined in the introductory paragraph of this Agreement.
- (ff) **"Fund VI"** is defined in the introductory paragraph of this Agreement.
- (gg) **"Glacier Royalty Agreement"** means the aggregate royalty agreement dated September 30, 2014 between JMB and 1386194 Alberta Ltd., in respect of the Aggregate Pit subject to the Disposition identified as SML 030074 which was granted to 1386194 Alberta Ltd.
- (hh) **"Governmental Authority"** means any federal, provincial, state, local, municipal, regional, territorial, aboriginal, or other government, governmental or public department, branch, ministry, or court, domestic or foreign, including any district, agency, commission, board, arbitration panel or authority and any subdivision of any of them exercising or entitled to exercise any administrative, executive, judicial, ministerial, prerogative, legislative, regulatory or taxing authority or power of any nature and any quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of any of them, and any subdivision of any of them.
- (ii) **"Havener Royalty Agreement"** means the aggregate royalty agreement dated November 8, 2018 between JMB, Helen Havener and Gail Havener, as amended by a letter agreement dated October 13, 2020 between Mantle, Gail Havener and Lynne Havener, as executor of the Estate of Helen Havener, as amended and restated by the aggregate royalty agreement dated October 13, 2020 between Mantle, Gail Havener and Lynne Havener, as executor of the Estate of Helen Havener.
- (jj) **"Hoye/Kucy Royalty Agreement"** means the aggregate royalty agreement dated January 7, 2020 between JMB, Ron and Rita Kucy and Ron and Vonda Hoye.

- (kk) **"Included Owned Land"** means lands identified on **Schedule "A"** under the heading of Included Owned Land.
- (ll) **"Included Private Pits"** means the Aggregate Pits governed by the aggregate royalty agreements listed on **Schedule "A"** under the heading of *"Included Private Pits"* and identified as the Buksa Royalty Agreement, the Havener Royalty Agreement and the Shankowski Royalty Agreement.
- (mm) **"Included Public Pits"** means the Aggregate Pits governed by the Dispositions listed on **Schedule "A"** under the heading of *"Included Public Pits"* and identified as SML 080085, SML 110025, SML 110026, SML 110045, SML 110046, SML 110047, SML 120005, SML 120006, SML 120100 and SML100085.
- (nn) **"Initial Order"** is defined in Recital G.
- (oo) **"JBS"** is defined in Recital B.
- (pp) **"JMB"** is defined in the introductory paragraph of this Agreement.
- (qq) **"Kalinko Royalty Agreement"** means the aggregate royalty agreement dated June 12, 2012 and amended June 12, 2017 between Tim Kalinski, Jessica Brennan, Matthew Kalinski, Zachariah Kalinski, Elisha Kalinski and JMB.
- (rr) **"Lafarge Royalty Agreements"** means collectively the aggregate royalty agreement dated June 28, 2019 between Lafarge Canada Inc. and JMB, relating to the Disposition identified as SML 100043, and the aggregate royalty agreement dated June 28, 2019 between Lafarge Canada Inc. and JMB, relating to the Aggregate Pit having Registration no. 15215-01-01.
- (ss) **"MacDonald Royalty Agreement"** means the aggregate royalty agreement dated October 27, 2019 between JMB and Allan K MacDonald.
- (tt) **"Mantle"** is defined in the introductory paragraph of this Agreement.
- (uu) **"Mantle Transaction Orders"** is defined in Recital M.
- (vv) **"Megley Royalty Agreement"** means the aggregate royalty agreement dated September 30, 2018 between JMB and Doug Megley.
- (ww) **"Monitor"** is defined in Recital G.
- (xx) **"Okane Royalty Agreement"** means the aggregate royalty agreement dated April 30, 2018 between JMB, Colleen Penner and the Estate of Ed Okane.
- (yy) **"Owned Lands"** is defined in Recital C.
- (zz) **"Parties"** means JMB, 216, Mantle, ATB, Fiera and the AEP, collectively, and **"Party"** means any one of them.
- (aaa) **"Permits"** means any permit, license, approval, consent, authorization, registration or certificate issued, and conservation and reclamation business plans in respect of Dispositions approved, by the AEP or of



Governmental Authority, including the Registrations.

- (bbb) "**Person**" will be broadly interpreted and includes: (i) a natural person, whether acting in his or her own capacity, or in his or her capacity as executor, administrator, estate trustee, trustee or personal or legal representative, and the heirs, executors, administrators, estate trustees, trustees or other personal or legal representatives of a natural person; (ii) a corporation or a company of any kind, a partnership of any kind, a sole proprietorship, a trust, a joint venture, an association, an unincorporated association, an unincorporated syndicate, an unincorporated organization or any other association, organization or entity of any kind; and (iii) a Governmental Authority.
- (ccc) "**PLA**" is defined in Recital C.
- (ddd) "**Private Pits**" is defined in Recital C.
- (eee) "**Public Pits**" is defined in Recital C.
- (fff) "**Reclamation Obligation Limit**" is defined in Section 3.5(c).
- (ggg) "**Reclamation Obligations**" means reclamation obligations under the Regulatory Legislation in respect of Aggregate Pits.
- (hhh) "**Reclamation Work**" means work in performing the Reclamation Obligations in respect of the Excluded Private Pits.
- (iii) "**Registrations**" means the registrations issued by the AEP in respect of the Private Pits under the Code and other Regulatory Legislation.
- (jjj) "**Regulatory Legislation**" is defined in Recital D.
- (kkk) "**RVO**" is defined in Recital M.
- (lll) "**RVO Amending Order**" is defined in Section 3.2(a)(ii).
- (mmm) "**RLF**" is defined in Recital B.
- (nnn) "**Sale Advisor**" is defined in Recital H.
- (ooo) "**SAVO**" is defined in Recital M.
- (ppp) "**SAVO Amending Order**" is defined in Section 3.2(a)(i).
- (qqq) "**Security**" means security in the form of letters of credit, bonds, cash or other forms for Reclamation Obligations required under the Regulatory Legislation.
- (rrr) "**Security Interest**" means any mortgage, charge, security interest, lien or other charge or leasehold interest of a lessor of property.
- (sss) "**Shankowski Royalty Agreement**" means the aggregate royalty agreement dated October 29, 2018 between JMB, Jerry Shankowski and 945441 Alberta



Ltd., as amended by a letter agreement dated October 14, 2020 between Mantle, Jerry Shankowski and 945441 Alberta Ltd.

- (ttt) “**SISP**” is defined in Recital H.
- (uuu) “**Skoreyko**” means Skoreyko Crushing Ltd.
- (vvv) “**Skoreyko PSA**” means the purchase and sale agreement between 216 and Skoreyko pursuant to which 216 agreed to sell and Skoreyko agreed to purchase the SML 060060 Dispositions.
- (www) “**SML 060060 Dispositions**” means the Dispositions identified as SML 060060 and DLO 170011 which are listed on **Schedule “A”** under the heading “*SML 060060 Dispositions*”.
- (xxx) “**Transaction**” is defined in Recital L.
- (yyy) “**Transaction Closing**” means the completion of the Transaction and the implementation of the CCAA Plan.
- (zzz) “**Trust**” is defined in Section 3.5(e).
- (aaaa) “**Trust Fund**” is defined in Section 3.5(e).

## 1.2 Certain Rules of Interpretation

- (a) In this Agreement, words signifying the singular number include the plural and *vice versa*, and words signifying gender include all genders. Every use of the words “including” or “includes” in this Agreement is to be construed as meaning “including, without limitation” or “includes, without limitation”, respectively.
- (b) The division of this Agreement into Sections and the insertion of headings are for convenience of reference only and do not affect the construction or interpretation of this Agreement.
- (c) References in this Agreement to a Section or Schedule are to be construed as references to a Section or Schedule of or to this Agreement unless otherwise specified.
- (d) Unless otherwise specified, any reference in this Agreement to any statute includes all regulations and subordinate legislation made under or in connection with that statute at any time, and is to be construed as a reference to that statute as amended, modified, restated, supplemented, extended, re-enacted, replaced or superseded at any time.
- (e) For the purposes of this Agreement, all amounts will be denominated in Canadian dollars and all payments and distributions to be made in cash will be made in Canadian dollars.

### 1.3 Schedule

The following Schedule is attached to, incorporated by reference into and forms part of this Agreement:

Schedule "A" Aggregate Pits

## 2. PURPOSE OF THIS AGREEMENT

### 2.1 Purpose

This Agreement is intended to permit the Transaction under the APA and CCAA Plan to be completed by setting out the terms under which the AEP would approve and consent to the assignment of the Dispositions and Permits and transfer of the Registrations relating to the Included Public Pits and Included Private Pits. Without such approvals and consents, a fundamental condition to Transaction Closing provided for in the APA would not be satisfied and Mantle is unwilling to waive such condition.

Mantle anticipates that if the Transaction is completed, the stakeholders in JMB and 216, including the current or former employees, their customers, their suppliers, landowners, the communities in rural Alberta where the Business operates, the environment, ATB and Fiera, and the investors in RLF, will potentially benefit from the following:

- (a) the Business will directly employ in Alberta approximately thirty full time individuals, and will seasonally employ in Alberta, directly and indirectly through contractors, in excess of ninety individuals;
- (b) the Business will sell approximately 1 million tonnes of Aggregate per annum, based upon production of approximately 2 million tonnes per annum, yielding approximately \$30,000,000 per annum, with significant potential for additional production with the recovery of the oil and gas industry;
- (c) upon Mantle acquiring the Included Public Pits, Mantle will assume the Reclamation Obligations associated therewith, maintain the Security for such Reclamation Obligations, and pay the arrears of royalty payments and other amounts owing to the AEP under the Included Public Pits;
- (d) Mantle would acquire the Excluded Public Pits for the purpose of performing the Reclamation Obligations in respect thereof;
- (e) the SML 060060 Dispositions would be assigned to Skoreyko together with associated Permits, and Skoreyko would assume the Reclamation Obligations thereunder, replace the Security posted by 216 thereunder and operate the Aggregate Pit subject thereto;
- (f) Mantle would acquire the interest of JMB in the Buksa Royalty Agreement, the Shankowski Royalty Agreement and the Havener Royalty Agreement, operate the Aggregate Pits subject thereto, assume the Reclamation Obligations and replace the expired Security thereunder; and



- (g) the Parties would share the economic burden of the expired Security provided under the Registrations of the Aggregate Pits subject to the Hoye/Kucy Royalty Agreement, the MacDonald Royalty Agreement, the Megley Royalty Agreement and the Okane Royalty Agreement.

Should the Transaction not proceed, JMB and 216 would likely be placed into bankruptcy or receivership, with their remaining property and assets either being liquidated or abandoned, and the foregoing benefits would be lost. In particular: (i) the Business would cease together with the associated direct and indirect employment, and substantially all of the tangible property and assets of JMB and 216 will be abandoned, with the consequential loss of economic activity in Alberta; (ii) it is unlikely that any other Person or Persons would acquire the interest of the Companies in the Public Pits, the Private Pits or the Owned Lands; (iii) the Dispositions would eventually lapse or be terminated; (iv) the aggregate amount of the Reclamation Obligations exceeds the aggregate amount of the Security posted therefor, and in the event of such shortfall being realized, the public and the private land owners could bear the economic burden of such deficiency; and (v) substantial portions of the loans advanced by ATB and Fiera to JMB and the capital invested by RLF in JMB and 216 could be lost.

### 3. COVENANTS OF THE PARTIES

#### 3.1 Included Public Pits

Subject to the satisfaction or waiver of the conditions precedent in Section 4.1:

- (a) Mantle and the AEP agree as follows:
- (i) the AEP will consent to and approve the assignment to Mantle pursuant to the SAVO of the Dispositions governing the Included Public Pits and any Permits issued by the AEP relating thereto;
  - (ii) promptly following the Transaction Closing:
    - (A) Mantle will pay to the AEP the applicable assignment fee payable in respect of the application to approve the assignment of the Dispositions of the Included Public Pits and the Excluded Public Pits;
    - (B) Mantle will assume the Reclamation Obligations in respect of each Included Public Pit;
    - (C) Mantle will assume the rights and obligations of JMB to CWB under the CWB LC Facility, whereupon the Security in the form of CWB LCs will previously issued on behalf of JMB will be issued on behalf of Mantle;
    - (D) 216 will file with the AEP the outstanding returns for 2020 required under the Regulatory Legislation in respect of the Included Public Pits, and Mantle will thereafter pay when due the royalties owing to the AEP under the Dispositions relating to the Included Public Pits for the 2020 calendar year as and when they become due; and



- (E) With respect to the arrears of 2019 and 2020 royalty payments, goods and services tax and insurance payments in respect of the Dispositions of Included Public Pits, which Mantle estimates to be an aggregate of \$250,292.23, Mantle shall pay to the AEP fifty percent (50%) of such amount.
- (b) Fiera will deliver to the AEP releases of the conditional surrenders of lease granted by JMB or 216 in respect of the Included Public Pits, and the AEP will register replacement conditional surrenders of lease granted by Mantle to Fiera in respect of the Included Public Pits.

### 3.2 Excluded Public Pits

- (a) Following the execution by each of the Parties of this Agreement, the Companies and Mantle will apply to the Court for orders amending the SAVO and RVO pursuant to which:
  - (i) the Excluded Public Pits shall be included in the definition of *Transferred Acquired Assets* (as such term is defined in the SAVO, with such amending order being the "**SAVO Amending Order**"); and
  - (ii) the Excluded Public Pits shall cease to be included in the definition of *Excluded Aggregate Pits* (as such term is defined in the RVO, with such amending order being the "**RVO Amending Order**"),

with the effect that Mantle will acquire all of the right, title and interest of the Companies in the Excluded Public Pits, assume the Reclamation Obligations in respect thereof, and maintain the Security relating thereto, which the AEP and Mantle agree is in the aggregate amount of \$42,332 for the 2021 calendar year.
- (b) Subject to the satisfaction or waiver of the conditions precedent in Section 4.1, Mantle and the AEP agree as follows:
  - (i) the AEP will consent to and approve the assignment to Mantle of the Dispositions of the Excluded Public Pits and any Permits issued by the AEP relating thereto;
  - (ii) Mantle will assume the Reclamation Obligations and maintain Security in respect of each Excluded Public Pit in accordance with the requirements of the Regulatory Legislation, provided that Mantle shall have a two year time period to perform such Reclamation Obligations; and
  - (iii) upon the performance by Mantle of the Reclamation Obligations relating to an Excluded Public Pit, in a manner satisfactory to the AEP, at the request in writing of Mantle, the AEP shall return to Mantle the Security provided in respect of such Excluded Public Pit and terminate the Dispositions and Permits.

### 3.3 Sale of Dispositions

Subject to the satisfaction or waiver of the conditions precedent in Section 4.1, Mantle and the AEP agree as follows:

- (a) the AEP will consent to and approve the assignment to Skoreyko of the SML 060060 Dispositions together with any related Permits issued by the AEP, and upon Skoreyko depositing Security with the AEP in an amount acceptable to the AEP, the AEP shall return to Mantle the Security posted by 216 in respect of the SML 060060 Dispositions, being a CWL LC in the face amount of \$41,400; and
- (b) in the event that Mantle is able to sell any Dispositions relating to Excluded Public Pits to any other Person that is acceptable to the AEP, the AEP will approve and consent to the assignment thereof to such Person together with any related Permits and upon such Person posting with the AEP the Security required by the AEP in respect of such Disposition, the AEP will return to Mantle the Security provided by JMB, 216 or Mantle, as applicable.

### 3.4 Included Private Pits

Subject to the satisfaction or waiver of the conditions precedent in Section 4.1, Mantle and the AEP agree as follows:

- (a) the AEP will consent to and approve the transfer to Mantle pursuant to the SAVO of the Registrations and other Permits relating to the Included Private Pits;
- (b) upon the Transaction Closing, Mantle will assume the Reclamation Obligations in respect of each Included Private Pit in accordance with the requirements of the Regulatory Legislation;
- (c) with respect to the bond in the amount of \$50,442.14 issued in favour of the AEP as Security in respect of the Included Private Pit subject to the Buksa Royalty Agreement, the AEP shall hold the cash paid to it by the issuer thereof as Security and such cash shall satisfy obligation of Mantle to provide such Security for the 2021 calendar year; and
- (d) promptly following the Transaction Closing, Mantle will deposit:
  - (i) Security with the AEP for each Included Private Pit, which:
    - (A) in the case of the Included Private Pit subject to the Havener Royalty Agreement, Mantle and the AEP acknowledge is in the amount of \$31,988 for the 2021 calendar year; and
    - (B) in the case of the Included Private Pit subject to the Shankowski Royalty Agreement, Mantle and the AEP acknowledge is in the amount of \$180,120.57 for the 2021 calendar year; and
  - (ii) file with the AEP any outstanding filings required under the Regulatory Legislation with respect to the Included Private Pits, including any schedule 3 filings.



### 3.5 Excluded Private Pits

Subject to the satisfaction or waiver of the conditions precedent in Section 4.1, the Parties agree as follows:

- (a) AEP shall approve the transfer from JMB to 216 pursuant to the RVO of the Registrations in respect of the Excluded Private Pits and any Permits issued by the AEP in respect thereof.
- (b) The Parties acknowledge that the Reclamation Obligations in respect of the Excluded Royalty Lands, and the amount of Security required as of the date of this Agreement in respect of each, are as follows:
  - (i) \$39,805 in respect of the Excluded Royalty Lands subject to the Hoye/Kucy Royalty Agreement;
  - (ii) \$77,600 in respect of the Excluded Royalty Lands subject to the MacDonald Royalty Agreement;
  - (iii) \$74,683 in respect of the Excluded Royalty Lands subject to the Megley Royalty Agreement; and
  - (iv) \$39,805 in respect of the Excluded Royalty Lands subject to the Okane Royalty Agreement(each such amount being the "**Excluded Reclamation Amount**").
- (c) The Parties shall divide the economic burden of the Reclamation Obligations in respect of the Excluded Royalty Lands such that each of Mantle, ATB, Fiera and AEP are individually responsible for one quarter of the Excluded Reclamation Amount, which in the case of Mantle, ATB and Fiera (whose aggregate responsibility for the Excluded Reclamation Amount is referred to as the "**Reclamation Obligation Limit**"), will be provided for as follows:
  - (i) ATB's portion of the Reclamation Obligation Limit shall be funded either directly by ATB or from funds held by JMB against which ATB's Security Interest has first ranking priority, which portion shall be paid to the AEP;
  - (ii) Fiera's portion of the Reclamation Obligation Limit shall be funded from net proceeds of the sale JMB's equipment against which Fiera's Security Interest has first ranking priority, which proceeds Fiera will pay to the AEP; and
  - (iii) Mantle's portion of the Reclamation Obligation Limit shall be funded by an advance by Mantle to AEP.
- (d) Mantle shall be entitled, for and on behalf of 216, to sell any Excluded Aggregate Inventory provided that the applicable Excluded Royalty Agreement permits access to the applicable Excluded Royalty Pit for such purpose. The proceeds of sale of the Excluded Aggregate Inventory shall be applied as follows:



- (i) firstly, to any costs incurred in marketing, selling, processing and delivering the Excluded Aggregate Inventory, together with a reasonable overhead relating to Mantle's costs in respect thereof, and to any royalties payable under the applicable Excluded Royalty Agreement;
- (ii) secondly, to the Parties on a *pari passu* basis, up to the aggregate Excluded Reclamation Amount; and
- (iii) thirdly, to the extent that all the Reclamation Obligations relating to all Excluded Royalty Lands up to the Reclamation Obligation Limit have been satisfied.

ATB consents to the application of the proceeds of sale of the Excluded Aggregate Inventory in accordance with Subsections 3.5(d)(i) and (ii). In the event that Mantle is unable to sell Excluded Aggregate Inventory at prices that exceed the costs and amounts payable referred to in Subsection 3.5(d)(i), Mantle may utilize such Excluded Aggregate Inventory in carrying out the Reclamation Work.

- (e) The contributions of ATB, Fiera and Mantle to the Reclamation Obligations in respect of the Excluded Private Pits pursuant to Section 3.5(c) shall be held in trust by the AEP (the trust created hereby being the "**Trust**", and the funds held in the Trust being the "**Trust Funds**"), on the following terms:
  - (i) the purpose of the Trust is to provide funding for performance of the Reclamation Obligations in respect of the Excluded Private Pits, up to the amount of the Reclamation Obligation Limit;
  - (ii) the beneficiary of the Trust shall be AEP, with ATB, Fiera and Mantle holding a *pari passu* reversionary beneficial interest therein held by ATB, Fiera and Mantle where Reclamation Work has been performed in an amount equal to the Reclamation Obligation Limit; and
  - (iii) the Trust Fund shall constitute Security which secures the Reclamation Obligations in respect of the Excluded Private Pits, up to the Reclamation Obligation Limit.
- (f) 216 shall be responsible for carrying out the Reclamation Work on the Excluded Private Pits, up to the Reclamation Obligation Limit. 216 hereby engages Mantle to manage and supervise the performance of such Reclamation Work and Mantle accepts such engagement. In carrying out such engagement, Mantle shall retain such contractors (each, a "**Contractor**") as it deems necessary or desirable, in consultation with the AEP, to carry out the Reclamation Work. As each task or set of tasks is performed in a manner and at a cost satisfactory to Mantle (based on reasonable industry norms for such Reclamation Work):
  - (i) Mantle shall give written notice thereof to the AEP of the completion of such task or tasks, and the AEP will promptly upon receipt of such notice attend the applicable Excluded Private Pit to determine whether it is satisfied with the performance of such task or tasks;

- (ii) provided that the AEP is satisfied with the performance of such task or tasks, the AEP shall promptly pay from the Trust Fund the Contractor's invoice for such task or tasks; and
  - (iii) if the AEP is not satisfied with the performance of such task or tasks, it will give Mantle and the Contractor the particulars thereof and work with Mantle and the Contractor to identify any deficiency and the steps required to address such deficiency.
- (g) When the aggregate amounts paid or payable to Contractors for Reclamation Work is equal to the Reclamation Obligation Limit, the AEP shall distribute any remaining amounts in the Trust Fund to Mantle, ATB and Fiera, in equal portions, and Mantle's obligations under this Section 3.5 shall terminate, provided that if the AEP advances sufficient amounts into the Trust Fund to permit the completion of the Reclamation Obligations in respect of the Excluded Private Pits, Mantle shall continue to supervise and manage the Contractors in performing Reclamation Work until such Reclamation Obligations are fully performed, whereupon Mantle's obligations hereunder shall terminate.

### 3.6 Included Owned Lands

Subject to the satisfaction or waiver of the conditions precedent in Section 4.1, Mantle shall assume the Reclamation Obligations in respect of the Included Owned Lands and maintain the Security in respect thereof, which Mantle and the AEP acknowledge is in the amount of \$14,534 for the 2021 calendar year.

### 3.7 Aggregate Pits not subject to this Agreement

The Aggregate Pits subject to the Kalinko Royalty Agreement, the Glacier Royalty Agreement and the Lafarge Royalty Agreements are not subject to this Agreement because the Kalinko Royalty Agreement has been terminated by JMB's counterparties thereto, the Glacier Royalty Agreement has expired, and the Security for the Aggregate Pits governed by the Lafarge Royalty Agreements is provided by Lafarge Canada Inc.

## 4. CONDITIONS PRECEDENT

### 4.1 Conditions to Agreement Implementation

This Agreement shall become effective and binding upon the Parties upon the satisfaction or waiver of the following conditions precedent:

- (a) the Parties shall have fully executed and delivered this Agreement;
- (b) the conditions set out in Sections 5.1, 5.2 and 5.3 of the APA shall have been fulfilled, satisfied or waived in accordance with the APA;
- (c) the Monitor shall have consented to 216 assigning to Mantle the Dispositions relating to the Excluded Public Pits and any other consent required by the Monitor shall have been obtained; and
- (d) Skoreyko shall have fully executed and delivered to 216 the Skoreyko PSA.



## 4.2 Waiver of Conditions Precedent

The conditions in Subsections 4.1(a) and (c) may only be waived in whole or in part in writing by all of the Parties. The condition in Subsection 4.1(d) may be waived in whole or in part in writing by Mantle.

## 5. GENERAL

### 5.1 Communications

Any Communication must be in writing and either delivered personally or by courier, sent by prepaid registered mail or transmitted by e-mail or functionally equivalent electronic means of transmission, charges (if any) prepaid. Any Communication must be sent to the intended recipient at its address as follows:

(a) to JMB or 216:

JMB Crushing Systems Inc.  
PO Box 6977  
Bonnyville, Alberta T9N 2H4  
Email: [blakeelyea@jmbcrush.com](mailto:blakeelyea@jmbcrush.com)  
Attention: Blake M. Elyea, CPA, CGA, CIRP,  
LIT, Chief Restructuring Advisor

FTI Consulting Canada Inc.  
1000, 888-3rd Street SW  
Bankers Hall, West Tower  
Calgary, Alberta T2P 5C5  
E-mail: [deryck.helkaa@fticonsulting.com](mailto:deryck.helkaa@fticonsulting.com)  
Attention: Deryck Helkaa

with copies to:

Gowling WLG (Canada) LLP  
1600, 421 7th Avenue SW  
Calgary Alberta T2P 4K9  
E-mail: [tom.cumming@gowlingwlg.com](mailto:tom.cumming@gowlingwlg.com)  
Attention: Tom Cumming

McCarthy Tétrault LLP  
4000, 421 - 7th Avenue SW  
Calgary, Alberta T2P 4K9  
E-mail: [scollins@mccarthy.ca](mailto:scollins@mccarthy.ca)  
Attention: Sean Collins

(b) to Mantle:

Mantle Materials Group, Ltd.  
1400 16th St, Suite 320  
Denver, Colorado 80209  
E-mail: [Byron.Levkulich@RLHoldings.com](mailto:Byron.Levkulich@RLHoldings.com)  
Attention: Byron Levkulich, CFA, CPA

with copies to:

Gowling WLG (Canada) LLP  
1600, 421 7th Avenue SW  
Calgary Alberta T2P 4K9  
E-mail: [tom.cumming@gowlingwlg.com](mailto:tom.cumming@gowlingwlg.com)  
Attention: Tom Cumming

(c) to ATB:

ATB Financial  
Suite 2500, 10020 - 100 Street  
Edmonton Alberta T5J 0N3  
E-mail: [aburnett@atb.com](mailto:aburnett@atb.com)  
Attention: Andrew J. Burnett, Director, Risk  
Advisory and Management, ATB Corporate  
Financial Services

with copies to:

Dentons Canada LLP  
2500 Stantec Tower  
10220 - 103 Avenue NW  
Edmonton, Alberta T5J 0K4  
E-mail: [tom.gusa@dentons.com](mailto:tom.gusa@dentons.com)  
Attention: Tom Gusa

(d) to Fiera:

Fiera Private Debt  
20 Adelaide Street East, Suite 1500  
Toronto, Ontario M5C 2T6

with copies to:

Miller Thomson LLP  
Scotia Plaza  
40 King Street West, Suite 05.22a-1482



E-mail: [szagrodny@fieracapital.com](mailto:szagrodny@fieracapital.com)  
 Attention: Stephen Zagrodny, Director,  
 Corporate & Infrastructure Debt Financing

P.O. Box 1011  
 Toronto, Ontario M5H 3S1  
 E-mail: [kmahar@millerthomson.com](mailto:kmahar@millerthomson.com)  
 Attention: Kyla E. M. Mahar

(e) to the AEP:

with copies to:

•  
 Email: •  
 Attention: •

•  
 Email: •  
 Attention: •

or at any other address as any Party may at any time advise the other by Communication given or made in accordance with this Section 5.1. Any Communication delivered to the Party to whom it is addressed will be deemed to have been given or made and received on the day it is delivered at that Party's address, provided that if that day is not a Business Day then the Communication will be deemed to have been given or made and received on the next Business Day. Any Communication sent by prepaid registered mail will be deemed to have been given or made and received on the fifth Business Day after which it is mailed. If a strike or lockout of postal employees is then in effect, or generally known to be impending, every Communication must be delivered personally or by courier or transmitted by e-mail or functionally equivalent electronic means of transmission. Any Communication transmitted by e-mail or other functionally equivalent electronic means of transmission will be deemed to have been given or made and received on the day on which it is transmitted; but if the Communication is transmitted on a day which is not a Business Day or after 4:00 pm (local time of the recipient), the Communication will be deemed to have been given or made and received on the next Business Day.

## 5.2 Miscellaneous Provisions

- (a) This Agreement is governed by, and is to be construed and interpreted in accordance with, the laws of the Province of Alberta and the laws of Canada applicable in that Province. All questions as to the interpretation of or application of this Agreement and all proceedings taken in connection with this Agreement and its provisions will be subject to the jurisdiction of the Court.
- (b) This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter of this Agreement and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the Parties and there are no representations, warranties or other agreements between the Parties, express or implied, in connection with the subject matter of this Agreement except as specifically set out in this Agreement.
- (c) Each Section of this Agreement is distinct and severable. If any Section of this Agreement, in whole or in part, is or becomes illegal, invalid, void, voidable or unenforceable in any jurisdiction by any court of competent jurisdiction, the illegality, invalidity or unenforceability of that Section, in whole or in part, will not affect the legality, validity or enforceability of the remaining Sections of this Agreement, in whole or in part or the legality, validity or enforceability of that Section, in whole or in part, in any other jurisdiction.
- (d) No amendment, discharge, modification, restatement, supplement, termination or waiver of this Agreement or any Section of this Agreement is binding unless it is

in writing and executed by the Party to be bound. No waiver of, failure to exercise, or delay in exercising, any Section of this Agreement constitutes a waiver of any other Section (whether or not similar) nor does any waiver constitute a continuing waiver unless otherwise expressly provided.

- (e) This Agreement will be binding upon and will enure to the benefit of the successors and assigns of any Party.
- (f) Each of the Persons named or referred to in, or subject to, this Agreement will execute and deliver all such documents and instruments and do all such acts and things as may be necessary or desirable to carry out the full intent and meaning of this Agreement and to give effect to the transactions contemplated herein.
- (g) This Agreement and any counterpart of it may be created, provided, received, retained and otherwise used, and will be accepted, in any digital, electronic or other intangible form. This Agreement and any counterpart of it may be signed by manual, digital or other electronic signatures and delivered or transmitted by any digital, electronic or other intangible means, including by e-mail or other functionally equivalent electronic means of transmission, and that execution, delivery and transmission will be valid and legally effective to create a valid and binding agreement between the Parties.

**THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK**

Each of the Parties has executed and delivered this Agreement, as of the date noted at the beginning of this Agreement.

**JMB Crushing Systems Inc.**

By:

\_\_\_\_\_

Name:

Title:

**2161889 Alberta Ltd.**

By:

\_\_\_\_\_

Name:

Title:

**Mantle Materials Group, Ltd.**

By:

\_\_\_\_\_

Name:

Title:

**ATB Financial**

By:

\_\_\_\_\_

Name:

Title:

**Fiera Private Debt Fund VI LP**, by its general partner **Fiera Private Debt Fund GP Inc.** ("**Fund VI**") and **Fiera Private Debt Fund V LP**, by its general partner **Fiera Private Debt Fund GP Inc.**, acting in its capacity as collateral agent for and on behalf of and for the benefit of Fund VI

By:

\_\_\_\_\_

Name:

Title:

**Alberta Environment and Parks**

By:

\_\_\_\_\_

Name:

Title:

C



## Schedule "A" - Aggregate Pits

## Public Pits

Holder	Disposition Number	Pit Name	Status	Expiration	Estimated Reclamation Obligations	Security with AEP
<i>Included Public Pits</i>						
216	SML 080085	JLG 3	Not opened	25/04/2022	\$ 0	\$ 19,540
216	SML 110025	JLG 5	Open	10/02/2024	\$ 47,724	\$ 79,690
216	SML 110026	JLG 6	Open	10/04/2022	\$ 54,374	\$ 77,540
216	SML 110045	JLG 7	Open	17/03/2025	\$ 47,333	\$ 57,030
216	SML 110046	JLG 8	Open	17/03/2025	\$ 5,868	\$ 44,380
216	SML 110047	JLG 9	Open	17/03/2025	\$ 37,554	\$ 46,110
216	SML 120005	JLG 10	Open	04/10/2027	\$ 92,710	\$ 78,110
216	SML 120006	JLG 11	Not opened	06/10/2027	\$ 0	\$ 25,690
216	SML 120100	JLG 12	Not opened	06/10/2027	\$ 0	\$ 29,650
216	SML100085	JLG 4	Not opened	23/06/2026	\$ 0	\$ 42,010
<i>Excluded Public Pits</i>						
JMB	SML 120027		Open	12/01/2030	\$ 2,000	\$ 2,960
JMB	SML 930040		Depleted	28/07/2013	\$ 1,956	\$ 1,000
JMB	SML 980116		Open	15/02/2009	\$ 2,000	\$ 9,140
JMB	DML 120032		Open	06/01/2023	\$ 14,747	\$ 17,232
JMB	SME 150106		Expired	Expired	\$ 0	\$ 6,000
JMB	SME 200009		Expired	Expired	\$ 0	\$ 6,000
<i>SML 060060 Dispositions</i>						
216	SML 060060		Open	27/05/2024	\$ 44,595	\$ 41,400
216	DLO 170011		Access to SML 060060	27/05/2024	\$ 0	\$ 0

## Private Pits

Holder	Registration Number	Agreement	Status	Expiration	Estimated Reclamation Obligations	Security with AEP
<i>Included Private Pits</i>						
JMB	15048-03-02	Buksa Royalty Agreement	Open	31/12/2023	\$ 25,605	\$ 0
JMB	17395-01-00	Havener Royalty Agreement		08/11/2031	\$ 73,584	\$ 0
JMB	308161-00-00	Shankowski Royalty Agreement		19/10/2028	\$ 179,516	\$ 0
<i>Excluded Private Pits</i>						
JMB	306490-00-00	Hoye/Kucy Royalty Agreement	Open	31/03/2021	\$ 32,742	\$ 0
JMB	293051-00-00	MacDonald Royalty Agreement	Open	31/12/2020	\$ 11,748	\$ 0
JMB	149949-00-00	Megley Royalty Agreement	Open	30/09/2023	\$ 173,056	\$ 0
JMB	263318-00-00	Okane Royalty Agreement	Open	30/04/2021	\$ 27,555	\$ 0

**Included Owned Property**

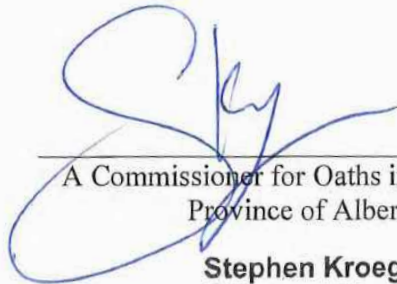
Owner	Legal Description	Status	Estimated Reclamation Obligations	Security with AEP
<i>Included Owned Property</i>				
JMB	NE 35-56-6-W4	Open	\$ 30,703	\$ 14,534

**Aggregate Pits not subject to this Agreement**

Holder	Agreement	Disposition or Registration No.	Expiration	Person responsible for Security
1386194 Alberta Ltd.	Glacier Royalty Agreement	SML 030074	SML 030074 expires 17/10/2021 Glacier Royalty Agreement has expired	1386194 Alberta Ltd.
Tim Kalinski, Jessica Brennan, Matthew Kalinski, Zachariah Kalinski and/or Elisha Kalinski, as applicable ("Kalinko")	Kalinko Royalty Agreement	SML 100101, SML 000034, SML 010005, SML 010032, SML 020014, SML 030046, SML 040122, SML 100016, SML 100050, SML 100057, SML 100075, SML 100112, SML 110037, SML 110044, SML 110065, SML 110072, SML 120004, SML 130003, SML 130017, SML 130124, SML 140015, SML 140026, SML 140046, SML 140080 and SML 150031	Kalinko Royalty Agreement terminated by Kalinko	Kalinko
Lafarge Canada Inc.	Lafarge Royalty Agreements	SML 100043 (Moose River) and 15215-01-01 (Oberge)	Lafarge Royalty Agreements - 01/07/2024 SML 100043 - 06/01/2023	Lafarge Canada Inc.

SK

THIS IS EXHIBIT "D" REFERRED TO IN  
THE AFFIDAVIT OF TYLER PELL  
SWORN BEFORE ME  
THIS 22<sup>ND</sup> DAY OF MARCH, 2021



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A Commissioner for Oaths in and for the  
Province of Alberta

**Stephen Kroeger**

*Barrister & Solicitor*

A Notary Public/Commissioner for Oaths  
in and for the Province of Alberta

My Commission expires at the pleasure of  
the Lieutenant Governor in Council





February 8, 2021

**Delivered by Email**

**Thomas Cumming**  
 Direct +1 403 298 1938  
 tom.cumming@gowlingwlg.com  
 File no. A164352

Brendan Hemens  
 Director, Public Lands Disposition Management  
 Alberta Environment and Parks  
 Brendan.Hemens@gov.ab.ca

Dear Brendan:

**Re: Application of JMB Crushing Systems Inc. and 2161889 Alberta Ltd. under the Companies' Creditors Arrangement Act - acquisition by Mantle Materials Group, Ltd.**

We are writing in connection with the continuing discussions between Mantle Materials Group, Ltd. ("**Mantle**") and Alberta Environment and Parks (the "**AEP**") with respect to the transaction (the "**Transaction**") contemplated by the Amended and Restated Asset Purchase Agreement dated September 28, 2021 (the "**APA**") between Mantle, JMB Crushing Systems Inc. ("**JMB**") and 2161889 Alberta Ltd. ("**216**").

The last proposal made by Mantle was contained in the draft Reclamation Obligations Agreement (the "**ROA**") between Mantle, the AEP, ATB Financial ("**ATB**") and the Fiera entities, Fiera Private Debt Fund VI LP and Fiera Private Debt Fund V LP ("**Fiera**"), which was attached to my email to you of January 21, 2021. For ease of reference a copy of the draft ROA is attached.

The current draft of the ROA provides that the APA would be amended and the Transaction revised to incorporate the following:

- SML 120027, SML 930040, SML 980116, DML 120032, SME 150106 and SME 200009, together with any associated cash security posted with the AEP, would be transferred to Mantle and reclaimed in due course;
- SML 060060 and DLO 170011 would be sold to Skoreyko Crushing Ltd. ("**Skoreyko**"), Skoreyko would provide security to the AEP, and the letter of credit held by the AEP would be returned to Mantle;
- The AEP would retain the cash security paid to it under the bond posted in respect of the Buksa Pit (registration no. 15048-03-02), but treat such security as being posted by Mantle;
- Mantle would post new security in the form of letters of credit issued by Canadian Western Bank to secure the reclamation obligations in respect of the Havener Pit (registration no. 17395-01-00) and Shankowski Pit (registration no. 308161-00-00);



- The "Excluded Private Pits", consisting of the Hoyer/Kucy Pit (registration no. 306490-00-00), the MacDonald Pit (registration no. 293051-00-00), the Megley Pit (registration no. 149949-00-00) and the Okane Pit (registration no. 263318-00-00) would continue to be vested in 216, but the economic cost of the lapsed security for the reclamation obligations in respect of these pits would be shared equally by Mantle, ATB, Fiera and the AEP. The AEP would hold in trust the contributions of Mantle, ATB and Fiera;
- Mantle would manage the reclamation work for the Excluded Private Pits, up to the amount held in trust by the AEP, and could draw upon those trust funds to defray the costs of such reclamation work;
- Mantle would pay 50% of the arrears of fees, interest and royalties for 2019 and 2020 payable to the AEP, whereupon the payment of further arrears would be waived pursuant to sections 25 and 28 of the *Public Lands Act*; and
- The AEP would immediately provide the approvals for the transfers of dispositions and registrations necessary to implement the Transaction, as amended.

We are quickly approaching February 12, 2021, which as I noted in my email of January 29, 2021, is a hard stop in respect of the Transaction. Mantle has negotiated a renewed supply contract with the Municipal District of Bonnyville No. 87 (the "MD"), which requires that 100,000 tonnes of aggregate is delivered to the MD by May 1, 2021. Because of seasonal road closures and restrictions starting March 1, 2021, Mantle must place heavy equipment in the Shankowski pit well that date and commence operations to extract, process and transport aggregate. Mantle will not be able to accomplish this unless the ROA is finalized by the end of February 9, 2021, which is tomorrow, and the Transaction is closed by February 12<sup>th</sup>.

Given the deadline described above, Mantle has instructed me to make one last attempt to secure the AEP's support for a revised ROA. Subject to obtaining the concurrence of ATB and Fiera (which is being sought), Mantle is willing to support the following changes to the proposal contained in the ROA and set out above:

- The Excluded Private Pits, consisting of the Hoyer/Kucy Pit (registration no. 306490-00-00), the MacDonald Pit (registration no. 293051-00-00), the Megley Pit (registration no. 149949-00-00) and the Okane Pit (registration no. 263318-00-00), would be vested in 216, but the economic cost of the lapsed reclamation security, which is estimated to be \$261,758, would be shared by Mantle, ATB and Fiera, with the respective contributions of ATB and Fiera being capped at \$87,500 each;
- The AEP would not be required to share any of the economic burden of the lapsed reclamation security; and
- The reclamation security would be held in trust by the AEP and would defray the costs incurred by Mantle in managing the reclamation of the Excluded Private Pits.

All other aspects of the proposal would remain as set out in the draft ROA.





Note that if the Transaction does not proceed, it is likely that all stakeholders, including Mantle, ATB, Fiera and the AEP, would suffer significant and unnecessary losses. In order to avoid such a scenario, the stakeholders are actively considering alternatives. If it is necessary to seek alternatives, the AEP will be advised of the intended course of action.

We would appreciate hearing from you at your earliest convenience whether or not the proposal is acceptable to the AEP, or could form the basis for a revised ROA. Given how quickly February 12<sup>th</sup> is approaching, I would ask that you let us know by the early afternoon tomorrow.

Sincerely,

Gowling WLG (Canada) LLP

A handwritten signature in black ink, appearing to read "Thomas Cumming".

Thomas Cumming

TSC

cc: Vivienne Ball - Environmental Law Team, Legal Services Division,  
Justice and Solicitor General  
Kyla Mahar, Miller Thomson LLP  
Tom Gusa, Dentons Canada LLP  
Josh Inglett, Byron Levkulich - Mantle Materials Group, Ltd.  
Caireen Hanert, Zafar Jaffer, Stephen Kroeger, Gowling WLG (Canada) LLP

Handwritten initials in blue ink, possibly "SK".



## RECLAMATION OBLIGATIONS AGREEMENT

THIS Agreement is dated as of January 9, 2021

BETWEEN:

**JMB Crushing Systems Inc. ("JMB") and 2161889 Alberta Ltd. ("216")**

**Mantle Materials Group, Ltd. ("Mantle")**

**ATB Financial ("ATB")**

**Fiera Private Debt Fund VI LP, by its general partner Fiera Private Debt Fund GP Inc. ("Fund VI") and Fiera Private Debt Fund V LP, by its general partner Fiera Private Debt Fund GP Inc., acting in its capacity as collateral agent for and on behalf of and for the benefit of Fund VI (collectively, "Fiera")**

**Alberta Environment and Parks (the "AEP")**

### CONTEXT:

A. JMB and its wholly owned subsidiary 216 (collectively, the "**Companies**") carried on the business of extracting, processing and marketing Aggregate in the Province of Alberta (the "**Business**"). JMB's principal customers were road builders, municipalities, private land developers and the oil and gas service industry.

B. Canadian Aggregate Resources Corporation ("**CARC**") acquired the majority of the shares in JMB pursuant to a share purchase that closed in November of 2018 and J Buck and Sons Inc. ("**JBS**"), representing the Canadian management of the Companies, was a minority shareholder. CARC is wholly owned by Resource Land Fund V LP ("**RLF**"), a US private equity fund which based in Denver, Colorado.

C. JMB and 216 owned or had interests in over fifty Aggregate pits and/or the lands associated therewith on **Schedule "A"** (collectively, the "**Aggregate Pits**", and each individually, an "**Aggregate Pit**"). JMB and 216 held their respective interests in the Aggregate Pits (1) pursuant to certain Dispositions issued by the AEP under the *Public Lands Act*, RSA 2000, Ch P-40 and the *Public Lands Administration Regulation*, AR 187/2011 (collectively with all other applicable regulations and rules thereunder, the "**PLA**", and such Aggregate Pits of JMB and 216, the "**Public Pits**"), (2) pursuant to certain aggregate royalty agreements with private land holders (such Aggregate Pits being the "**Private Pits**"), and (3) in the case of two pits, in fee simple (the "**Owned Lands**").

D. The extraction and processing of Aggregate, and the reclamation of the lands on which Aggregate Pits are located, is regulated by the AEP under the *Environmental Protection and Enhancement Act*, RSA 2000, Ch E-12, the *Conservation and Reclamation Regulation*, AR 115/93, the *Approvals and Registrations Procedure Regulation*, AR 113/93 and the *Activities Designation Regulation*, AR 276/2003 (collectively with all other applicable regulations and rules thereunder, the "**EPEA**"). In addition, in the case of the Private Pits and Owned Lands, the extraction and processing of Aggregate and reclamation of land is regulated by the *Code of Practice for Pits* under the EPEA (the "**Code**", and together with the EPEA and PLA, the "**Regulatory Legislation**").



E. ATB provided a senior operating loan and Fiera provided senior term loans to JMB, each of which were secured by Security Interests against all of the property and assets of JMB and 216, with ATB's Security Interests ranking first against the accounts receivable and inventory of JMB and 216 and a parcel of real property owned by JMB and Fiera's Security Interests ranking first against all other property and assets of JMB and 216, other than certain equipment subject to purchase money security interests in favour of or leases by certain third parties.

F. Almost immediately after CARC acquired its majority interest in JMB in November of 2018, it became apparent JMB was suffering a severe and sustained cash flow shortfall, which appeared to arise from the ongoing downturn in the oil and gas industry and in Alberta's economy. This financial impairment became significantly worse as a result of the public health measures to combat the COVID-19 pandemic.

G. In order to improve the Companies' financial viability and provide a process for recapitalizing or refinancing the Companies, the Companies applied to the Court of Queen's Bench of Alberta (the "**Court**") for protection under the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended (the "**CCAA**"). On May 1, 2020, the Honourable Madam Justice Eidsvik pronounced an initial order which, among other things, declared the Companies were companies to which the CCAA applied, stayed all proceedings against the Companies, and appointed FTI Consulting Canada Inc. as the monitor of the Companies (the "**Monitor**"). The initial order was amended and restated by a further order of Justice Eidsvik pronounced on May 11, 2020 (as amended, the "**Initial Order**").

H. Under the Initial Order, the Court approved a sale and investment solicitation process (the "**SISP**") and appointed Sequeira Partners as sale advisor (the "**Sale Advisor**") under the SISP. The Sale Advisor conducted an extensive, two phase marketing process under the SISP, approaching approximately • potential strategic and financial investors and purchasers. Because of the possibility that CARC might submit a reserve or stalking horse bid in the SISP, the SISP was placed under the supervision and control of the monitor in order to ensure the independence and integrity of the process. Further, neither the Monitor nor the Sale Advisor provided information to CARC, RLF or the Companies' management with respect to actual or potential bids.

I. By June 26, 2020, JMB had completed its obligations under a supply agreement with the Municipal District of Bonnyville No. 87 and thereafter reduced its operations to a minimum and terminated all but six of its employees and contractors. In June of 2020, the president of JMB departed.

J. In June of 2020, CARC submitted a bid in the first phase of the SISP, and then in July of 2020, Mantle, which was a newly created affiliate of CARC which was also a wholly owned subsidiary of RLF, submitted a bid in the second phase to purchase the Core Assets. There were no other realistic bids and therefore Monitor negotiated the terms of the bid on behalf of the Companies and after consulting with ATB, Fiera and other stakeholders.

K. Pursuant to an asset purchase agreement dated September 27, 2020 (which, as amended on November •, 2020 and from time to time subsequently, is referred to as the "**APA**") between the Companies and Mantle, it was agreed that Mantle would purchase the Core Assets for a purchase price payable by a partial assumption of the indebtedness owing by the Companies to ATB and Fiera, by the assumption of certain other liabilities of the Companies, and in part by the payment of cash. The Core Assets include the Included Public Pits, the Included Private Pits and the Included Owned Land.



L. Pursuant to the APA, JMB and Mantle filed with the Court a plan of arrangement under the CCAA and *Business Corporations Act*, SBC 2002, c 57 (the "**CCAA Plan**") under which, upon the completion of the transactions contemplated by the APA (the "**Transaction**"), the shares of JBS in the capital of JMB will be cancelled and the shares of CARC in the capital of JMB will be transferred to Mantle, and Mantle will assume the Assumed ATB Debt and Assumed Fiera Debt.

M. The Transaction is to be completed and implemented pursuant to and in accordance with (1) a sale approval and vesting order (the "**SAVO**"), vesting certain core assets of JMB and 216 in Mantle, (2) a reverse vesting order (the "**RVO**"), vesting assets and liabilities excluded from the Transaction in 216, (3) an assignment order, assigning certain key contracts of JMB and 216 to Mantle, and (4) a sanction order, sanctioning the CCAA Plan (collectively, the "**Mantle Transaction Orders**").

N. The Transaction Closing is conditional upon the AEP approving assignments of the Dispositions and transfers of the Registrations in respect of the Included Public Pits, the Included Private Pits, the Included Owned Land. Certain Reclamation Obligations exist in respect of the Included Public Pits, the Included Private Pits, the Included Owned Land and the Excluded Pits, the quantum of which is estimated by the Companies as set out on **Schedule "A"**, and in order to provide certainty with respect to the manner in which Reclamation Obligations are to be addressed, and to obtain the approval by the AEP of the assignment of the Dispositions and transfer of the Registrations, the Parties have undertaken certain obligations on the terms and subject to the conditions contained herein.

**NOW THEREFORE** the Parties agree as follows:

## 1. DEFINITIONS AND INTERPRETATION

### 1.1 Definitions

The following capitalized terms will have the meanings set out below:

- (a) "**216**" is defined in the introductory paragraph of this Agreement.
- (b) "**AEP**" is defined in the introductory paragraph of this Agreement.
- (c) "**Aggregate**" means aggregates including granular base course gravels, asphalt pavement aggregates, concrete and weeping tile rock, sand and other aggregates.
- (d) "**Aggregate Pits**" and "**Aggregate Pit**" are defined in Recital C.
- (e) "**Agreement**" means this reclamation obligation agreement, including the Schedule, as it may be amended, modified, supplemented or restated from time to time.
- (f) "**APA**" is defined in Recital K.
- (g) "**Applicable Law**" means, with respect to any Person, property, transaction, event, business or other matter, any federal, state, provincial, local, domestic or foreign constitution, treaty, law, statute, regulation, code, ordinance, principle of



common law or equity, rule, municipal by-law, Permit, order or other requirement of any Governmental Authority whether or not having the force of law relating or applicable to such Person, property, transaction, event, business or other matter.

- (h) “**ATB**” is defined in the introductory paragraph of this Agreement.
- (i) “**Buksa Royalty Agreement**” means the aggregate royalty agreement dated December 31, 2018 between 302016 Alberta Limited, Rose Short and JMB.
- (j) “**Business**” is defined in Recital A.
- (k) “**Business Day**” means any day other than a Saturday, Sunday or statutory holiday in Edmonton, Alberta.
- (l) “**CARC**” is defined in Recital B.
- (m) “**CCAA**” is defined in Recital G.
- (n) “**CCAA Plan**” is defined in Recital L.
- (o) “**Code**” is defined in Recital D.
- (p) “**Communication**” means any notice, demand, request, consent, approval or other communication which is required or permitted by this Agreement to be given or made by a Party.
- (q) “**Contractor**” is defined in Section 3.5(f).
- (r) “**Core Assets**” means all of the right, title, benefit, estate and interest of JMB and 216 in and to certain assets to be acquired by Mantle under and pursuant to the APA.
- (s) “**Court**” is defined in Recital G.
- (t) “**CWB**” means Canadian Western Bank.
- (u) “**CWB LC Facility**” means the letter of credit facility created by CWB in favour of JMB and 216, and was assigned to and assumed by Mantle pursuant to the Transaction, for the purposes of providing the CWB LCs to the AEP as Security.
- (v) “**CWB LCs**” means letters of credit issued by CWB in favour of AEP.
- (w) “**Dispositions**” means the surface material leases and other dispositions of public lands issued by the AEP to JMB or 216 under the PLA, and “**Disposition**” means any one of the Dispositions.
- (x) “**EPEA**” is defined in Recital E.
- (y) “**Excluded Aggregate Inventory**” means Aggregate that, as of the date this Agreement is fully executed by the Parties, has been extracted and is located on the lands subject to the Excluded Royalty Agreements.

- (z) “**Excluded Private Pits**” the Aggregate Pits governed by the aggregate royalty agreements listed on **Schedule “A”** under the heading of “*Excluded Private Pits*” and identified as the Hoyer/Kucy Royalty Agreement, the MacDonald Royalty Agreement, the Megley Royalty Agreement and the Okane Royalty Agreement.
- (aa) “**Excluded Public Pits**” means the Aggregate Pits governed by the Dispositions listed on **Schedule “A”** under the heading of “*Excluded Public Pits*” and identified as SML 120027, SML 930040, SML 980116 and DML 120032.
- (bb) “**Excluded Royalty Agreements**” means the aggregate royalty agreements relating to the Excluded Private Pits, being the Hoyer/Kucy Royalty Agreement, the MacDonald Royalty Agreement, the Megley Royalty Agreement and the Okane Royalty Agreement, and “**Excluded Royalty Agreement**” means any one of them.
- (cc) “**Excluded Royalty Lands**” means each of the lands on which the Excluded Public Pits are located and to which an Excluded Royalty Agreements applies.
- (dd) “**Excluded Reclamation Amount**” is defined in Section 3.5(b).
- (ee) “**Fiera**” is defined in the introductory paragraph of this Agreement.
- (ff) “**Fund VI**” is defined in the introductory paragraph of this Agreement.
- (gg) “**Glacier Royalty Agreement**” means the aggregate royalty agreement dated September 30, 2014 between JMB and 1386194 Alberta Ltd., in respect of the Aggregate Pit subject to the Disposition identified as SML 030074 which was granted to 1386194 Alberta Ltd.
- (hh) “**Governmental Authority**” means any federal, provincial, state, local, municipal, regional, territorial, aboriginal, or other government, governmental or public department, branch, ministry, or court, domestic or foreign, including any district, agency, commission, board, arbitration panel or authority and any subdivision of any of them exercising or entitled to exercise any administrative, executive, judicial, ministerial, prerogative, legislative, regulatory or taxing authority or power of any nature and any quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of any of them, and any subdivision of any of them.
- (ii) “**Havener Royalty Agreement**” means the aggregate royalty agreement dated November 8, 2018 between JMB, Helen Havener and Gail Havener, as amended by a letter agreement dated October 13, 2020 between Mantle, Gail Havener and Lynne Havener, as executor of the Estate of Helen Havener, as amended and restated by the aggregate royalty agreement dated October 13, 2020 between Mantle, Gail Havener and Lynne Havener, as executor of the Estate of Helen Havener.
- (ji) “**Hoyer/Kucy Royalty Agreement**” means the aggregate royalty agreement dated January 7, 2020 between JMB, Ron and Rita Kucy and Ron and Vonda Hoyer.



- (kk) **"Included Owned Land"** means lands identified on **Schedule "A"** under the heading of Included Owned Land.
- (ll) **"Included Private Pits"** means the Aggregate Pits governed by the aggregate royalty agreements listed on **Schedule "A"** under the heading of *"Included Private Pits"* and identified as the Buksa Royalty Agreement, the Havener Royalty Agreement and the Shankowski Royalty Agreement.
- (mm) **"Included Public Pits"** means the Aggregate Pits governed by the Dispositions listed on **Schedule "A"** under the heading of *"Included Public Pits"* and identified as SML 080085, SML 110025, SML 110026, SML 110045, SML 110046, SML 110047, SML 120005, SML 120006, SML 120100 and SML100085.
- (nn) **"Initial Order"** is defined in Recital G.
- (oo) **"JBS"** is defined in Recital B.
- (pp) **"JMB"** is defined in the introductory paragraph of this Agreement.
- (qq) **"Kalinko Royalty Agreement"** means the aggregate royalty agreement dated June 12, 2012 and amended June 12, 2017 between Tim Kalinski, Jessica Brennan, Matthew Kalinski, Zachariah Kalinski, Elisha Kalinski and JMB.
- (rr) **"Lafarge Royalty Agreements"** means collectively the aggregate royalty agreement dated June 28, 2019 between Lafarge Canada Inc. and JMB, relating to the Disposition identified as SML 100043, and the aggregate royalty agreement dated June 28, 2019 between Lafarge Canada Inc. and JMB, relating to the Aggregate Pit having Registration no. 15215-01-01.
- (ss) **"MacDonald Royalty Agreement"** means the aggregate royalty agreement dated October 27, 2019 between JMB and Allan K MacDonald.
- (tt) **"Mantle"** is defined in the introductory paragraph of this Agreement.
- (uu) **"Mantle Transaction Orders"** is defined in Recital M.
- (vv) **"Megley Royalty Agreement"** means the aggregate royalty agreement dated September 30, 2018 between JMB and Doug Megley.
- (ww) **"Monitor"** is defined in Recital G.
- (xx) **"Okane Royalty Agreement"** means the aggregate royalty agreement dated April 30, 2018 between JMB, Colleen Penner and the Estate of Ed Okane.
- (yy) **"Owned Lands"** is defined in Recital C.
- (zz) **"Parties"** means JMB, 216, Mantle, ATB, Fiera and the AEP, collectively, and **"Party"** means any one of them.
- (aaa) **"Permits"** means any permit, license, approval, consent, authorization, registration or certificate issued, and conservation and reclamation business plans in respect of Dispositions approved, by the AEP or o



Governmental Authority, including the Registrations.

- (bbb) **"Person"** will be broadly interpreted and includes: (i) a natural person, whether acting in his or her own capacity, or in his or her capacity as executor, administrator, estate trustee, trustee or personal or legal representative, and the heirs, executors, administrators, estate trustees, trustees or other personal or legal representatives of a natural person; (ii) a corporation or a company of any kind, a partnership of any kind, a sole proprietorship, a trust, a joint venture, an association, an unincorporated association, an unincorporated syndicate, an unincorporated organization or any other association, organization or entity of any kind; and (iii) a Governmental Authority.
- (ccc) **"PLA"** is defined in Recital C.
- (ddd) **"Private Pits"** is defined in Recital C.
- (eee) **"Public Pits"** is defined in Recital C.
- (fff) **"Reclamation Obligation Limit"** is defined in Section 3.5(c).
- (ggg) **"Reclamation Obligations"** means reclamation obligations under the Regulatory Legislation in respect of Aggregate Pits.
- (hhh) **"Reclamation Work"** means work in performing the Reclamation Obligations in respect of the Excluded Private Pits.
- (iii) **"Registrations"** means the registrations issued by the AEP in respect of the Private Pits under the Code and other Regulatory Legislation.
- (jjj) **"Regulatory Legislation"** is defined in Recital D.
- (kkk) **"RVO"** is defined in Recital M.
- (lll) **"RVO Amending Order"** is defined in Section 3.2(a)(ii).
- (mmm) **"RLF"** is defined in Recital B.
- (nnn) **"Sale Advisor"** is defined in Recital H.
- (ooo) **"SAVO"** is defined in Recital M.
- (ppp) **"SAVO Amending Order"** is defined in Section 3.2(a)(i).
- (qqq) **"Security"** means security in the form of letters of credit, bonds, cash or other forms for Reclamation Obligations required under the Regulatory Legislation.
- (rrr) **"Security Interest"** means any mortgage, charge, security interest, lien or other charge or leasehold interest of a lessor of property.
- (sss) **"Shankowski Royalty Agreement"** means the aggregate royalty agreement dated October 29, 2018 between JMB, Jerry Shankowski and 945441 Alberta

Ltd., as amended by a letter agreement dated October 14, 2020 between Mantle, Jerry Shankowski and 945441 Alberta Ltd.

- (ttt) "**SISP**" is defined in Recital H.
- (uuu) "**Skoreyko**" means Skoreyko Crushing Ltd.
- (vvv) "**Skoreyko PSA**" means the purchase and sale agreement between 216 and Skoreyko pursuant to which 216 agreed to sell and Skoreyko agreed to purchase the SML 060060 Dispositions.
- (www) "**SML 060060 Dispositions**" means the Dispositions identified as SML 060060 and DLO 170011 which are listed on **Schedule "A"** under the heading "*SML 060060 Dispositions*".
- (xxx) "**Transaction**" is defined in Recital L.
- (yyy) "**Transaction Closing**" means the completion of the Transaction and the implementation of the CCAA Plan.
- (zzz) "**Trust**" is defined in Section 3.5(e).
- (aaaa) "**Trust Fund**" is defined in Section 3.5(e).

## 1.2 Certain Rules of Interpretation

- (a) In this Agreement, words signifying the singular number include the plural and *vice versa*, and words signifying gender include all genders. Every use of the words "including" or "includes" in this Agreement is to be construed as meaning "including, without limitation" or "includes, without limitation", respectively.
- (b) The division of this Agreement into Sections and the insertion of headings are for convenience of reference only and do not affect the construction or interpretation of this Agreement.
- (c) References in this Agreement to a Section or Schedule are to be construed as references to a Section or Schedule of or to this Agreement unless otherwise specified.
- (d) Unless otherwise specified, any reference in this Agreement to any statute includes all regulations and subordinate legislation made under or in connection with that statute at any time, and is to be construed as a reference to that statute as amended, modified, restated, supplemented, extended, re-enacted, replaced or superseded at any time.
- (e) For the purposes of this Agreement, all amounts will be denominated in Canadian dollars and all payments and distributions to be made in cash will be made in Canadian dollars.



### 1.3 Schedule

The following Schedule is attached to, incorporated by reference into and forms part of this Agreement:

Schedule "A"

Aggregate Pits

## 2. PURPOSE OF THIS AGREEMENT

### 2.1 Purpose

This Agreement is intended to permit the Transaction under the APA and CCAA Plan to be completed by setting out the terms under which the AEP would approve and consent to the assignment of the Dispositions and Permits and transfer of the Registrations relating to the Included Public Pits and Included Private Pits. Without such approvals and consents, a fundamental condition to Transaction Closing provided for in the APA would not be satisfied and Mantle is unwilling to waive such condition.

Mantle anticipates that if the Transaction is completed, the stakeholders in JMB and 216, including the current or former employees, their customers, their suppliers, landowners, the communities in rural Alberta where the Business operates, the environment, ATB and Fiera, and the investors in RLF, will potentially benefit from the following:

- (a) the Business will directly employ in Alberta approximately thirty full time individuals, and will seasonally employ in Alberta, directly and indirectly through contractors, in excess of ninety individuals;
- (b) the Business will sell approximately 1 million tonnes of Aggregate per annum, based upon production of approximately 2 million tonnes per annum, yielding approximately \$30,000,000 per annum, with significant potential for additional production with the recovery of the oil and gas industry;
- (c) upon Mantle acquiring the Included Public Pits, Mantle will assume the Reclamation Obligations associated therewith, maintain the Security for such Reclamation Obligations, and pay the arrears of royalty payments and other amounts owing to the AEP under the Included Public Pits;
- (d) Mantle would acquire the Excluded Public Pits for the purpose of performing the Reclamation Obligations in respect thereof;
- (e) the SML 060060 Dispositions would be assigned to Skoreyko together with associated Permits, and Skoreyko would assume the Reclamation Obligations thereunder, replace the Security posted by 216 thereunder and operate the Aggregate Pit subject thereto;
- (f) Mantle would acquire the interest of JMB in the Buksa Royalty Agreement, the Shankowski Royalty Agreement and the Havener Royalty Agreement, operate the Aggregate Pits subject thereto, assume the Reclamation Obligations and replace the expired Security thereunder; and



- (g) the Parties would share the economic burden of the expired Security provided under the Registrations of the Aggregate Pits subject to the Hoyer/Kucy Royalty Agreement, the MacDonald Royalty Agreement, the Megley Royalty Agreement and the Okane Royalty Agreement.

Should the Transaction not proceed, JMB and 216 would likely be placed into bankruptcy or receivership, with their remaining property and assets either being liquidated or abandoned, and the foregoing benefits would be lost. In particular: (i) the Business would cease together with the associated direct and indirect employment, and substantially all of the tangible property and assets of JMB and 216 will be abandoned, with the consequential loss of economic activity in Alberta; (ii) it is unlikely that any other Person or Persons would acquire the interest of the Companies in the Public Pits, the Private Pits or the Owned Lands; (iii) the Dispositions would eventually lapse or be terminated; (iv) the aggregate amount of the Reclamation Obligations exceeds the aggregate amount of the Security posted therefor, and in the event of such shortfall being realized, the public and the private land owners could bear the economic burden of such deficiency; and (v) substantial portions of the loans advanced by ATB and Fiera to JMB and the capital invested by RLF in JMB and 216 could be lost.

### **3. COVENANTS OF THE PARTIES**

#### **3.1 Included Public Pits**

Subject to the satisfaction or waiver of the conditions precedent in Section 4.1:

- (a) Mantle and the AEP agree as follows:
- (i) the AEP will consent to and approve the assignment to Mantle pursuant to the SAVO of the Dispositions governing the Included Public Pits and any Permits issued by the AEP relating thereto;
  - (ii) promptly following the Transaction Closing:
    - (A) Mantle will pay to the AEP the applicable assignment fee payable in respect of the application to approve the assignment of the Dispositions of the Included Public Pits and the Excluded Public Pits;
    - (B) Mantle will assume the Reclamation Obligations in respect of each Included Public Pit;
    - (C) Mantle will assume the rights and obligations of JMB to CWB under the CWB LC Facility, whereupon the Security in the form of CWB LCs will previously issued on behalf of JMB will be issued on behalf of Mantle;
    - (D) 216 will file with the AEP the outstanding returns for 2020 required under the Regulatory Legislation in respect of the Included Public Pits, and Mantle will thereafter pay when due the royalties owing to the AEP under the Dispositions relating to the Included Public Pits for the 2020 calendar year as and when they become due; and

- (E) With respect to the arrears of 2019 and 2020 royalty payments, goods and services tax and insurance payments in respect of the Dispositions of Included Public Pits, which Mantle estimates to be an aggregate of \$250,292.23, Mantle shall pay to the AEP fifty percent (50%) of such amount.
- (b) Fiera will deliver to the AEP releases of the conditional surrenders of lease granted by JMB or 216 in respect of the Included Public Pits, and the AEP will register replacement conditional surrenders of lease granted by Mantle to Fiera in respect of the Included Public Pits.

### 3.2 Excluded Public Pits

- (a) Following the execution by each of the Parties of this Agreement, the Companies and Mantle will apply to the Court for orders amending the SAVO and RVO pursuant to which:
  - (i) the Excluded Public Pits shall be included in the definition of *Transferred Acquired Assets* (as such term is defined in the SAVO, with such amending order being the "**SAVO Amending Order**"); and
  - (ii) the Excluded Public Pits shall cease to be included in the definition of *Excluded Aggregate Pits* (as such term is defined in the RVO, with such amending order being the "**RVO Amending Order**"),

with the effect that Mantle will acquire all of the right, title and interest of the Companies in the Excluded Public Pits, assume the Reclamation Obligations in respect thereof, and maintain the Security relating thereto, which the AEP and Mantle agree is in the aggregate amount of \$42,332 for the 2021 calendar year.

- (b) Subject to the satisfaction or waiver of the conditions precedent in Section 4.1, Mantle and the AEP agree as follows:
  - (i) the AEP will consent to and approve the assignment to Mantle of the Dispositions of the Excluded Public Pits and any Permits issued by the AEP relating thereto;
  - (ii) Mantle will assume the Reclamation Obligations and maintain Security in respect of each Excluded Public Pit in accordance with the requirements of the Regulatory Legislation, provided that Mantle shall have a two year time period to perform such Reclamation Obligations; and
  - (iii) upon the performance by Mantle of the Reclamation Obligations relating to an Excluded Public Pit, in a manner satisfactory to the AEP, at the request in writing of Mantle, the AEP shall return to Mantle the Security provided in respect of such Excluded Public Pit and terminate the Dispositions and Permits.



### 3.3 Sale of Dispositions

Subject to the satisfaction or waiver of the conditions precedent in Section 4.1, Mantle and the AEP agree as follows:

- (a) the AEP will consent to and approve the assignment to Skoreyko of the SML 060060 Dispositions together with any related Permits issued by the AEP, and upon Skoreyko depositing Security with the AEP in an amount acceptable to the AEP, the AEP shall return to Mantle the Security posted by 216 in respect of the SML 060060 Dispositions, being a CWL LC in the face amount of \$41,400; and
- (b) in the event that Mantle is able to sell any Dispositions relating to Excluded Public Pits to any other Person that is acceptable to the AEP, the AEP will approve and consent to the assignment thereof to such Person together with any related Permits and upon such Person posting with the AEP the Security required by the AEP in respect of such Disposition, the AEP will return to Mantle the Security provided by JMB, 216 or Mantle, as applicable.

### 3.4 Included Private Pits

Subject to the satisfaction or waiver of the conditions precedent in Section 4.1, Mantle and the AEP agree as follows:

- (a) the AEP will consent to and approve the transfer to Mantle pursuant to the SAVO of the Registrations and other Permits relating to the Included Private Pits;
- (b) upon the Transaction Closing, Mantle will assume the Reclamation Obligations in respect of each Included Private Pit in accordance with the requirements of the Regulatory Legislation;
- (c) with respect to the bond in the amount of \$50,442.14 issued in favour of the AEP as Security in respect of the Included Private Pit subject to the Buksa Royalty Agreement, the AEP shall hold the cash paid to it by the issuer thereof as Security and such cash shall satisfy obligation of Mantle to provide such Security for the 2021 calendar year; and
- (d) promptly following the Transaction Closing, Mantle will deposit:
  - (i) Security with the AEP for each Included Private Pit, which:
    - (A) in the case of the Included Private Pit subject to the Havener Royalty Agreement, Mantle and the AEP acknowledge is in the amount of \$31,988 for the 2021 calendar year; and
    - (B) in the case of the Included Private Pit subject to the Shankowski Royalty Agreement, Mantle and the AEP acknowledge is in the amount of \$180,120.57 for the 2021 calendar year; and
  - (ii) file with the AEP any outstanding filings required under the Regulatory Legislation with respect to the Included Private Pits, including any schedule 3 filings.



### 3.5 Excluded Private Pits

Subject to the satisfaction or waiver of the conditions precedent in Section 4.1, the Parties agree as follows:

- (a) AEP shall approve the transfer from JMB to 216 pursuant to the RVO of the Registrations in respect of the Excluded Private Pits and any Permits issued by the AEP in respect thereof.
- (b) The Parties acknowledge that the Reclamation Obligations in respect of the Excluded Royalty Lands, and the amount of Security required as of the date of this Agreement in respect of each, are as follows:
  - (i) \$39,805 in respect of the Excluded Royalty Lands subject to the Hoye/Kucy Royalty Agreement;
  - (ii) \$77,600 in respect of the Excluded Royalty Lands subject to the MacDonald Royalty Agreement;
  - (iii) \$74,683 in respect of the Excluded Royalty Lands subject to the Megley Royalty Agreement; and
  - (iv) \$39,805 in respect of the Excluded Royalty Lands subject to the Okane Royalty Agreement(each such amount being the "**Excluded Reclamation Amount**").
- (c) The Parties shall divide the economic burden of the Reclamation Obligations in respect of the Excluded Royalty Lands such that each of Mantle, ATB, Fiera and AEP are individually responsible for one quarter of the Excluded Reclamation Amount, which in the case of Mantle, ATB and Fiera (whose aggregate responsibility for the Excluded Reclamation Amount is referred to as the "**Reclamation Obligation Limit**"), will be provided for as follows:
  - (i) ATB's portion of the Reclamation Obligation Limit shall be funded either directly by ATB or from funds held by JMB against which ATB's Security Interest has first ranking priority, which portion shall be paid to the AEP;
  - (ii) Fiera's portion of the Reclamation Obligation Limit shall be funded from net proceeds of the sale JMB's equipment against which Fiera's Security Interest has first ranking priority, which proceeds Fiera will pay to the AEP; and
  - (iii) Mantle's portion of the Reclamation Obligation Limit shall be funded by an advance by Mantle to AEP.
- (d) Mantle shall be entitled, for and on behalf of 216, to sell any Excluded Aggregate Inventory provided that the applicable Excluded Royalty Agreement permits access to the applicable Excluded Royalty Pit for such purpose. The proceeds of sale of the Excluded Aggregate Inventory shall be applied as follows:

- (i) firstly, to any costs incurred in marketing, selling, processing and delivering the Excluded Aggregate Inventory, together with a reasonable overhead relating to Mantle's costs in respect thereof, and to any royalties payable under the applicable Excluded Royalty Agreement;
- (ii) secondly, to the Parties on a *pari passu* basis, up to the aggregate Excluded Reclamation Amount; and
- (iii) thirdly, to the extent that all the Reclamation Obligations relating to all Excluded Royalty Lands up to the Reclamation Obligation Limit have been satisfied.

ATB consents to the application of the proceeds of sale of the Excluded Aggregate Inventory in accordance with Subsections 3.5(d)(i) and (ii). In the event that Mantle is unable to sell Excluded Aggregate Inventory at prices that exceed the costs and amounts payable referred to in Subsection 3.5(d)(i), Mantle may utilize such Excluded Aggregate Inventory in carrying out the Reclamation Work.

- (e) The contributions of ATB, Fiera and Mantle to the Reclamation Obligations in respect of the Excluded Private Pits pursuant to Section 3.5(c) shall be held in trust by the AEP (the trust created hereby being the "**Trust**", and the funds held in the Trust being the "**Trust Funds**"), on the following terms:
  - (i) the purpose of the Trust is to provide funding for performance of the Reclamation Obligations in respect of the Excluded Private Pits, up to the amount of the Reclamation Obligation Limit;
  - (ii) the beneficiary of the Trust shall be AEP, with ATB, Fiera and Mantle holding a *pari passu* reversionary beneficial interest therein held by ATB, Fiera and Mantle where Reclamation Work has been performed in an amount equal to the Reclamation Obligation Limit; and
  - (iii) the Trust Fund shall constitute Security which secures the Reclamation Obligations in respect of the Excluded Private Pits, up to the Reclamation Obligation Limit.
- (f) 216 shall be responsible for carrying out the Reclamation Work on the Excluded Private Pits, up to the Reclamation Obligation Limit. 216 hereby engages Mantle to manage and supervise the performance of such Reclamation Work and Mantle accepts such engagement. In carrying out such engagement, Mantle shall retain such contractors (each, a "**Contractor**") as it deems necessary or desirable, in consultation with the AEP, to carry out the Reclamation Work. As each task or set of tasks is performed in a manner and at a cost satisfactory to Mantle (based on reasonable industry norms for such Reclamation Work):
  - (i) Mantle shall give written notice thereof to the AEP of the completion of such task or tasks, and the AEP will promptly upon receipt of such notice attend the applicable Excluded Private Pit to determine whether it is satisfied with the performance of such task or tasks;



- (ii) provided that the AEP is satisfied with the performance of such task or tasks, the AEP shall promptly pay from the Trust Fund the Contractor's invoice for such task or tasks; and
  - (iii) if the AEP is not satisfied with the performance of such task or tasks, it will give Mantle and the Contractor the particulars thereof and work with Mantle and the Contractor to identify any deficiency and the steps required to address such deficiency.
- (g) When the aggregate amounts paid or payable to Contractors for Reclamation Work is equal to the Reclamation Obligation Limit, the AEP shall distribute any remaining amounts in the Trust Fund to Mantle, ATB and Fiera, in equal portions, and Mantle's obligations under this Section 3.5 shall terminate, provided that if the AEP advances sufficient amounts into the Trust Fund to permit the completion of the Reclamation Obligations in respect of the Excluded Private Pits, Mantle shall continue to supervise and manage the Contractors in performing Reclamation Work until such Reclamation Obligations are fully performed, whereupon Mantle's obligations hereunder shall terminate.

### 3.6 Included Owned Lands

Subject to the satisfaction or waiver of the conditions precedent in Section 4.1, Mantle shall assume the Reclamation Obligations in respect of the Included Owned Lands and maintain the Security in respect thereof, which Mantle and the AEP acknowledge is in the amount of \$14,534 for the 2021 calendar year.

### 3.7 Aggregate Pits not subject to this Agreement

The Aggregate Pits subject to the Kalinko Royalty Agreement, the Glacier Royalty Agreement and the Lafarge Royalty Agreements are not subject to this Agreement because the Kalinko Royalty Agreement has been terminated by JMB's counterparties thereto, the Glacier Royalty Agreement has expired, and the Security for the Aggregate Pits governed by the Lafarge Royalty Agreements is provided by Lafarge Canada Inc.

## 4. CONDITIONS PRECEDENT

### 4.1 Conditions to Agreement Implementation

This Agreement shall become effective and binding upon the Parties upon the satisfaction or waiver of the following conditions precedent:

- (a) the Parties shall have fully executed and delivered this Agreement;
- (b) the conditions set out in Sections 5.1, 5.2 and 5.3 of the APA shall have been fulfilled, satisfied or waived in accordance with the APA;
- (c) the Monitor shall have consented to 216 assigning to Mantle the Dispositions relating to the Excluded Public Pits and any other consent required by the Monitor shall have been obtained; and
- (d) Skoreyko shall have fully executed and delivered to 216 the Skoreyko



## 4.2 Waiver of Conditions Precedent

The conditions in Subsections 4.1(a) and (c) may only be waived in whole or in part in writing by all of the Parties. The condition in Subsection 4.1(d) may be waived in whole or in part in writing by Mantle.

## 5. GENERAL

### 5.1 Communications

Any Communication must be in writing and either delivered personally or by courier, sent by prepaid registered mail or transmitted by e-mail or functionally equivalent electronic means of transmission, charges (if any) prepaid. Any Communication must be sent to the intended recipient at its address as follows:

- |  |   |
|--|---|
| <p>(a) to JMB or 216:</p> <p>JMB Crushing Systems Inc.<br/>PO Box 6977<br/>Bonnyville, Alberta T9N 2H4<br/>Email: <a href="mailto:blakeelyea@jmbcrush.com">blakeelyea@jmbcrush.com</a><br/>Attention: Blake M. Elyea, CPA, CGA, CIRP,<br/>LIT, Chief Restructuring Advisor</p> <p>FTI Consulting Canada Inc.<br/>1000, 888-3rd Street SW<br/>Bankers Hall, West Tower<br/>Calgary, Alberta T2P 5C5<br/>E-mail: <a href="mailto:deryck.helkaa@fticonsulting.com">deryck.helkaa@fticonsulting.com</a><br/>Attention: Deryck Helkaa</p> | <p>with copies to:</p> <p>Gowling WLG (Canada) LLP<br/>1600, 421 7th Avenue SW<br/>Calgary Alberta T2P 4K9<br/>E-mail: <a href="mailto:tom.cumming@gowlingwlg.com">tom.cumming@gowlingwlg.com</a><br/>Attention: Tom Cumming</p> <p>McCarthy Tétrault LLP<br/>4000, 421 - 7th Avenue SW<br/>Calgary, Alberta T2P 4K9<br/>E-mail: <a href="mailto:scollins@mccarthy.ca">scollins@mccarthy.ca</a><br/>Attention: Sean Collins</p> |
| <p>(b) to Mantle:</p> <p>Mantle Materials Group, Ltd.<br/>1400 16th St, Suite 320<br/>Denver, Colorado 80209<br/>E-mail: <a href="mailto:Byron.Levkulich@RLHoldings.com">Byron.Levkulich@RLHoldings.com</a><br/>Attention: Byron Levkulich, CFA, CPA</p>   | <p>with copies to:</p> <p>Gowling WLG (Canada) LLP<br/>1600, 421 7th Avenue SW<br/>Calgary Alberta T2P 4K9<br/>E-mail: <a href="mailto:tom.cumming@gowlingwlg.com">tom.cumming@gowlingwlg.com</a><br/>Attention: Tom Cumming</p>  |
| <p>(c) to ATB:</p> <p>ATB Financial<br/>Suite 2500, 10020 - 100 Street<br/>Edmonton Alberta T5J 0N3<br/>E-mail: <a href="mailto:aburnett@atb.com">aburnett@atb.com</a><br/>Attention: Andrew J. Burnett, Director, Risk<br/>Advisory and Management, ATB Corporate<br/>Financial Services</p>  | <p>with copies to:</p> <p>Dentons Canada LLP<br/>2500 Stantec Tower<br/>10220 - 103 Avenue NW<br/>Edmonton, Alberta T5J 0K4<br/>E-mail: <a href="mailto:tom.gusa@dentons.com">tom.gusa@dentons.com</a><br/>Attention: Tom Gusa</p>  |
| <p>(d) to Fiera:</p> <p>Fiera Private Debt<br/>20 Adelaide Street East, Suite 1500<br/>Toronto, Ontario M5C 2T6</p>  | <p>with copies to:</p> <p>Miller Thomson LLP<br/>Scotia Plaza<br/>40 King Street West, Suite 5800</p>   |

E-mail: [szagrodny@fieracapital.com](mailto:szagrodny@fieracapital.com)  
 Attention: Stephen Zagrodny, Director,  
 Corporate & Infrastructure Debt Financing

P.O. Box 1011  
 Toronto, Ontario M5H 3S1  
 E-mail: [kmahar@millერთhompson.com](mailto:kmahar@millერთhompson.com)  
 Attention: Kyla E. M. Mahar

(e) to the AEP:

•  
 Email: •  
 Attention: •

with copies to:

•  
 Email: •  
 Attention: •

or at any other address as any Party may at any time advise the other by Communication given or made in accordance with this Section 5.1. Any Communication delivered to the Party to whom it is addressed will be deemed to have been given or made and received on the day it is delivered at that Party's address, provided that if that day is not a Business Day then the Communication will be deemed to have been given or made and received on the next Business Day. Any Communication sent by prepaid registered mail will be deemed to have been given or made and received on the fifth Business Day after which it is mailed. If a strike or lockout of postal employees is then in effect, or generally known to be impending, every Communication must be delivered personally or by courier or transmitted by e-mail or functionally equivalent electronic means of transmission. Any Communication transmitted by e-mail or other functionally equivalent electronic means of transmission will be deemed to have been given or made and received on the day on which it is transmitted; but if the Communication is transmitted on a day which is not a Business Day or after 4:00 pm (local time of the recipient), the Communication will be deemed to have been given or made and received on the next Business Day.

## 5.2 Miscellaneous Provisions

- (a) This Agreement is governed by, and is to be construed and interpreted in accordance with, the laws of the Province of Alberta and the laws of Canada applicable in that Province. All questions as to the interpretation of or application of this Agreement and all proceedings taken in connection with this Agreement and its provisions will be subject to the jurisdiction of the Court.
- (b) This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter of this Agreement and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the Parties and there are no representations, warranties or other agreements between the Parties, express or implied, in connection with the subject matter of this Agreement except as specifically set out in this Agreement.
- (c) Each Section of this Agreement is distinct and severable. If any Section of this Agreement, in whole or in part, is or becomes illegal, invalid, void, voidable or unenforceable in any jurisdiction by any court of competent jurisdiction, the illegality, invalidity or unenforceability of that Section, in whole or in part, will not affect the legality, validity or enforceability of the remaining Sections of this Agreement, in whole or in part or the legality, validity or enforceability of that Section, in whole or in part, in any other jurisdiction.
- (d) No amendment, discharge, modification, restatement, supplement, termination or waiver of this Agreement or any Section of this Agreement is binding unless it is



in writing and executed by the Party to be bound. No waiver of, failure to exercise, or delay in exercising, any Section of this Agreement constitutes a waiver of any other Section (whether or not similar) nor does any waiver constitute a continuing waiver unless otherwise expressly provided.

- (e) This Agreement will be binding upon and will enure to the benefit of the successors and assigns of any Party.
- (f) Each of the Persons named or referred to in, or subject to, this Agreement will execute and deliver all such documents and instruments and do all such acts and things as may be necessary or desirable to carry out the full intent and meaning of this Agreement and to give effect to the transactions contemplated herein.
- (g) This Agreement and any counterpart of it may be created, provided, received, retained and otherwise used, and will be accepted, in any digital, electronic or other intangible form. This Agreement and any counterpart of it may be signed by manual, digital or other electronic signatures and delivered or transmitted by any digital, electronic or other intangible means, including by e-mail or other functionally equivalent electronic means of transmission, and that execution, delivery and transmission will be valid and legally effective to create a valid and binding agreement between the Parties.

**THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK**



Each of the Parties has executed and delivered this Agreement, as of the date noted at the beginning of this Agreement.

**JMB Crushing Systems Inc.**

By:

\_\_\_\_\_

Name:

Title:

**2161889 Alberta Ltd.**

By:

\_\_\_\_\_

Name:

Title:

**Mantle Materials Group, Ltd.**

By:

\_\_\_\_\_

Name:

Title:

**ATB Financial**

By:

\_\_\_\_\_

Name:

Title:

**Fiera Private Debt Fund VI LP**, by its general partner **Fiera Private Debt Fund GP Inc.** ("**Fund VI**") and **Fiera Private Debt Fund V LP**, by its general partner **Fiera Private Debt Fund GP Inc.**, acting in its capacity as collateral agent for and on behalf of and for the benefit of Fund VI

By:

\_\_\_\_\_

Name:

Title:

**Alberta Environment and Parks**

By:

\_\_\_\_\_

Name:

Title:

## Schedule "A" - Aggregate Pits

## Public Pits

Holder	Disposition Number	Pit Name	Status	Expiration	Estimated Reclamation Obligations	Security with AEP
<i>Included Public Pits</i>						
216	SML 080085	JLG 3	Not opened	25/04/2022	\$ 0	\$ 19,540
216	SML 110025	JLG 5	Open	10/02/2024	\$ 47,724	\$ 79,690
216	SML 110026	JLG 6	Open	10/04/2022	\$ 54,374	\$ 77,540
216	SML 110045	JLG 7	Open	17/03/2025	\$ 47,333	\$ 57,030
216	SML 110046	JLG 8	Open	17/03/2025	\$ 5,868	\$ 44,380
216	SML 110047	JLG 9	Open	17/03/2025	\$ 37,554	\$ 46,110
216	SML 120005	JLG 10	Open	04/10/2027	\$ 92,710	\$ 78,110
216	SML 120006	JLG 11	Not opened	06/10/2027	\$ 0	\$ 25,690
216	SML 120100	JLG 12	Not opened	06/10/2027	\$ 0	\$ 29,650
216	SML100085	JLG 4	Not opened	23/06/2026	\$ 0	\$ 42,010
<i>Excluded Public Pits</i>						
JMB	SML 120027		Open	12/01/2030	\$ 2,000	\$ 2,960
JMB	SML 930040		Depleted	28/07/2013	\$ 1,956	\$ 1,000
JMB	SML 980116		Open	15/02/2009	\$ 2,000	\$ 9,140
JMB	DML 120032		Open	06/01/2023	\$ 14,747	\$ 17,232
JMB	SME 150106		Expired	Expired	\$ 0	\$ 6,000
JMB	SME 200009		Expired	Expired	\$ 0	\$ 6,000
<i>SML 060060 Dispositions</i>						
216	SML 060060		Open	27/05/2024	\$ 44,595	\$ 41,400
216	DLO 170011		Access to SML 060060	27/05/2024	\$ 0	\$ 0

## Private Pits

Holder	Registration Number	Agreement	Status	Expiration	Estimated Reclamation Obligations	Security with AEP
<i>Included Private Pits</i>						
JMB	15048-03-02	Buksa Royalty Agreement	Open	31/12/2023	\$ 25,605	\$ 0
JMB	17395-01-00	Havener Royalty Agreement		08/11/2031	\$ 73,584	\$ 0
JMB	308161-00-00	Shankowski Royalty Agreement		19/10/2028	\$ 179,516	\$ 0
<i>Excluded Private Pits</i>						
JMB	306490-00-00	Hoye/Kucy Royalty Agreement	Open	31/03/2021	\$ 32,742	\$ 0
JMB	293051-00-00	MacDonald Royalty Agreement	Open	31/12/2020	\$ 11,748	\$ 0
JMB	149949-00-00	Megley Royalty Agreement	Open	30/09/2023	\$ 173,056	\$ 0
JMB	263318-00-00	Okane Royalty Agreement	Open	30/04/2021	\$ 27,565	\$ 0

**Included Owned Property**

Owner	Legal Description	Status	Estimated Reclamation Obligations	Security with AEP
<i>Included Owned Property</i>				
JMB	NE 35-56-6-W4	Open	\$ 30,703	\$ 14,534

**Aggregate Pits not subject to this Agreement**

Holder	Agreement	Disposition or Registration No.	Expiration	Person responsible for Security
1386194 Alberta Ltd.	Glacier Royalty Agreement	SML 030074	SML 030074 expires 17/10/2021 Glacier Royalty Agreement has expired	1386194 Alberta Ltd.
Tim Kalinski, Jessica Brennan, Matthew Kalinski, Zachariah Kalinski and/or Elisha Kalinski, as applicable (" <b>Kalinko</b> ")	Kalinko Royalty Agreement	SML 100101, SML 000034, SML 010005, SML 010032, SML 020014, SML 030046, SML 040122, SML 100016, SML 100050, SML 100057, SML 100075, SML 100112, SML 110037, SML 110044, SML 110065, SML 110072, SML 120004, SML 130003, SML 130017, SML 130124, SML 140015, SML 140026, SML 140046, SML 140080 and SML 150031	Kalinko Royalty Agreement terminated by Kalinko	Kalinko
Lafarge Canada Inc.	Lafarge Royalty Agreements	SML 100043 (Moose River) and 15215-01-01 (Oberge)	Lafarge Royalty Agreements - 01/07/2024 SML 100043 - 06/01/2023	Lafarge Canada Inc.



THIS IS EXHIBIT "E" REFERRED TO IN  
THE AFFIDAVIT OF TYLER PELL  
SWORN BEFORE ME  
THIS 22<sup>ND</sup> DAY OF MARCH, 2021



A Commissioner for Oaths in and for the  
Province of Alberta

**Stephen Kroeger**  
*Barrister & Solicitor*

A Notary Public/Commissioner for Oaths  
in and for the Province of Alberta  
My Commission expires at the pleasure of  
the Lieutenant Governor in Council



Regulatory Assurance  
Capital Region  
Spruce Grove  
PO Box 4240 (T7X 3B4)  
250 Diamond Avenue  
Spruce Grove AB T7X 4C7  
Telephone: 780-960-8600

February 12, 2021

Investigation No. 35659

Mr. Tyler Pell  
tylerpell@jmbcrush.com  
Aggregate Resource Manager  
JMB Crushing Systems Inc.  
PO Box 6977  
Bonnyville AB T9N 2H4

**Re: Letter of Non-Compliance – Pits regulated under the *Code of Practice* under *Environmental Protection and Enhancement Act (EPEA)* and *Conservation and Reclamation Regulation*, and *Water Act***

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Alberta Environment and Parks (AEP) has identified numerous issues of non-compliance with pits registered to JMB Crushing Systems Inc.(JMB) located on private land. On January 26, 2021, AEP conducted a review of the Activities Plans and satellite imagery (attached as Appendix A) on the following Registrations:

**Registration No. 149949-00-00** Megley Pit SE 35-58-16-4  
**Registration No. 15048-03-00** Buksa Pit NE 24-56-7-4  
**Registration No. 17395-01-00** Havener Pit NW 16-56-7-4  
**Registration No. 263318-00-00** O'Kane Pit NE 10-57-6-4  
**Registration No. 293318-00-00** MacDonald Pit SE 34-56-7-4  
**Registration No. 306490-00-00** Kucy Pit NW 17, NE 18 & SE 19-63-9-4  
**Registration No. 308161-00-00** Shankowski Pit SW 21-56-7-4

***Code of Practice* under EPEA and *Conservation and Reclamation Regulation***

AEP has determined that for one or all of the pits listed above, JMB has:

- failed to restore the required security;
- failed to submit the required 5-year report;
- failed to follow the Activities Plan mining sequence with absence of reclamation noted on all pits;
- failed to comply to the boundary approved in the Registration;
- failed to report these non-compliance issues to the Director.

- 2 -

The above are contraventions to the *Code of Practice for Pits* under EPEA and the *Conservation and Reclamation Regulation*:

*"3.2.2 Unless exempted by the Act or the Conservation and Reclamation Regulation, as amended from time to time, no person shall commence or continue an activity at a pit unless the full amount of security for that pit has been provided to the Director, as authorized in writing by the Director."*

*"4.1.1 No person shall conduct any activity at a pit except in accordance with the most recent Activities Plan."*

*"6.1.1 In addition to any other reporting required pursuant to this Code of Practice, the Act or the regulations under the Act, any person carrying out an activity at a pit shall immediately report any contravention of this Code of Practice to: (a) the registration holder; and (b) the Director: (i) by telephone at (780) 422-4505, or (ii) by a method: (A) in compliance with the release reporting provisions of the Act and the regulations; or (B) authorized in writing by the Director."*

*"6.1.4 In addition to any other reporting requirements pursuant to this Code of Practice, the Act or the regulations, the registration holder shall provide a written report to the Director: (a) no later than 5 years after the date of the registration; and (b) every 5 years thereafter until:"*

*"6.1.6 No person shall commence or continue an activity at a pit after the applicable date specified in 6.1.4 unless the applicable written report in 6.1.4 has been submitted to the Director."*

### **Water Act**

In addition to the above noted non-compliances, AEP has also observed water bodies, as defined under the *Water Act* on Kucy Pit and Megley Pit. If there has been a disturbance to ground water this could be considered an unauthorized activity and a contravention of section 36(1) of the *Water Act* which states:

*"No person may commence or continue an activity except pursuant to an approval, unless it is otherwise authorized under this Act".*

A review of departmental records indicates that no *Water Act* approval has been applied for or was issued for the above-mentioned activity and as such all work associated with the unauthorized activity must immediately stop.

### **Written Plan to Resolve Non-Compliance**

For each pit, JMB Crushing Systems Inc. is required to submit a written plan to AEP by no later than February 18, 2021:

- detailing its assessment of the pit against the terms and conditions of the Registration and the *Code of Practice for Pits*.
- describing how JMB plans to bring each pit into compliance with the Registration and the *Code of Practice for Pits*, and by when;
- describing how JMB plans on assessing the potential *Water Act* contravention.



- 3 -

Please be advised that enforcement action arising from the above noted contravention of the *Code of Practice for Pits and Water Act* may also be taken without further notice. Should you have any questions regarding this letter, please contact the undersigned at 780-960-8659 or at [april.franks@gov.ab.ca](mailto:april.franks@gov.ab.ca).

Respectfully,



April Franks  
Environmental Protection Officer  
Alberta Environment and Parks

CC. Maxwell Harrsion, Compliance Manager (acting)  
Heather Dent, Compliance Manger  
Neil Brad, Regulatory Assurance Manager  
Bryon LevKulich, Mantles Materials Group, Ltd.  
Josh Inglett, Mantles Materials Group, Ltd.  
Vivian Ball, Legal Services Division  
Lee Plumb, Legal Services Division  
Tom Cumming, Growling WLG (Canada) LLP



8-NE SEC-24 TWP-053 RGE-07 MER-4

Bursa Pit 2  
NE 24-56-7-4



05.22a-1518



Shankowski Pt  
NW 21-5-67-4

Havenec Pt  
NW 16-5-67-4

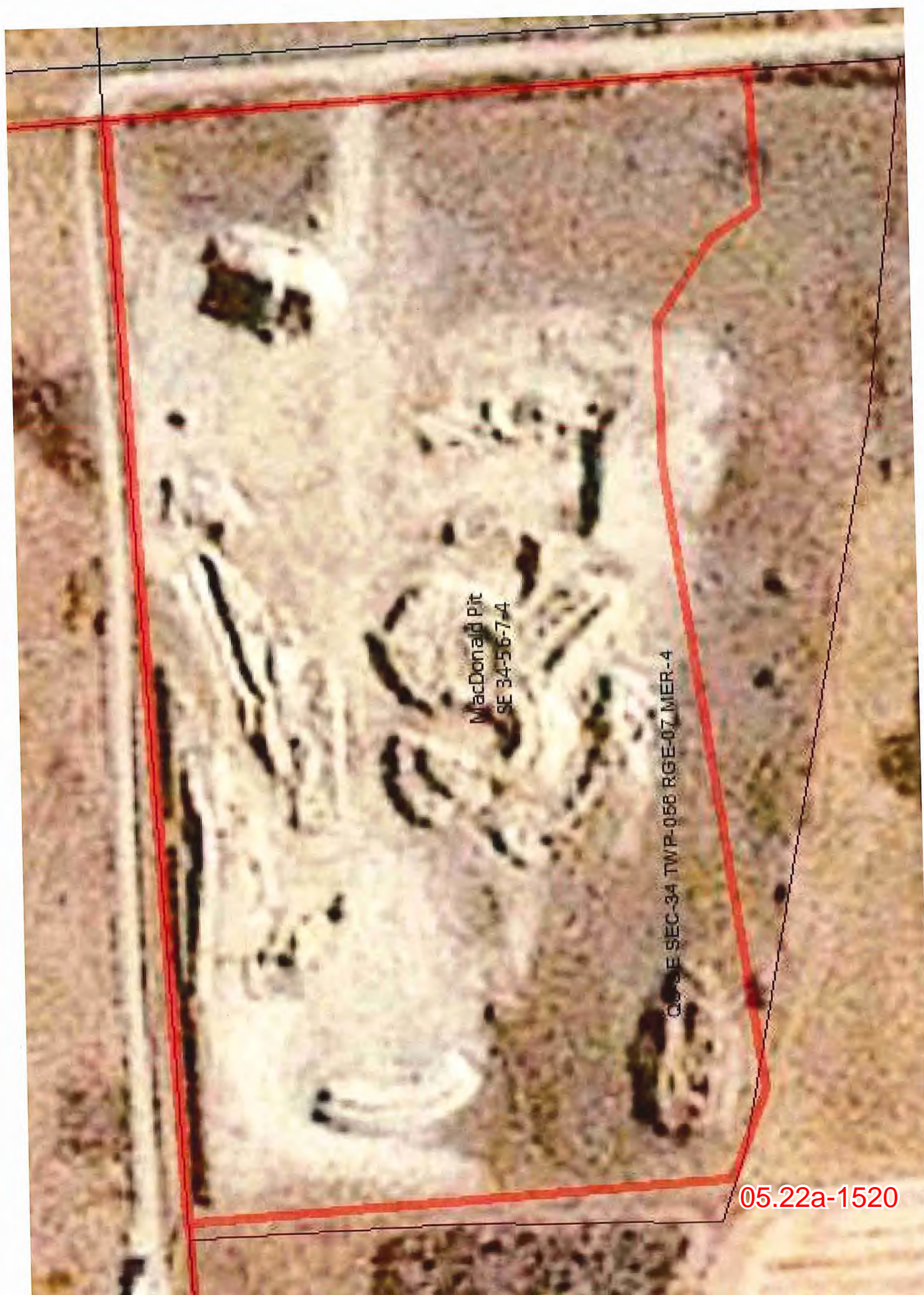
CS-NW SEC-18 TWP-058 RGE-07 MER-4

05.22a-1518









MacDonald Pit  
SE 34-56-7-4

Q03 E SEC-34 TWP-066 RGE-07 MER-4



SK







SEC-10 TWP-057 RGE-06 MER-4

O'Kane Pit  
NE 10-57-6-4

SE SEC-10 TWP-057 RGE-06 MER-4

5



05.22a-1523

7 MER-4

CS 5V SEC-21 TWP-058 RGE-07 MER-4

Shankowski Pit  
SW 21-56-7-4

05.22a-1523

Havener Pit





THIS IS EXHIBIT "F" REFERRED TO IN  
THE AFFIDAVIT OF TYLER PELL  
SWORN BEFORE ME  
THIS 22<sup>ND</sup> DAY OF MARCH, 2021



A Commissioner for Oaths in and for the  
Province of Alberta  
**Stephen Kroeger**  
*Barrister & Solicitor*

A Notary Public/Commissioner for Oaths  
in and for the Province of Alberta  
My Commission expires at the pleasure of  
the Lieutenant Governor in Council





**Regulatory Assurance Division**  
 North District  
 2<sup>nd</sup> Flr Provincial Building  
 9503 Beaver Hill Road  
 Lac La Biche, Alberta T0A 2C0  
 Phone: (780) 623-5240  
[www.aep.alberta.ca](http://www.aep.alberta.ca)

Inv. No. 35659

February 23, 2021

JMB Crushing Systems Inc.  
 PO Box 6977  
 Bonnyville, AB T9N 2H4  
 Via Email: [tylerpell@jmbcrush.com](mailto:tylerpell@jmbcrush.com)

Attention: Mr. Tyler Pell  
 Aggregate Resource Manager

### NOTICE OF NON-COMPLIANCE

Alberta Environment and Parks (AEP) has identified numerous instances of JMB Crushing Systems Inc.'s (JMB) non-compliance with pits covered by dispositions held by JMB. On February 17, 2021 AEP finished a review of the terms and conditions of the following dispositions and satellite imagery of the lands covered by the dispositions:

<b>SML 930040</b>	08-23-061-07-W4M	Expired
<b>SML 980116</b>	SW-21-063-12-W4M	Expired
<b>SML 120027</b>	NW-20-074-08-W4M	Active

#### ***Public Lands Act***

AEP has determined that as it relates to one or all of the dispositions listed above, JMB has:

- caused, permitted, or allowed an undesirable excavation to exist on public land;
- caused, permitted, or allowed the creation of conditions likely to result in soil erosion on public land; and
- contravened one or more provisions of the dispositions.

The above are contraventions of the *Public Lands Act*:

*54(1)(b) "No person shall cause, permit or suffer the existence on public land of any...excavation or any kind that is undesirable or otherwise in contravention of this Act or the regulations."*

54(1)(f) "No person shall cause, permit or suffer the creation of any condition on public land which is likely to result in soil erosion."

56(1)(n) "A person who as the holder of a disposition, contravenes a provision of the disposition is guilty of an offence."

### **Public Lands Administration Regulation**

AEP has determined that as it relates to one or all of the dispositions listed above, JMB has:

- failed to pay fees owing to AEP;
- failed to comply with the terms and conditions of the disposition;
- failed to adhere to disturbance standards;
- failed to reclaim land to an equivalent land capability following expiry of the disposition;
- allowed or caused loss or damage on the subject land; and
- failed to report these non-compliance issues to the Director.

The above are contraventions of the *Public Lands Administration Regulation*:

21(1)(b) "The holder of a formal disposition must pay promptly and regularly any rent, rate, royalty, charge or fee that is payable by the holder under the formal disposition, the Act or this Regulation."

21(1)(d) "The holder of a formal disposition must comply with the terms and conditions of the formal disposition."

21(1)(e) "The holder of a formal disposition must comply with any disturbance standards applicable to the formal disposition or the subject land."

21(1)(f) "The holder of a formal disposition must, on the expiry, cancellation, surrender or abandonment of the formal disposition, reclaim the subject land to an equivalent land capability."

21(1)(g) "The holder of a formal disposition shall not cause or allow unauthorized loss or damage on the subject land."

165(1) "A person responsible for a reportable event must report the event to the Department as soon as possible and in any event not later than 7 days after the person became aware, or should reasonably have become aware, of its occurrence."

AEPs investigation into potential other contraventions of the *Public Lands Act* and *Public Lands Administration Regulation* are ongoing.

### **Written Plan to Resolve Non-Compliance**

For each disposition listed above, JMB Crushing Systems Inc. is required to submit a written plan

3.

to AEP by no later than **February 26, 2021**:

- detailing its assessment of the disposition against the terms and conditions of the disposition, the *Public Lands Act* and the *Public Lands Administration Regulation*;
- describing how JMB plans to bring each disposition into compliance with the *Public Lands Act*, *Public Lands Administration Regulation*, and the terms and conditions of the disposition, including a timeline to completion;
- stating its immediate plans to operate the pit on the lands contained in SML 120027.

Please be advised that enforcement action arising from the above mentioned contraventions may be taken without further notice. Should you have any questions, please contact the undersigned at 780-623-5483 or by email at [nathan.polturak@gov.ab.ca](mailto:nathan.polturak@gov.ab.ca).

Respectfully,



Nathan Polturak, P.Biol.  
Environmental Protection Officer  
Regulatory Assurance Division – North District

CC: Heather Dent, Compliance Manager  
Maxwell Harrison, Compliance Manager (acting)  
Neil Brad, Regulatory Assurance Manager  
Bryon LevKulich, Mantles Materials Group Ltd.  
Josh Inglett, Mantles Materials Group Ltd.  
Tom Cumming, Gowling WLG (Canada) LLP





Regulatory Assurance Division  
 North District  
 2<sup>nd</sup> Flr Provincial Building  
 9503 Beaver Hill Road  
 Lac La Biche, Alberta T0A 2C0  
 Phone: (780) 623-5240  
[www.aep.alberta.ca](http://www.aep.alberta.ca)

Inv. No. 35659

February 23, 2021

2161889 Alberta Ltd.  
 PO Box 6977  
 Bonnyville, AB T9N 2H4  
 Via Email: [tylerpell@jmbcrush.com](mailto:tylerpell@jmbcrush.com)

Attention: Mr. Tyler Pell  
 Aggregate Resource Manager

### NOTICE OF NON-COMPLIANCE

Alberta Environment and Parks (AEP) has identified numerous instances of 2161889 Alberta Ltd.'s (216) non-compliance with the pit covered by SML 060060. On February 17, 2021 AEP finished a review of the terms and conditions of SML 060060 and satellite imagery of the lands covered by SML 060060.

#### ***Public Lands Act***

AEP has determined that as it relates to SML 060060, 216 has:

- caused, permitted, or allowed loss or damage to public land;
- caused, permitted, or allowed the creation of conditions likely to result in soil erosion on public land; and
- contravened one or more provisions of the disposition.

The above are contraventions of the *Public Lands Act*:

*54(1)(c) "No person shall cause, permit or suffer the existence on public land of any condition that may cause loss or damage to the public land."*

*54(1)(f) "No person shall cause, permit or suffer the creation of any condition on public land which is likely to result in soil erosion."*

*56(1)(n) "A person who as the holder of a disposition, contravenes..."*

*the disposition is guilty of an offence."*

### **Public Lands Administration Regulation**

AEP has determined that as it relates to SML 060060, 216 has:

- failed to pay fees owing to AEP;
- failed to comply with the terms and conditions of the disposition;
- failed to adhere to disturbance standards;
- allowed or caused loss or damage on the subject land; and
- failed to report these non-compliance issues to the Director.

The above are contraventions of the *Public Lands Administration Regulation*:

*21(1)(b) "The holder of a formal disposition must pay promptly and regularly any rent, rate, royalty, charge or fee that is payable by the holder under the formal disposition, the Act or this Regulation."*

*21(1)(d) "The holder of a formal disposition must comply with the terms and conditions of the formal disposition."*

*21(1)(g) "The holder of a formal disposition shall not cause or allow unauthorized loss or damage on the subject land."*

*165(1) "A person responsible for a reportable event must report the event to the Department as soon as possible and in any event not later than 7 days after the person became aware, or should reasonably have become aware, of its occurrence."*

AEP's investigation into potential other contraventions of the *Public Lands Act* and the *Public Lands Administration Regulation* are ongoing.

### **Water Act**

In October 2020, AEP conducted an inspection of SML 060060 and identified an end pit lake present at the disposition. On February 17, 2021, AEP confirmed the existence of the end pit lake through satellite imagery. Based on a review of its databases, AEP determined that no authorization has been issued for the creation of a waterbody at this location. This is a contravention of section 36(1) of the *Water Act*, which states:

*"No person may commence or continue an activity except pursuant to an approval, unless it is otherwise authorized under this Act."*

### **Written Plan to Resolve Non-Compliance**

For SML 060060, 2161889 Alberta Ltd. is required to submit a written plan to AEP by no later than **February 26, 2021**:

- detailing its assessment of the disposition against the terms and conditions of SML 060060, the *Public Lands Act* and the *Public Lands Administration Regulation*;
- describing how 216 plans to bring the disposition into compliance with the *Public Lands Act*, *Public Lands Administration Regulation*, and the terms and conditions of the disposition, including a timeline to completion; and
- stating its immediate plans to operate the pit on the lands contained in SML 060060.

Please be advised that enforcement action arising from the above mentioned contraventions may be taken without further notice. Should you have any questions, please contact the undersigned at 780-623-5483 or by email at [nathan.polturak@gov.ab.ca](mailto:nathan.polturak@gov.ab.ca).

Respectfully,

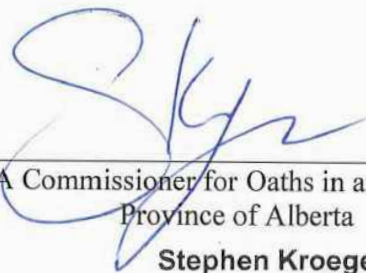


Nathan Polturak, P.Biol.  
Environmental Protection Officer  
Regulatory Assurance Division – North District

CC: Heather Dent, Compliance Manager  
Neil Brad, Regulatory Assurance Manager  
Maxwell Harrison, Compliance Manager (acting)  
Bryon LevKulich, Mantles Materials Group Ltd.  
Josh Inglett, Mantles Materials Group Ltd.  
Tom Cumming, Gowling WLG (Canada) LLP



THIS IS EXHIBIT "G" REFERRED TO IN  
THE AFFIDAVIT OF TYLER PELL  
SWORN BEFORE ME  
THIS 22<sup>ND</sup> DAY OF MARCH, 2021



---

A Commissioner for Oaths in and for the  
Province of Alberta

**Stephen Kroeger**

*Barrister & Solicitor*

A Notary Public/Commissioner for Oaths  
in and for the Province of Alberta

My Commission expires at the pleasure of  
the Lieutenant Governor in Council



JMB Crushing Systems  
P.O. Box 6977  
Bonnyville, AB T9N 2H4

February 24, 2021

April Franks  
Environmental Protection Officer  
Regional Compliance  
Environment and Parks  
1st fl 250 Diamond Avenue  
Spruce Grove, AB T7X 4C7

**Re: Written Plan to Resolve Non-Compliances – Investigation No. 35659  
Buksa 15048-03-02, Havener 17395-01-00, Kucy 306490-00-00, MacDonald 293051-00-00,  
Megley 149949-00-00, Okane 263318-00-00,**

This letter is submitted by JMB Crushing Systems Inc. (“JMB”) in response to your February 12, 2021 letter in which Alberta Environment and Parks (“AEP”) required a written plan (the “Plan”) to be submitted by February 18, 2021. Further clarification of the letter and the requirements were discussed during a follow up meeting with AEP and JMB on February 16, 2021. An extension to February 24, 2021 was requested by JMB after the meeting and granted by AEP.

As you are aware, pursuant to an order of the Court of Queen’s Bench of Alberta (the “Court”) under the *Companies’ Creditors Arrangement Act* (the “CCAA”) made on May 1, 2020, JMB and its subsidiary, 2161889 Alberta Ltd. (“216”), were granted protection from their creditors and FTI Consulting Canada Inc. was appointed as their monitor (the “Monitor”). The Court subsequently approved a sale and investment solicitation procedure, under which the Monitor and a sale advisor marketed the assets of JMB and 216. The only viable proposal to purchase certain core assets of JMB and 216 was set out in a bid submitted by Mantle Resources Group, Ltd. (“Mantle”). Pursuant to an asset purchase agreement dated September 28, 2020 between JMB and 216 as vendors and Mantle as purchaser, and a plan of arrangement filed by JMB and Mantle, the core assets of JMB and 216 were to be vested in Mantle, Mantle was to assume specific liabilities, and the remaining assets and liabilities of JMB were to be vested in 216.

Mantle, JMB and 216 intend to amend and restate the purchase agreement and plan of arrangements such that a new corporation will be incorporated (“ResidualCo”), JMB and 216 will retain their respective public lands dispositions and registrations under the *Environmental Protection and Enhancement Act* (the “EPEA”) and the majority of their core assets that were previously to be vested in Mantle, and certain residual non-regulated assets and all non-assumed liabilities will be vested in ResidualCo. The effect of





JMB Crushing Systems  
P.O. Box 6977  
Bonnyville, AB T9N 2H4

this is that Mantle and JMB would be subsidiaries of RLF Canada Holdings Limited, 216 would remain a subsidiary of JMB, JMB and 216 would emerge as solvent companies from the CCAA proceedings, and Mantle would fund the combined business of the three corporations. The revised transaction contemplates that replacement security will be provided for the pits subject to EPEA registration nos. 15048-03-02, 17395-01-00, 306490-00-00, 293051-00-00, 149949-00-00, 263318-00-00 and 308161-00-00.

As previously discussed with you, in order to enable a supply contract with the Municipal District of Bonnyville No. 87 to be performed, JMB is required to commence operations in the Shankowski pit (registration no. 308161-00-00), and therefore Mantle will provide the funds to JMB to permit this security to be posted in cash form. Also, a revised Activity Plan addressing the non-compliances is to be immediately filed so that the registration can be put into good standing. This is subject to a letter sent concurrently with this letter.

Mantle is exiting CCAA under challenging market conditions and without a sales backlog. Current and first year financial pressures play a factor in financing the outstanding reclamation. Mantle will perform progressive reclamation on the pits as production is performed. As markets and sales improve there will be opportunity to align reclamation implementation with crushing operations. This approach takes advantages of the economies of scale with heavy equipment and personnel already on site. Fully addressing the current volume of outstanding reclamation for all the pits is proposed to take four years with some pits only taking three years. Reclamation in the first year of operations will be of a smaller scale on the private land pits and each year after that will increase to meet, in some cases, a four-year timeframe. General details are presented below, and further detail will be presented in each individual Updated Activity Plan ("UAP") submission in relation to any unique technical details of operations and reclamation.

With the potential June 2021 deployment of the new Sand & Gravel framework and digital platform, all required UAP's applications are proposed to be submitted by May 31, 2021.

Updated reclamation security amounts will be submitted as part of AEP's typical UAP approval process.





JMB Crushing Systems  
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 Bonnyville, AB T9N 2H4

The following criteria was used for the assessment and planning of each individual pit non-compliance and/or issue:

#### Assessment

- Desktop review of the current conditions of the pit.
- Review current Activity Plan to compare against current conditions.
- Determination of issue and/or further detailing of non-compliance and when it likely occurred.

#### Plans to address issues and bring pit into compliance

- List out tasks that, when implemented, go towards getting the pit back into compliance and/or address issues.

### Written Plan Information by Pit

#### Buksa 15048-03-02

##### Assessment of Pit

- Non-compliance: security
- 2017 UAP covers current disturbance area.
- ~3.5 ha of the 17.6 ha of COP registration area is reclaimed.

##### Plan to bring pit into compliance

- Post security.

##### Timeline

- Post security as part of the closing of CCAA court proceedings.

#### Havener 17395-01-00

##### Assessment of Pit

- Non-compliances: security, boundary, 5 year report
- Large disturbance area inside and outside registration boundary.
- Boundary non-compliance, sequencing, and improved progressive reclamation need to be addressed and updated through an UAP submission.
- 20% of total disturbed area is revegetated as a form of temporary reclamation.



JMB Crushing Systems  
 P.O. Box 6977  
 Bonnyville, AB T9N 2H4

#### Plan to bring into compliance

- UAP submission.
- Post security.
- Submit 5 year report.
- Implementation of sequencing and reclamation based on UAP.

#### Timeline

- 5 year report submitted February 18, 2021.
- UAP application submission - May 31, 2021.
- Post security as part of the closing of CCAA court proceedings – Upon acceptance of the UAP.
- Implementation of operational and reclamation improvements within three years of UAP approval.

#### Scheduling factors

- Frost free resource assessment in disturbed areas.
- Larger amount of reclamation liability and/or effort required to address issues.
- First year budget and annual budgeting for the foreseeable future .
- Development, submission, and AEP review time for final approval of an UAP application before operations and improved reclamation can be implemented.

#### Kucy 306490-00-00

##### Assessment of Pit

- Non-compliances: security, boundary, Water Act
- Boundary presented by AEP is incorrect and there are no JMB operations in SW 20-63-09-W4.
- Working in the water table and an end pit water body design is documented in the current approved Activities Plan (2012 approval). Also referenced is bailing as a method of the working in the water table and no requirement for a Water Act approvals based on the *Guide to the code of practice for pits*.
- Current water body surface area is 1.5 ha, approved area in Activities Plan is 0.6 ha.
- Aside from the operations outside the registration boundary, the mining sequence was followed but not completed.



JMB Crushing Systems  
 P.O. Box 6977  
 Bonnyville, AB T9N 2H4

#### Plan to bring into compliance

- UAP submission for reclamation.
- Post security.
- Implementation of final reclamation based on UAP.
- Work with AEP to determine final Water Act approval requirements for designed end pit lake or filling in water body.

#### Timeline

- UAP application submission - May 31, 2021.
- Water Act submission – TBD in 2021 based on results of consultation with AEP.
- Post security as part of the closing of CCAA court proceedings – Upon acceptance of the UAP.
- Implementation of final reclamation within three years of UAP approval.

#### Scheduling factors

- First year budget and annual budgeting for the foreseeable future.
- Effort and time to receive approval from landowners for final reclamation plan as there will be no Royalty Agreement in place which gives us the right to access the land for and reclamation.
- Due diligence and frost free testing of resource by 3rd party (Urlacher Construction) that has an interest in taking over the registration of the pit.
- Development, submission, and AEP review time for final approval of an UAP application before reclamation can be implemented.
- Frost free assessment of pit waterbodies and the typical time period to acquire the applicable Water Act approvals.

#### MacDonald 293051-00-00

##### Assessment of Pit

- Non-compliances: security, boundary
- UAP application was submitted in 2018 to formally address boundary non-compliance and update mining plans. The UAP itself was reviewed by Stephen Abioye, AEP and only the submission of the updated security amount to AEP was required to have the registration formally updated. JMB was unable to provide additional funds to cover off the updated security amount. May 1<sup>st</sup>, 2020 JMB sought and obtained an initial order from the Court of

05.22a-1536





JMB Crushing Systems  
 P.O. Box 6977  
 Bonnyville, AB T9N 2H4

the Queen's Bench of Alberta under the CCAA. The 2018 UAP application was withdrawn May 22, 2020 on the advice of Stephen.

- Current disturbance used for inventory storage and needing reclamation is ~5.7 ha.

#### Plan to bring into compliance

- UAP re-submission for final operations and reclamation.
- Post security.

#### Timeline

- UAP application submission - March 31, 2021.
- Post security as part of the closing of CCAA court proceedings – Upon acceptance of the UAP.
- Implementation of final reclamation within three years of UAP approval.

#### Scheduling factors

- Existing inventory and likelihood of selling it within two years.
- Effort and time to receive approval from landowner for final operations and reclamation plan as there is no Royalty Agreement in place which gives us the right to access the land.

#### Megley 149949-00-00

##### Assessment of Pit

- Non-compliances: security, boundary, Water Act
- Boundary non-compliance, sequencing, and final reclamation need to be addressed and updated through an UAP submission.
- The creation of a water body and working in the water table in the east were not approved or applied for under the Water Act.
- Water body was not proposed in current Activities Plan.
- Approximately 40% of the total pit disturbance inside and outside of the registration boundary has already been reclaimed and harvested as a commercial crop by a local farmer.

##### Plan to bring into compliance

- UAP submission for reclamation.
- Post security.
- Implementation of final reclamation based on UAP.

SK



JMB Crushing Systems  
 P.O. Box 6977  
 Bonnyville, AB T9N 2H4

- Work with AEP to determine final Water Act approval requirements for filling in created water body.

#### Timeline

- UAP application submission – May 31, 2021.
- Post security as part of the closing of CCAA court proceedings – Upon acceptance of the UAP.
- Water Act submission – TBD based on results of consultation with AEP.
- Implementation of final reclamation within three years of UAP approval.

#### Scheduling factors

- First year budget and annual budgeting for the foreseeable future.
- Effort and time to receive approval from landowner for final reclamation plan even though there is a Royalty Agreement in place which gives us the right to access the land for and reclamation.
- Development, submission, and AEP review time for final approval of an UAP application before reclamation can be implemented.
- Frost free assessment of pit waterbodies and the typical time period to acquire the applicable Water Act approvals.
- Larger amount of reclamation liability and/or effort required to address issues.

#### Okane 263318-00-00

##### Assessment of Pit

- Non-compliances: security, boundary, 5 year report
- Of the 8 ha of original registration area, approximately 5.1 ha has been reclaimed.
- The current disturbed area requiring reclamation is 6.8 ha.
- Inside the registration area the mining sequence was followed.

##### Plan to bring into compliance

- UAP submission for reclamation.
- Post security.
- Implementation of final reclamation based on UAP.

##### Timeline

- 5 year report submitted February 18, 2021.



JMB Crushing Systems  
P.O. Box 6977  
Bonnyville, AB T9N 2H4

- 
- UAP application submission – April 30, 2021.
  - Post security as part of the closing of CCAA court proceedings – Upon acceptance of the UAP.
  - Implementation of final reclamation within 3 years of UAP approval.

Scheduling factors

- First year budget and annual budgeting for the foreseeable future.
- Effort and time to receive approval from new landowner for final reclamation plan even though there is a Royalty Agreement in place which gives us the right to access the land for and reclamation.
- Development, submission, and AEP review time for final approval of an UAP application before final reclamation can be implemented.

See attached table that summarizes the unique details of reported non-compliances and maps showing the current registration boundary and 2020 imagery.

If you have any questions please contact the undersigned.

Regards,

A handwritten signature in blue ink that reads 'Tyler Pell'.

Tyler Pell  
Aggregates Resource Manager  
JMB Crushing Systems Inc.  
[tylerpell@jmbcrushing.com](mailto:tylerpell@jmbcrushing.com)  
1.780.815.0139





JMB Crushing Systems  
P.O. Box 6977  
Bonnyville, AB T9N 2H4

February 24, 2021

April Franks  
Environmental Protection Officer  
Regional Compliance  
Environment and Parks  
1st fl 250 Diamond Avenue  
Spruce Grove, AB T7X 4C7

**Re: Written Plan to Resolve Non-Compliances – Investigation No. 35659  
Shankowski 308161-00-00**

This letter is submitted by JMB Crushing Systems Inc. ("JMB") in response to your February 12, 2021 letter in which Alberta Environment and Parks ("AEP") required a written plan (the "Plan") to be submitted by February 18, 2021. Further clarification of the letter and the requirements were discussed during a follow up meeting with AEP and JMB on February 16, 2021. An extension to February 24, 2021 was requested by JMB after the meeting and granted by AEP.

As previously discussed with you, in order to enable a supply contract with the Municipal District of Bonnyville No. 87 to be performed, JMB is required to commence operations in the Shankowski pit (registration no. 308161-00-00), and therefore Mantle will provide the funds to JMB to permit this security to be posted in cash form. Also, a revised Activity Plan addressing the non-compliances is to be immediately filed so that the registration can be put into good standing.

As you are aware, pursuant to an order of the Court of Queen's Bench of Alberta (the "Court") under the *Companies' Creditors Arrangement Act* (the "CCAA") made on May 1, 2020, JMB and its subsidiary, 2161889 Alberta Ltd. ("216"), were granted protection from their creditors and FTI Consulting Canada Inc. was appointed as their monitor (the "Monitor"). The Court subsequently approved a sale and investment solicitation procedure, under which the Monitor and a sale advisor marketed the assets of JMB and 216. The only viable proposal to purchase certain core assets of JMB and 216 was set out in a bid submitted by Mantle Resources Group, Ltd. ("Mantle"). Pursuant to an asset purchase agreement dated September 28, 2020 between JMB and 216 as vendors and Mantle as purchaser, and a plan of arrangement filed by JMB and Mantle, the core assets of JMB and 216 were to be vested in Mantle, Mantle was to assume specific liabilities, and the remaining assets and liabilities of JMB were to be vested in 216.



JMB Crushing Systems  
P.O. Box 6977  
Bonnyville, AB T9N 2H4

Mantle, JMB and 216 intend to amend and restate the purchase agreement and plan of arrangements such that a new corporation will be incorporated ("ResidualCo"), JMB and 216 will retain their respective public lands dispositions and registrations under the *Environmental Protection and Enhancement Act* (the "EPEA") and the majority of their core assets that were previously to be vested in Mantle, and certain residual non-regulated assets and all non-assumed liabilities will be vested in ResidualCo. The effect of this is that Mantle and JMB would be subsidiaries of RLF Canada Holdings Limited, 216 would remain a subsidiary of JMB, JMB and 216 would emerge as solvent companies from the CCAA proceedings, and Mantle would fund the combined business of the three corporations. The revised transaction contemplates that replacement security will be provided for the pits subject to EPEA registration nos. 15048-03-02, 17395-01-00, 306490-00-00, 293051-00-00, 149949-00-00, 263318-00-00 and 308161-00-00.

Mantle is exiting CCAA under challenging market conditions and without a sales backlog. Current and first year financial pressures play a factor in financing the outstanding reclamation. Mantle will perform progressive reclamation on the Shankowski pit as production is performed. As markets and sales improve there will be opportunity to align reclamation implementation with crushing operations. This approach takes advantages of the economies of scale with heavy equipment and personnel already on site. Fully addressing the current volume of outstanding reclamation for all this pit is proposed to take four years. Reclamation in the first year of operations will be of a smaller scale on the pit and each year after that will increase to meet the four-year timeframe. General details are presented below, and further detail will be presented in the Updated Activity Plan ("UAP") submission in relation to any unique technical details of operations and reclamation.

Reclamation security will be posted as part of AEP's typical UAP approval process.

The following criteria was used for the assessment and planning of the Shankowski pit non-compliance and outstanding mining sequencing issue:

#### Assessment

- Desktop review of the current conditions of the pit
- Review current Activity Plan to compare against current conditions.
- Determination of issue and/or further detailing of non-compliance and when it likely occurred





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#### Plans to address issues and bring pit into compliance

- List out tasks that, when implemented, go towards getting the pit back into compliance and/or address issues

#### Shankowski 308161-00-00

##### Assessment of Pit

- Non-compliances: security, boundary
- Large disturbance area inside and outside registration boundary
- Boundary non-compliance, sequencing, and improved progressive reclamation need to be addressed and updated through an UAP submission
- Previous disturbed area in the NW was disturbed prior to the registration being transferred to JMB late 2018. This area was included in the February 18, 2020 UAP submission.
- UAP application was submitted in 2018 to cover boundary non-compliance and update mining plans. The UAP was in the process of being reviewed by Stephen Abioye, AEP and a SIR response was being prepared by JMB but on May 1<sup>st</sup>, 2020 JMB sought and obtained an initial order from the Court of the Queen's Bench of Alberta under the CCAA. The 2018 UAP application was withdrawn May 22, 2020 on the advice of Stephen Abioye.
- There is no reclamation on the current 23 ha of disturbed area inside and outside of the registration area

##### Plan to bring into compliance

- UAP submission
- Post security
- Implementation of sequencing and reclamation based on approved UAP

##### Timeline

- UAP application submission – Week of February 22 to 26, 2021
- Replace security as part of the closing of CCAA court proceedings – Once UAP is approved
- Implementation of operational and reclamation improvements within four years of UAP approval

##### Scheduling factors

- Amount of reclamation liability and/or effort required to address issues
- First year budget and annual budgeting for the foreseeable future
- Frost free resource assessment in disturbed areas





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- 
- Approval from landowner for updated operational plans and reclamation even though there is a royalty agreement in place which gives us the right to access the land for and reclamation

See attached table that summarizes the unique details of reported non-compliances and map showing the current registration boundary laid over 2020 imagery.

If you have any questions please contact the undersigned.


Regards,

A handwritten signature in blue ink that reads 'Tyler Pell'.

Tyler Pell  
Aggregates Resource Manager  
JMB Crushing Systems Inc.  
[tylerpell@jmbcrushing.com](mailto:tylerpell@jmbcrushing.com)  
1.780.815.0139

CP

THIS IS EXHIBIT "H" REFERRED TO IN  
THE AFFIDAVIT OF TYLER PELL  
SWORN BEFORE ME  
THIS 22<sup>ND</sup> DAY OF MARCH, 2021



---

A Commissioner for Oaths in and for the  
Province of Alberta

**Stephen Kroeger**

*Barrister & Solicitor*

A Notary Public/Commissioner for Oaths  
in and for the Province of Alberta  
My Commission expires at the pleasure of  
the Lieutenant Governor in Council

JMB Crushing Systems Inc.  
P.O. Box 6977  
Bonnyville, AB T9N 2H4

---

February 26, 2021

Nathan Polturak  
Regulatory Assurance Division  
North District  
2nd Flr Provincial Building  
9503 Beaver Hill Road  
Lac La Biche, Alberta T0A 2C0  
Phone: (780) 623-5240

**Re: Written Plan to Resolve Non-Compliances – Investigation No. 35659  
SML 930040, SML 980116, SML 120027**

This letter is submitted by JMB Crushing Systems Inc. (“JMB”) in response to your February 23, 2021 letter in which Alberta Environment and Parks (“AEP”) required a written plan (the “Plan”) to be submitted by February 26, 2021. Further clarification of the letter and the requirements were discussed during a follow up meeting between yourself and Tyler Pell on February 23, 2021.

As you may be aware, pursuant to an order of the Court of Queen's Bench of Alberta (the “Court”) under the *Companies' Creditors Arrangement Act* (the “CCAA”) made on May 1, 2020, JMB and its subsidiary, 2161889 Alberta Ltd. (“216”), were granted protection from their creditors and FTI Consulting Canada Inc. was appointed as their monitor (the “Monitor”). The Court subsequently approved a sale and investment solicitation procedure, under which the Monitor and a sale advisor marketed the assets of JMB and 216. The only viable proposal to purchase certain core assets of JMB and 216 was set out in a bid submitted by Mantle Resources Group, Ltd. (“Mantle”). Pursuant to an asset purchase agreement dated September 28, 2020 between JMB and 216 as vendors and Mantle as purchaser, and a plan of arrangement filed by JMB and Mantle, the core assets of JMB and 216 were to be vested in Mantle, Mantle was to assume specific liabilities, and the remaining assets and liabilities of JMB were to be vested in 216.

Mantle, JMB and 216 intend to amend and restate the purchase agreement and plan of arrangements such that a new corporation will be incorporated (“ResidualCo”), JMB and 216 will retain their respective public lands dispositions and registrations under the *Environmental Protection and Enhancement Act* (the “EPEA”) and the majority of their core assets that were previously to be vested in Mantle, and certain residual non-regulated assets and all non-assumed liabilities will be vested in ResidualCo. The effect of this is that Mantle and JMB would be subsidiaries of RLF Canada Holdings Limited, 216 would remain a



JMB Crushing Systems Inc.  
P.O. Box 6977  
Bonnyville, AB T9N 2H4

---

subsidiary of JMB, JMB and 216 would emerge as solvent companies from the CCAA proceedings, and Mantle would fund the combined business of the three corporations.

JMB and 216 are exiting CCAA under challenging market conditions and without a sales backlog. Current and first year financial pressures play a factor in financing the outstanding reclamation. Mantle will perform progressive reclamation on a number of pits as production is performed. As markets and sales improve there will be opportunity to align reclamation implementation with active operations. This approach takes advantages of the economies of scale with heavy equipment and personnel already in the same general area. Fully addressing the current volume of outstanding reclamation for all the pits is proposed to take four years with some pits only taking three years. Reclamation in the first year of operations will be of a smaller scale on numerous pits and each year after that will increase to meet, in some cases, a four-year timeframe. Details are presented below, and further detail will be presented in any applicable regulatory submissions.

The following criteria was used for the assessment and planning of each individual pit non-compliance and/or issue:

#### Assessment

- Desktop review of the current conditions of the pit.
- Review current Conservation and Reclamation Business Plan (CRBP) to compare against current conditions.
- Determination of issue and/or further detailing of non-compliance and when it likely occurred.

#### Plans to address issues and bring pit into compliance

- List out tasks that, when implemented, go towards getting the pit back into compliance and/or address issues.

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## Written Plan Information

### SML 930040

#### Assessment of Pit

- Disposition area is 0.87 ha.
- Disturbed area is 0.45 ha.
- Disturbed area has no topsoil.
- Site assessment Oct 2020 showed a possible stockpile of salvaged soils in the north portion of the SML.
- JMB has been contacted by Randy Batke of Bonnyville as an interested party to take over the SML as a source of sand for rodeo grounds.

#### Plan to bring pit into compliance

- Green up assessment of stockpile quality and quantity to determine viability for final reclamation.
- Assignment of SML to interested 3<sup>rd</sup> party.

#### Timeline

- Green up assessment - 2021.
- Assignment - 2021

#### Scheduling factors

- Closing date of CCAA court proceedings.
- Consultation with AEP and Randy on options for assigning the SML to Randy.

### SML 980116

#### Assessment of Pit

- Disposition is 5.85 ha and is overlapped by LOC 890970.
- 3.3 ha has been disturbed and revegetated.
- Cows from GRL36298 have been entering and using the SML on a very regular basis.
- Gate installed on access road entering from highway.
- SML is fenced along the highway right-of-way boundary.

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- 
- A small stockpile along the treed boundary in the NW portion of the disturbed area of the SML needs confirmation of its composition. The pile is revegetated.

Plan to bring pit into compliance

- Since the site is used by the adjacent GRL holder for grazing his cows, JMB is proposing the SML be added to the area of GRL 36298 as is.
- Once the stockpile is confirmed of its composition, move to location along the LOC that is accessible for final reclamation of the LOC.

Timeline

- Finalize pile – May 15, 2021
- Convert to GRL and move pile - 2021

Scheduling factors

- Consultation time with AEP.
- Closing date of CCAA court proceedings.

SML 120027

Assessment of Pit

- Pit is 99% reclaimed and revegetated.
- EZE was constructed before SML was disturbed. It is believed that there has been no measurable effect on the EZE from the development and operations of the SML.

Plan to bring pit into compliance

- JMB believes the pit is in compliance.
- Green up site assessment as regular post reclamation follow up.

Timeline

- Green up 2021.

Scheduling factors

- Green up conditions in 2021.



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---

Immediate plans to operate the pit

- The pit is exhausted and 99% of reclamation is completed. There are no plans to operate the pit for production.


If you have any questions please contact the undersigned.

Regards,



Tyler Pell  
Aggregates Resource Manager  
JMB Crushing Systems Inc.  
[tylerpell@jmbrushing.com](mailto:tylerpell@jmbrushing.com)  
1.780.815.0139

THIS IS EXHIBIT "T" REFERRED TO IN  
THE AFFIDAVIT OF TYLER PELL  
SWORN BEFORE ME  
THIS 22<sup>ND</sup> DAY OF MARCH, 2021



---

A Commissioner for Oaths in and for the  
Province of Alberta

**Stephen Kroeger**

*Barrister & Solicitor*

A Notary Public/Commissioner for Oaths  
in and for the Province of Alberta  
My Commission expires at the pleasure of  
the Lieutenant Governor in Council

2161889 Alberta Ltd  
P.O. Box 6977  
Bonnyville, AB T9N 2H4

February 26, 2021

Nathan Polturak  
Regulatory Assurance Division  
North District  
2nd Flr Provincial Building  
9503 Beaver Hill Road  
Lac La Biche, Alberta T0A 2C0  
Phone: (780) 623-5240

**Re: Written Plan to Resolve Non-Compliances – Investigation No. 35659  
SML 060060**

This letter is submitted by 2161889 Alberta Ltd. ("216") in response to your February 23, 2021 letter in which Alberta Environment and Parks ("AEP") required a written plan (the "Plan") to be submitted by February 26, 2021. Further clarification of the letter and the requirements were discussed during a follow up meeting between yourself and Tyler Pell on February 23, 2021.

As you may be aware, pursuant to an order of the Court of Queen's Bench of Alberta (the "Court") under the *Companies' Creditors Arrangement Act* (the "CCAA") made on May 1, 2020, JMB and its subsidiary, 2161889 Alberta Ltd. ("216"), were granted protection from their creditors and FTI Consulting Canada Inc. was appointed as their monitor (the "Monitor"). The Court subsequently approved a sale and investment solicitation procedure, under which the Monitor and a sale advisor marketed the assets of JMB and 216. The only viable proposal to purchase certain core assets of JMB and 216 was set out in a bid submitted by Mantle Resources Group, Ltd. ("Mantle"). Pursuant to an asset purchase agreement dated September 28, 2020 between JMB and 216 as vendors and Mantle as purchaser, and a plan of arrangement filed by JMB and Mantle, the core assets of JMB and 216 were to be vested in Mantle, Mantle was to assume specific liabilities, and the remaining assets and liabilities of JMB were to be vested in 216.

Mantle, JMB and 216 intend to amend and restate the purchase agreement and plan of arrangements such that a new corporation will be incorporated ("ResidualCo"), JMB and 216 will retain their respective public lands dispositions and registrations under the *Environmental Protection and Enhancement Act* (the "EPEA") and the majority of their core assets that were previously to be vested in Mantle, and certain residual non-regulated assets and all non-assumed liabilities will be vested in ResidualCo. The effect of this is that Mantle and JMB would be subsidiaries of RLF Canada Holdings Limited, 2161889 Alberta Ltd. (the "Company").



2161889 Alberta Ltd  
P.O. Box 6977  
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---

subsidiary of JMB, JMB and 216 would emerge as solvent companies from the CCAA proceedings, and Mantle would fund the combined business of the three corporations.

JMB and 216 are exiting CCAA under challenging market conditions and without a sales backlog. Current and first year financial pressures play a factor in financing the outstanding reclamation. Mantle will perform progressive reclamation on a number of pits as production is performed. As markets and sales improve there will be opportunity to align reclamation implementation with active operations. This approach takes advantages of the economies of scale with heavy equipment and personnel already in the same general area. Fully addressing the current volume of outstanding reclamation for all the pits is proposed to take four years with some pits only taking three years. Reclamation in the first year of operations will be of a smaller scale on numerous pits and each year after that will increase to meet, in some cases, a four-year timeframe. Details are presented below, and further detail will be presented in any applicable regulatory submissions.

The following criteria was used for the assessment and planning of each individual pit non-compliance and/or issue:

#### Assessment

- Desktop review of the current conditions of the pit.
- Review current Activity Plan to compare against current conditions.
- Determination of issue and/or further detailing of non-compliance and when it likely occurred.

#### Plans to address issues and bring pit into compliance

- List out tasks that, when implemented, go towards getting the pit back into compliance and/or address issues.

2161889 Alberta Ltd  
P.O. Box 6977  
Bonnyville, AB T9N 2H4

---

## Written Plan Information

### SML 060060

#### Assessment of Pit

- Non-compliance: Water Act (unauthorized water body)
- The creation of a water body was not authorized under the Water Act or presented in the Conservation and Reclamation Business Plan (CRBP).
- The construction of the water body and all other disturbances existed before 216 was assigned SML 060060 in March 2019.
- JLG Ball Enterprises is believed to be the operator of the pit prior to March 2019.
- 216 has not operated in the water body since being assigned the disposition.
- 216's operations since March 2019 have not increased the overall disturbance footprint of the disposition or further disturbed areas logged of trees but not previously striped of the original root mat. Only a very minor amount of earthworks was completed on area already devoid of topsoil. This was necessary to support the hauling of saleable crushed material produced by the previous operator of the SML.
- Total disposition area 16.77 ha.
  - 3.9 ha - Area with trees removed and original root mat and soils undisturbed.
  - 3.6 ha - Recontoured area with topsoil replaced.
  - 1.2 ha - Recontoured area yet to receive topsoil.
  - 4.1 ha – Disturbed (active operations area)
  - 1.3 ha – Water body
  - 1.2 ha – Disturbed – temporary revegetation
  - 0.5 ha – Soil storage
  - 1.0 ha – Undisturbed
- Evidence of parent materials being washed away past the SML boundary into adjacent undisturbed forest to the south.
- Potential boundary non-compliance in south.
- Mining sequence
  - Timber was harvested over the entire site as one event sometime in 2017.
  - Excavation occurred in portions of mining cell #1, #3, and #4.
  - Topsoil stripping and excavation was not implemented in mining cell #2. Portions of the other mining cells also have area not stripped of topsoil and excavated.

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Bonnyville, AB T9N 2H4

---

Plan to bring pit into compliance

- Engage the services of a legal land surveyor to survey the southern boundary in question. Forward results to AEP for further consultation and possible action.
- Work with AEP to determine final Water Act authorization requirements for filling in the constructed water body.
- Update CRBP as needed.
- Submit non-compliance for construction of water body without authorization.

Timeline

- Non-compliance submission – Week of March 1<sup>st</sup>, 2021.
- Legal survey of southern boundary – Two weeks after closing of CCAA court proceedings.
- Frost free site assessment in relation to erosion concerns and constructed water body – May 15, 2021.
- Water Act submission – TBD in 2021 based on results of consultation with AEP.
- CRBP update submission - TBD in 2021 based on results of consultation with AEP.
- Earthworks to deconstruct water body - TBD in 2021 based on results of consultation with AEP.

Scheduling factors

- Closing date of CCAA court proceedings.

Immediate Plans to operate the pit

- 216 has no immediate plans to operate the pit for production purposes.
- 216 is in negotiations with Skoreyko Crushing Ltd for the assignment of the disposition to Skoreyko Crushing Ltd.

If you have any questions please contact the undersigned.

Regards,



Tyler Pell

Aggregates Resource Manager

JMB Crushing Systems Inc.

[tylerpell@jmbcrushing.com](mailto:tylerpell@jmbcrushing.com)

1.780.815.0139



THIS IS EXHIBIT "J" REFERRED TO IN  
THE AFFIDAVIT OF TYLER PELL  
SWORN BEFORE ME  
THIS 22<sup>ND</sup> DAY OF MARCH, 2021



---

A Commissioner for Oaths in and for the  
Province of Alberta

**Stephen Kroeger**

*Barrister & Solicitor*

A Notary Public/Commissioner for Oaths  
in and for the Province of Alberta

My Commission expires at the pleasure of  
the Lieutenant Governor in Council

---

**From:** Nathan Polturak <Nathan.Polturak@gov.ab.ca>  
**Sent:** March 10, 2021 4:51 PM  
**To:** Tyler Pell  
**Cc:** Neil Brad; Heather Dent; Maxwell Harrison; byron.levkulich@rlholdings.com; Cumming, Tom; Josh Inglett  
**Subject:** FW: AEP Response - Written Plan to Resolve Non-Compliance - SML 930040

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---

With apologies Mr. Pell. Please see the message below.

**Nathan Polturak, P.Biol.**

Environmental Protection Officer  
Regulatory Assurance Division – North District  
Alberta Environment and Parks  
2<sup>nd</sup> Floor, Provincial Building  
9503 Beaverhill Road, Lac La Biche, AB T0A 2C0  
Phone 780-623-5483 / Fax 780-623-4584  
[nathan.polturak@gov.ab.ca](mailto:nathan.polturak@gov.ab.ca)

Classification: Protected A

**From:** Nathan Polturak  
**Sent:** Wednesday, March 10, 2021 4:47 PM  
**Cc:** Neil Brad (neil.brad@gov.ab.ca) <neil.brad@gov.ab.ca>; Heather Dent <Heather.Dent@gov.ab.ca>; Maxwell Harrison <maxwell.harrison@gov.ab.ca>; byron.levkulich@rlholdings.com; tom.cumming@gowlingwlg.com; Josh Inglett <josh.inglett@RLHoldings.com>  
**Subject:** AEP Response - Written Plan to Resolve Non-Compliance - SML 930040

Hello Mr. Pell,

Thank you for providing the requested response. JMB Crushing System Ltd.'s proposed plans contain conditional timelines and outcomes that do not provide the defined, timely, and achievable commitments that AEP requires to be satisfied that the non-compliances will be resolved.

At this time, AEP will have to proceed with alternative regulatory tools in order to ensure these requirements are addressed.

Regards,

**Nathan Polturak, P.Biol.**

Environmental Protection Officer  
Regulatory Assurance Division – North District

Alberta Environment and Parks  
2<sup>nd</sup> Floor, Provincial Building  
9503 Beaverhill Road, Lac La Biche, AB T0A 2C0  
Phone 780-623-5483 / Fax 780-623-4584  
[nathan.polturak@gov.ab.ca](mailto:nathan.polturak@gov.ab.ca)

Classification: Protected A

JK



---

**From:** Nathan Polturak <Nathan.Polturak@gov.ab.ca>  
**Sent:** March 10, 2021 4:47 PM  
**To:** Tyler Pell  
**Cc:** Neil Brad; Heather Dent; Maxwell Harrison; byron.levkulich@rlholdings.com; Cumming, Tom; Josh Inglett  
**Subject:** AEP Response - Written Plan to Resolve Non-Compliance - SML 980116

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Hello Mr. Pell,

Thank you for providing the requested response. JMB Crushing System Ltd.'s proposed plans contain conditional timelines and outcomes that do not provide the defined, timely, and achievable commitments that AEP requires to be satisfied that the non-compliances will be resolved.

At this time, AEP will have to proceed with alternative regulatory tools in order to ensure these requirements are addressed.

Regards,

**Nathan Polturak, P.Biol.**

Environmental Protection Officer  
Regulatory Assurance Division – North District  
Alberta Environment and Parks  
2<sup>nd</sup> Floor, Provincial Building  
9503 Beaverhill Road, Lac La Biche, AB T0A 2C0  
Phone 780-623-5483 / Fax 780-623-4584  
[nathan.polturak@gov.ab.ca](mailto:nathan.polturak@gov.ab.ca)

Classification: Protected A

---

**From:** Nathan Polturak <Nathan.Polturak@gov.ab.ca>  
**Sent:** March 10, 2021 4:47 PM  
**Cc:** Neil Brad; Heather Dent; Maxwell Harrison; byron.levkulich@rlholdings.com; Cumming, Tom; Josh Inglett  
**Subject:** AEP Response - Written Plan to Resolve Non-Compliance - SML 930040

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---

Hello Mr. Pell,

Thank you for providing the requested response. JMB Crushing System Ltd.'s proposed plans contain conditional timelines and outcomes that do not provide the defined, timely, and achievable commitments that AEP requires to be satisfied that the non-compliances will be resolved.

At this time, AEP will have to proceed with alternative regulatory tools in order to ensure these requirements are addressed.

Regards,

**Nathan Polturak, P.Biol.**

Environmental Protection Officer  
Regulatory Assurance Division – North District  
Alberta Environment and Parks  
2<sup>nd</sup> Floor, Provincial Building  
9503 Beaverhill Road, Lac La Biche, AB T0A 2C0  
Phone 780-623-5483 / Fax 780-623-4584  
[nathan.polturak@gov.ab.ca](mailto:nathan.polturak@gov.ab.ca)

Classification: Protected A

---

**From:** Nathan Polturak <Nathan.Polturak@gov.ab.ca>  
**Sent:** March 10, 2021 4:47 PM  
**To:** Tyler Pell  
**Cc:** Neil Brad; Heather Dent; Maxwell Harrison; byron.levkulich@rlholdings.com; Cumming, Tom; Josh Inglett  
**Subject:** AEP Response - Written Plan to Resolve Non-Compliance - SML 120027

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---

Hello Mr. Pell,

Thank you for providing the requested response. JMB Crushing System Ltd.'s proposed plans contain conditional timelines and outcomes that do not provide the defined, timely, and achievable commitments that AEP requires to be satisfied that the non-compliances will be resolved.

At this time, AEP will have to proceed with alternative regulatory tools in order to ensure these requirements are addressed.

Regards,

**Nathan Polturak, P.Biol.**

Environmental Protection Officer  
Regulatory Assurance Division – North District  
Alberta Environment and Parks  
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9503 Beaverhill Road, Lac La Biche, AB T0A 2C0  
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[nathan.polturak@gov.ab.ca](mailto:nathan.polturak@gov.ab.ca)

Classification: Protected A



---

**From:** Nathan Polturak <Nathan.Polturak@gov.ab.ca>  
**Sent:** March 10, 2021 4:47 PM  
**To:** Tyler Pell  
**Cc:** Neil Brad; Heather Dent; Maxwell Harrison; byron.levkulich@rlholdings.com; Cumming, Tom; Josh Inglett  
**Subject:** AEP Response - Written Plan to Resolve Non-Compliance - SML 060060

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---

Hello Mr. Pell,

Thank you for providing the requested response. 2161889 Alberta Ltd.'s proposed plans contain conditional timelines and outcomes that do not provide the defined, timely, and achievable commitments that AEP requires to be satisfied that the non-compliances will be resolved.

At this time, AEP will have to proceed with alternative regulatory tools in order to ensure these requirements are addressed.

Regards,

**Nathan Polturak, P.Biol.**

Environmental Protection Officer  
Regulatory Assurance Division – North District  
Alberta Environment and Parks  
2<sup>nd</sup> Floor, Provincial Building  
9503 Beaverhill Road, Lac La Biche, AB T0A 2C0  
Phone 780-623-5483 / Fax 780-623-4584  
[nathan.polturak@gov.ab.ca](mailto:nathan.polturak@gov.ab.ca)

Classification: Protected A

SK

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**From:** April Franks <April.Franks@gov.ab.ca>  
**Sent:** March 10, 2021 4:36 PM  
**To:** Tyler Pell  
**Cc:** Josh Inglett; Byron LevKulich (Byron.LevKulich@rlholdings.com); Cumming, Tom  
**Subject:** AEP Response to JMB's written plan package

**Importance:** High

---

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---

Hello Mr. Pell,

Thank you for providing the requested response to the February 12, 2021 Notice of Non-Compliance.

JMB proposed plans with regards to MacDonald Pit, the plan contains conditional timelines and outcomes that do not provide the defined, timely, and achievable commitments that AEP requires to be satisfied that the non-compliances will be resolved.

JMB proposed plans with regards to Megley Pit, the plan contains conditional timelines and outcomes that do not provide the defined, timely, and achievable commitments that AEP requires to be satisfied that the non-compliances will be resolved.

JMB proposed plans with regards to Kucy Pit, the plan contains conditional timelines and outcomes that do not provide the defined, timely, and achievable commitments that AEP requires to be satisfied that the non-compliances will be resolved.

JMB proposed plans with regards to Havener Pit, the plan contains conditional timelines and outcomes that do not provide the defined, timely, and achievable commitments that AEP requires to be satisfied that the non-compliances will be resolved.

JMB proposed plans with regards to Buksa Pit, the plan contains conditional timelines and outcomes that do not provide the defined, timely, and achievable commitments that AEP requires to be satisfied that the non-compliances will be resolved.

JMB proposed plans with regards to O'Kane Pit, the plan contains conditional timelines and outcomes that do not provide the defined, timely, and achievable commitments that AEP requires to be satisfied that the non-compliances will be resolved.

At this time, AEP will have to proceed with alternative regulatory tools in order to ensure these requirements are addressed.

Regards,

**April Franks**  
Environmental Protection Officer

Capital - North Region | Regulatory Assurance Division  
Suite #1 250 Diamond Avenue  
Spruce Grove, Alberta T7X 4C7

THIS IS EXHIBIT "K" REFERRED TO IN  
THE AFFIDAVIT OF TYLER PELL  
SWORN BEFORE ME  
THIS 22<sup>ND</sup> DAY OF MARCH, 2021



A Commissioner for Oaths in and for the  
Province of Alberta

**Stephen Kroeger**

Barrister & Solicitor  
A Notary Public/Commissioner for Oaths  
in and for the Province of Alberta  
My Commission expires at the pleasure of  
the Lieutenant Governor in Council





Regulatory Assurance  
Capital Region  
PO Box 4240 (T7X 3B4)  
250 Diamond Avenue  
Spruce Grove AB T7X 4C7  
Telephone: 780-960-8600

**ENVIRONMENTAL PROTECTION AND ENHANCEMENT ACT**

BEING RSA 2000, c. E-12 (the "Act")

ENVIRONMENTAL PROTECTION ORDER EPO-EPEA-35659-01

JMB Crushing Systems Inc.  
Suite 2300, Bentall 5 550, Burrard Street  
Vancouver BC  
V6C 2B5,  
Canada

Byron Levkulich, Director  
JMB Crushing Systems Inc.  
1400 16<sup>th</sup> Street, Suite 320  
Denver CO 80202  
United States

Aaron Patsch, Director  
JMB Crushing Systems Inc.  
1400 16<sup>th</sup> Street, Suite 320  
Denver CO 80202  
United States

Jeffrey Buck, former Director  
JMB Crushing Systems Inc.  
3439 Keswick Boulevard SW  
Edmonton, AB  
T6W 3B2

Collectively referred to as the "Parties"

WHEREAS JMB Crushing Systems Inc. ("JMB") operates a pit under Registration No. 293051-00-00 located on SE-34-056-07-W4M in the County of St. Paul No.19 (the "MacDonald Pit");

WHEREAS Byron Levkulich and Aaron Patsch are Directors of JMB and Jeffrey Buck is a former Director of JMB ("Parties");

WHEREAS Allan MacDonald owns the land on which the MacDonald Pit is located;

WHEREAS section 2.1.1 of the *Code of Practice for Pits* states "any person who carries out an activity at a pit must do so in accordance with this Code of Practice";

WHEREAS an "activity at a pit" is defined in the *Code of Practice for Pits* to mean the construction, operation or reclamation of a pit;

- 2 -

WHEREAS on January 20, 2020, Alberta Environment and Parks ("AEP") sent an email to JMB stating that the MacDonald Pit security Bond No. BND0015363, in the amount of \$16,695.00, was expiring on March 9, 2020 and AEP had previously on December 3, 2019 requested JMB to provide additional security in the amount of \$60,905.51 for a new total of \$77,600.51;

WHEREAS on May 1, 2020, JMB obtained an initial order from the Court under the *Companies Creditors Arrangement Act* ("CCAA"), R.S.C. 1985, c. C-36, as amended;

WHEREAS on May 22, 2020, JMB withdrew its application submitted to AEP on April 25, 2018 to update the Activities Plan for the MacDonald Pit;

WHEREAS on November 18, 2020, AEP sent a letter to JMB indicating they failed to replace security instruments on 7 pits that were registered to JMB and located on private land, including the MacDonald Pit;

WHEREAS on January 26, 2021, April Franks, an Environmental Protection Officer ("EPO") and Inspector under the *Environmental Protection and Enhancement Act* RSA 2000, c E-12 (the "Inspector"), conducted a review of the MacDonald Pit Activities Plan and 2019 satellite imagery of the area and determined that JMB contravened the *Code of Practice for Pits* by:

- failing to restore the required security as required under section 3.2.2 of the *Code of Practice for Pits*;
- failing to follow the Activities Plan mining sequence including not conducting reclamation noted as required under section 4.1.1 of the *Code of Practice for Pits*;
- failing to comply to the boundary approved in the Registration as required under section 4.1.1 of the *Code of Practice for Pits*;
- failing to report non-compliance issues to the Director as required under section 6.1.1 of the *Code of Practice for Pits*;

WHEREAS reclamation of the disturbed land on MacDonald Pit has not occurred to date;

WHEREAS section 3.2.2 of the *Code of Practice for Pits* states "unless exempted by the Act or the *Conservation and Reclamation Regulation*, as amended from time to time, no person shall commence or continue an activity at a pit unless the full amount of security for that pit has been provided to the Director, as authorized in writing by the Director."

WHEREAS section 4.1.1 of the *Code of Practice for Pits* states "no person shall conduct any activity at a pit except in accordance with the most recent Activities Plan.";

WHEREAS section 6.1.1 of the *Code of Practice for Pits* states "in addition to any other reporting required pursuant to this Code of Practice, the Act or the regulations under the Act, any person carrying out an activity at a pit shall immediately report any contravention of this Code of Practice to: (a) the registration holder; and (b) the Director: (i) by telephone at (780) 422-4505, or (ii) by a method:(A) in compliance with the release reporting provisions of the Act and the regulations; or(B) authorized in writing by the Director.";

WHEREAS on February 12, 2021, AEP issued a Notice of Non Compliance ("NONC") to JMB



- 3 -

stating that AEP had identified issues of non-compliance under the *Code of Practice for Pits* for pits registered to JMB located on private land, including the MacDonald Pit;

WHEREAS the NONC also stated that, by February 18, 2021, JMB was to provide:

- an assessment of the pits against the terms and conditions of the Registration and the *Code of Practice for Pits*, and
- a plan to bring each pit into compliance with the Registration and the *Code of Practice for Pits*;

WHEREAS JMB requested two extension requests that AEP granted to provide the information requested in the NONC;

WHEREAS on February 24, 2021, JMB provided AEP with its response to the NONC, which stated that JMB's intentions with respect to the MacDonald Pit were as follows:

- to submit an updated Activities Plan by March 31, 2021 for the purpose of reclamation,
- to post a security bond as a part of the closing of the CCAA court proceedings upon acceptance of the updated activities plan, and
- implement reclamation within three years of the updated activities plan approval;

WHEREAS on February 24, 2021, the EPO had a conversation with the landowner, Allan MacDonald, who indicated that:

- JMB last operated the MacDonald Pit on or about summer 2019, at which time they hauled approximately 10,000 tonnes of gravel off site without payment to the landowner, and
- JMB breached a number of agreements with Allan MacDonald including payment of royalties and completion of reclamation by December 31, 2020;

WHEREAS section 137 of the *Environmental Protection and Enhancement Act* states that an operator must conserve and reclaim specified land and unless exempted by the regulation, obtain a reclamation certificate in respect of the conservation and reclamation;

WHEREAS the MacDonald Pit is a "pit" as defined in the *Activities Designation Regulation* section 3(3)(d), for the purposes of Division 3 of Schedule 2;

WHEREAS the surface land disturbance in the MacDonald Pit is "specified lands" as defined by the *Conservation and Reclamation Regulation* section 1(t)(v);

WHEREAS the Parties are operators as defined in section 134(b)(i) of *EPEA*, i.e. an approval or registration holder who carries on or has carried on an activity on or in respect of specified land pursuant to an approval or registration, and section 34(b) vii), i.e. a person who acts as principal or agent of a person referred to in any of subclauses (i) to (vi);

WHEREAS section 3.1 of the *Conservation and Reclamation Regulation* states that the *Code of Practice for Pits*, as published by AEP, is adopted and forms part of that regulation and requires that a person carrying on an activity referred to in Column A of the Schedule must



- 4 -

comply with the corresponding Code of Practice in Column B of the Schedule in carrying on that activity;

WHEREAS the Schedule of the *Conservation and Reclamation Regulation* states that the construction, operation or reclamation of a pit that is listed in Schedule 2, Division 3 of the *Activities Designation Regulation* must comply with the *Code of Practice for Pits*;

WHEREAS April Franks, EPO North Region (the "Inspector") has been designated as an Inspector for the purposes of issuing environmental protection orders under section 140 the *Environmental Protection and Enhancement Act*;

WHEREAS the Inspector is of the opinion that the suspension of the operation in the MacDonald Pit and directing the performance of work is necessary in order to conserve and reclaim the MacDonald Pit;

THEREFORE, I April Franks, Inspector, North Region, pursuant to section 140 of the *Environmental Protection and Enhancement Act*, DO HEREBY ORDER:

1. The Parties shall immediately suspend any and all work at the MacDonald Pit, and shall not remove any stockpiled materials.

2. By March 13, 2021, the Parties shall submit to the Inspector for the Inspector's approval, the name and qualifications of a consultant who carries a professional designation authorized to practice reclamation on private land, which the Parties will retain to prepare and sign the below noted reclamation and remedial plan.

3. By March 20, 2021, the Parties shall submit to the Inspector for the Inspector's review and approval a written reclamation and remedial plan ("Plan").

4. The Parties shall include at minimum include all of the following in the Plan:

- a. Particulars of the characteristics and properties of the land including topography, drainage, soils, vegetation and land capability.
- b. A historical synopsis of the surface, subsurface and groundwater disturbance.
- c. A description of the adjacent land uses.
- d. An accounting of what volume of marketable aggregate is left within the MacDonald pit and its value.
- e. A description of the reclamation work including the type of equipment, methods and materials that will be used in implementing the Plan.
- f. A description of the proposed reclaimed land use that includes elevations, soil replacement and re-vegetation.
- g. A description of how ground water infiltrating open excavations will be addressed and justification for any surface and water related improvements to be left in place.

- 5 -

- h. A proposed Schedule of Implementation that shall have September 20, 2022 as the completion date.
  - i. A 6 month monitoring and maintenance program commencing September 20, 2022.
5. Upon approval of the Plan by the Inspector, the Parties shall conduct the work described in the approved Plan, according to the approved schedule of implementation, unless otherwise authorized in writing by the Inspector.
6. The Parties shall submit progress updates to the Inspector on July 30, 2021, November 30, 2021, March 31, 2022, and July 29, 2022 that include a detailed summary of all reclamation activities undertaken at MacDonald Pit;
7. Within 14 days of the completion of the requirements of this Order, the Parties shall submit to the Inspector a final written report prepared and signed by the consultant describing the work undertaken to comply with this Order.

DATED at the City of Spruce Grove in the Province of Alberta, this Tuesday on the 2<sup>nd</sup> day of March, 2021.



April Franks,  
Inspector,  
Environmental Protection Officer,  
North Region

- 6 -

**Section 91 of the *Environmental Protection and Enhancement Act* may provide a right of appeal against this decision to the Alberta Environmental Appeals Board. There may be a strict time limit for filing such an appeal. A copy of section 91 is enclosed. For further information, please contact the Board Secretary at #306 Peace Hills Trust Tower, 10011 - 109 Street, Edmonton, Alberta, T5J 3S8; telephone (780) 427-6207; fax (780) 427-4693.**

**Notwithstanding the above requirements, the Party shall obtain all necessary approvals in complying with this order.**

**Take notice that this environmental protection order is a remedial tool only, and in no way precludes any enforcement proceedings being taken regarding this matter under this Act or any other legislation.**

**Further, contravention of the Environmental Protection Order may lead to additional enforcement proceedings, up to and including prosecution.**



#### **Part 4 Environmental Appeals Board**

##### **Environmental Appeals Board established**

**90(1)** There is hereby established the Environmental Appeals Board consisting of persons appointed by the Lieutenant Governor in Council.

(2) The Board shall hear appeals as provided for in this Act or any other enactment.

(3) The Board may convene a panel of Board members to conduct a hearing of an appeal and appoint a person to chair the panel.

(4) Where a panel is convened, the panel has all the powers of the Board and is subject to all the same duties the Board is subject to, and a reference in this Act to the Board is to be read as a reference to the panel.

RSA 2000 cE-12 s90;2003 c42 s6

##### **Notice of appeal**

**91(1)** A notice of appeal may be submitted to the Board by the following persons in the following circumstances:

- (a) where the Director issues an approval, makes an amendment, addition or deletion pursuant to an application under section 70(1)(a) or makes an amendment, addition or deletion pursuant to section 70(3)(a), a notice of appeal may be submitted

- (i) by the approval holder or by any person who previously submitted a statement of concern in accordance with section 73 and is directly affected by the Director's decision, in a case where notice of the application or proposed changes was provided under section 72(1) or (2), or
- (ii) by the approval holder or by any person who is directly affected by the Director's decision, in a case where no notice of the application or proposed changes was provided by reason of the operation of section 72(3);
- (b) where the Director refuses
  - (i) to issue an approval, or
  - (ii) to make an amendment, addition or deletion in respect of an approval pursuant to an application under section 70(1)(a),  
the applicant may submit a notice of appeal;
- (c) where the Director cancels or suspends an approval under section 70(3)(b) or (4), the approval holder may submit a notice of appeal;
- (d) where the Director cancels a certificate of qualification under section 83(1)(b), the holder of the certificate of qualification may submit a notice of appeal;
- (e) where the Director issues an enforcement order under section 210(1)(a), (b) or (c), the person to whom the order is directed may submit a notice of appeal;
- (f) where an inspector issues an environmental protection order regarding conservation and reclamation under section 140 or 141, the person to whom the order is directed may submit a notice of appeal;
- (g) where the Director issues an environmental protection order under section 129,
  - (i) the person to whom the order is directed, and
  - (ii) any person who is directly affected by the designation of the contaminated site  
may submit a notice of appeal;
- (h) where the Director issues an environmental protection order, except an environmental protection order directing

- the performance of emergency measures under section 114, 151 or 160 and an environmental protection order referred to in clause (g), the person to whom the order is directed may submit a notice of appeal;
- (i) where an inspector issues a reclamation certificate under section 138, or the Director or an inspector amends a reclamation certificate under section 139, the operator and any person who receives a copy of the certificate or amendment under section 145 may submit a notice of appeal;
  - (j) where the Director or an inspector cancels a reclamation certificate, the operator may submit a notice of appeal;
  - (k) where the Director or an inspector refuses to accept an application for a reclamation certificate or an inspector refuses to issue a reclamation certificate, the operator may submit a notice of appeal;
  - (l) where the Director or an inspector issues, amends or cancels a remediation certificate under section 117, any person who receives notice of the issuance, amendment or cancellation as provided for in the regulations may submit a notice of appeal;
  - (l.1) where the Director or an inspector refuses to accept an application for a remediation certificate or refuses to issue a remediation certificate under section 117, any person who receives notice of the refusal as provided for in the regulations may submit a notice of appeal;
  - (m) where the Director designates an area as a contaminated site under section 125, any person who is directly affected by the designation may submit a notice of appeal;
  - (n) where the Director requires a person to pay an administrative penalty under section 237, the person to whom the notice is directed may submit a notice of appeal;
  - (o) where the Director refuses a request for confidentiality under section 35(5)(b), the person to whom the notice is directed under section 35(6) may submit a notice of appeal;
  - (p) persons authorized under Part 9 of the *Water Act*, in accordance with Part 9 of the *Water Act*.
- (2) Notwithstanding subsection (1)(b), where the Director refuses to issue an approval pursuant to an order of the Minister under



section 64, no notice of appeal may be submitted in respect of that refusal.

(3) Where an activity prescribed in the regulations for the purposes of this subsection is the subject of an approval and is carried out in stages, and where the Director issues an approval in respect of a stage, no notice of appeal may be submitted in respect of a stage that is already covered by the approval.

(4) A notice of appeal must be submitted to the Board

- (a) not later than 7 days after receipt of a copy of the enforcement order or the environmental protection order, in a case referred to in subsection (1)(e), (f) or (h),
- (b) not later than one year after receipt of a copy of the reclamation certificate, in a case referred to in subsection (1)(i) relating to the issuing of a reclamation certificate, and
- (c) not later than 30 days after receipt of notice of the decision appealed from or the last provision of notice of the decision appealed from, as the case may be, in any other case.

(5) The Board may, on application made before or after the expiry of the appeal period referred to in subsection (4), extend that period, where the Board is of the opinion that there are sufficient grounds for doing so.

(6) A notice of appeal submitted to the Board under this Act or in accordance with the *Water Act* must contain the information and be made in the manner provided for in the regulations.

(7) A notice of appeal initiates an appeal of the decision objected to.

RSA 2000 cE-12 s91;2002 c4 s1;2003 c37 s14;  
2003 c42 s6;2006 c15 s10

#### Additional information

**92** Where the Board receives a notice of appeal, it may by written notice given to the person who submitted the notice of appeal require the submission of additional information specified in the written notice by the time specified in the written notice.

1992 cE-13.3 s85;1998 c15 s9

THIS IS EXHIBIT "L" REFERRED TO IN  
THE AFFIDAVIT OF TYLER PELL  
SWORN BEFORE ME  
THIS 22<sup>ND</sup> DAY OF MARCH, 2021



---

A Commissioner for Oaths in and for the  
Province of Alberta

**Stephen Kroeger**

*Barrister & Solicitor*

A Notary Public/Commissioner for Oaths  
in and for the Province of Alberta

My Commission expires at the pleasure of  
the Lieutenant Governor in Council

---

**From:** April Franks <April.Franks@gov.ab.ca>  
**Sent:** March 12, 2021 11:57 AM  
**To:** Tyler Pell  
**Cc:** Cumming, Tom  
**Subject:** RE: EPO-EPEA-35659-01

**Importance:** High

**Follow Up Flag:** Follow up

**Flag Status:** Flagged

Good morning Tyler,

During our phone conversation yesterday you indicated that you would like AEP to provide you with some clarification regarding an update to the Macdonald Pit's Activities Plan and the associated financial security as neither of these items are mentioned in EPO-35659-01 (MacDonald Pit EPO). Since that conversation, AEP has issued EPO-EPEA-35659-02, EPO-EPEA-35659-03, EPO-EPEA-35659-04, EPO-EPEA-35659-05, and EPO-EPEA-35659-06. As it pertains to the above listed orders (including EPO-35659-01), an updated Activities Plan and associated financial securities are not required to be submitted to AEP in addition to the Reclamation Plan as required in each EPO.

As it pertains to EPO-35659-01, EPO-EPEA-35659-02, EPO-EPEA-35659-03, EPO-EPEA-35659-04, EPO-EPEA-35659-05, and EPO-EPEA-35659-06, Clause 4 (d) "accounting of what volume of marketable aggregate is left within the Pit and its value", stands. This is a requirement set out in each of the listed EPOs. The provision of this information relates directly to regulatory compliance and reclamation of the lands.

Please confirm that your request for an extension of time from March 20, 2021 to **March 27, 2021** is on behalf of JMB Crushing Systems Inc. and its associated directors Byron LevKulich and Aaron Patsch.

Regards,

**April Franks**  
Environmental Protection Officer

Capital - North Region | Regulatory Assurance Division  
Suite #1 250 Diamond Avenue  
Spruce Grove, Alberta T7X 4C7

Phone: 780-960-8659 | Cell: 780-619-0711  
Email: [april.franks@gov.ab.ca](mailto:april.franks@gov.ab.ca)

24 Hour Environmental Response Line: 1-800-222-6514

 Alberta Environment  
and Parks



Classification: Protected A

**From:** Tyler Pell <tylerpell@jmbcrush.com>  
**Sent:** March-11-21 3:08 PM  
**To:** April Franks <April.Franks@gov.ab.ca>  
**Subject:** RE: EPO-EPEA-35659-01

**CAUTION: This email has been sent from an external source. Treat hyperlinks and attachments in this email with care.**

Hi April

Thanks for reviewing the EPO details and taking my questions today.

As a follow up:

1. Please provide confirmation for whether a Updated Activities Plan ("UAP") application and associated security will still be required for the MacDonald pit reclamation operations and hauling of inventory.
2. We are formally requesting an amendment to the order for #3 Plan submission by March 20, 2021 to a new date of **March 27, 2021**. The rationale for an extension is based on the current volume of JMB responses that are required to be submitted to AEP. The volume is significant and to provide reasonable review time for all applicable stakeholders involved in the current situation and address at least the preliminary details of all the other EPOs, will require more time than AEP put in the order. The proposed date in the submitted JMB February 24, 2021 Written Plan was March 31, 2021. This allowed time to perform due diligence and confirm the older 2018 UAP data and any applicable SIRs against the current 2021 situation. The EPO item #4 (a) to (i) Plan requirements also have to be compared against the 2018 UAP as base. We believe it to reasonable to allow the extra days given the situation.

Regards,

Tyler Pell  
 1.780.815.0139

**From:** April Franks <April.Franks@gov.ab.ca>  
**Sent:** March 10, 2021 14:43  
**To:** Tyler Pell <tylerpell@jmbcrush.com>  
**Subject:** RE: EPO-EPEA-35659-01

Yes, I am in at 8am

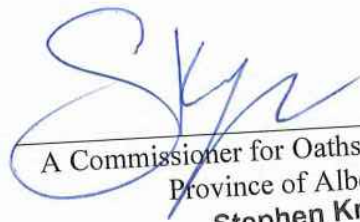
Classification: Protected A

**From:** Tyler Pell <tylerpell@jmbcrush.com>  
**Sent:** March-10-21 2:42 PM  
**To:** April Franks <April.Franks@gov.ab.ca>  
**Subject:** Re: EPO-EPEA-35659-01

**CAUTION: This email has been sent from an external source. Treat hyperlinks and attachments in this email with care.**

Yes that will work. Can we do as early as possible?

THIS IS EXHIBIT "M" REFERRED TO IN  
THE AFFIDAVIT OF TYLER PELL  
SWORN BEFORE ME  
THIS 22<sup>ND</sup> DAY OF MARCH, 2021



A Commissioner for Oaths in and for the  
Province of Alberta  
**Stephen Kroeger**

*Barrister & Solicitor*  
A Notary Public/Commissioner for Oaths  
in and for the Province of Alberta  
My Commission expires at the pleasure of  
the Lieutenant Governor in Council



Regulatory Assurance  
North Region - Capital  
PO Box 4240 (T7X 3B4)  
Suite #1, 250 Diamond Avenue  
Spruce Grove AB T7X 4C7  
Telephone: 780-960-8600

**ENVIRONMENTAL PROTECTION AND ENHANCEMENT ACT**

BEING RSA 2000, c. E-12 (the "Act")

ENVIRONMENTAL PROTECTION ORDER EPO-EPEA-35659-06

JMB Crushing Systems Inc.  
Suite 2300, Bentall 5 550, Burrard Street  
Vancouver BC  
V6C 2B5,  
Canada

Byron Levkulich, Director  
JMB Crushing Systems Inc.  
1400 16<sup>th</sup> Street, Suite 320  
Denver CO 80202  
United States

Aaron Patsch, Director  
JMB Crushing Systems Inc.  
1400 16<sup>th</sup> Street, Suite 320  
Denver CO 80202  
United States

Jeffrey Buck, former Director  
JMB Crushing Systems Inc.  
3439 Keswick Boulevard SW  
Edmonton, AB  
T6W 3B2

Collectively referred to as the "Parties"

WHEREAS JMB Crushing Systems Inc. ("JMB") operates a pit under Registration No. 263318-00-00 located at NE-10-057-06-W4M (O'Kane Pit) in the County of St. Paul No. 19 ("O'Kane Pit");

WHEREAS Byron Levkulich and Aaron Patsch are Directors of JMB and Jeffrey Buck is a former Director of JMB ("Parties");

WHEREAS Aarbo Ranching Ltd. own the land on which the O'Kane Pit is located;

WHEREAS Harvey Aarbo is the director of Aarbo Ranching Ltd;

WHEREAS section 2.1.1 of the *Code of Practice for Pits* states any person who carries out an activity at a pit must do so in accordance with this Code of Practice;



- 2 -

WHEREAS an "activity at a pit" is defined in the *Code of Practice for Pits* to mean the construction, operation or reclamation of a pit;

WHEREAS on January 20, 2020 Alberta Environment and Parks ("AEP") sent an email to JMB stating that the O'Kane Pit security Bond No. BND0015362 in the amount of \$39,805.00 is expiring March 9, 2020.

WHEREAS on May 1, 2020, JMB obtained an initial order from the Court under the *Companies Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended;

WHEREAS on November 18, 2020, AEP sent a letter to JMB indicating they failed to replace financial security instruments on 7 pits that were registered to JMB and located on private land, including the O'Kane Pit;

WHEREAS on January 26, 2021, April Franks, an Environmental Protection Officer ("EPO") and Inspector under the *Environmental Protection and Enhancement Act* RSA 2000, c E-12 (the "Inspector"), conducted a review of the O'Kane Pit Activities Plan and 2019 satellite imagery of the area and determined that JMB contravened the *Code of Practice for Pits* by:

- failing to restore the required financial security as required under section 3.2.2 of the *Code of Practice for Pits*;
- failing to follow the Activities Plan mining sequence including not conducting reclamation as required under section 4.1.1 of the *Code of Practice for Pits*;
- failing to report regulatory non-compliances to the Director as required under section 6.1.1 of the *Code of Practice for Pits*;

WHEREAS reclamation of the disturbed land on O'Kane Pit has not occurred to date;

WHEREAS section 3.2.2 of the *Code of Practice for Pits* states "unless exempted by the Act or the *Conservation and Reclamation Regulation*, as amended from time to time, no person shall commence or continue an activity at a pit unless the full amount of security for that pit has been provided to the Director, as authorized in writing by the Director."

WHEREAS section 4.1.1 of the *Code of Practice for Pits* states "no person shall conduct any activity at a pit except in accordance with the most recent Activities Plan.";

WHEREAS section 6.1.1 of the *Code of Practice for Pits* states "in addition to any other reporting required pursuant to this Code of Practice, the Act or the regulations under the Act, any person carrying out an activity at a pit shall immediately report any contravention of this Code of Practice to: (a) the registration holder; and (b) the Director: (i) by telephone at (780) 422-4505, or (ii) by a method:(A) in compliance with the release reporting provisions of the Act and the regulations; or(B) authorized in writing by the Director.";

WHEREAS on February 12, 2021, AEP issued a Notice of Non Compliance ("NONC") to JMB stating that AEP had identified non-compliances under the *Code of Practice for Pits* for pits registered to JMB located on private land, including the O'Kane Pit;

WHEREAS the NONC also stated that, by February 18, 2021, JMB was to provide:

- 3 -

- an assessment of the pits against the terms and conditions of the Registration and the *Code of Practice for Pits*, and
- a plan to bring each pit into compliance with the Registration and the *Code of Practice for Pits*;

WHEREAS JMB requested two extensions to the deadline to provide the information requested in the NONC, which AEP granted;

WHEREAS on February 24, 2021, JMB provided AEP with its response to the NONC, which stated that JMB's intentions with respect to the O'Kane Pit were as follows:

- to submit an updated Activities Plan by April 30, 2021 for the purpose of reclamation,
- to post a security bond as a part of the closing of the CCAA court proceedings upon acceptance of the updated activities plan, and
- implement reclamation within three years of the updated activities plan approval;

WHEREAS on February 22, 2020 EPO has a conversation with the landowner, Harvey Aarbo, who indicated that;

- JMB last operated the O'Kane Pit on or about summer 2018, at which time they operated without payment of royalties to the landowner;
- Aarbo Ranching Ltd. purchased the property in 2018 and has not had contact with JMB, Harvey Aarbo assumed he was responsible for the reclamation;
- Harvey Aarbo was relying on the security instrument from AEP to offset some reclamation costs and is concerned that JMB has not replaced security;

WHEREAS section 137 of the *Environmental Protection and Enhancement Act* states that an operator must conserve and reclaim specified land and unless exempted by the regulation, obtain a reclamation certificate in respect of the conservation and reclamation;

WHEREAS JMB is an 'operator' under section 134(b)(ii) of the *Environmental Protection and Enhancement Act*;

WHEREAS the O'Kane Pit is a "pit" as defined in the *Activities Designation Regulation* section 3(3)(d), for the purposes of Division 3 of Schedule 2;

WHEREAS the surface land disturbance in the O'Kane Pit is "specified lands" as defined by the *Conservation and Reclamation Regulation* section 1(t)(v);

WHEREAS the Parties are operators as defined in section 134(b)(i) of *EPEA*, i.e. an approval or registration holder who carries on or has carried on an activity on or in respect of specified land pursuant to an approval or registration, and section 34(b) vii), i.e. a person who acts as principal or agent of a person referred to in any of subclauses (i) to (vi);

WHEREAS section 3.1 of the *Conservation and Reclamation Regulation* states that the *Code of Practice for Pits*, as published by AEP, is adopted and forms part of that regulation and requires that a person carrying on an activity referred to in Column A of the Schedule must



- 4 -

comply with the corresponding Code of Practice in Column B of the Schedule in carrying on that activity;

WHEREAS the Schedule of the *Conservation and Reclamation Regulation* states that the construction, operation or reclamation of a pit that is listed in Schedule 2, Division 3 of the *Activities Designation Regulation* must comply with the *Code of Practice for Pits*;

WHEREAS EPO April Franks, North Region (the "Inspector") has been designated as an Inspector for the purposes of issuing environmental protection orders under section 140 the *Environmental Protection and Enhancement Act*;

WHEREAS the Inspector is of the opinion that the suspension of the operation in the O'Kane Pit and directing the performance of work is necessary in order to conserve and reclaim the O'Kane Pit;

WHEREAS the Inspector is of the opinion that the surface land disturbance meets the criteria of "specified lands" defined by the *Conservation and Reclamation Regulation* section 1(t)(v)

THEREFORE, I April Franks, Inspector, North Region, pursuant to section 140 of the *Environmental Protection and Enhancement Act*, DO HEREBY ORDER:

1. The Parties shall immediately suspend any and all work at the O'Kane Pit, and shall not remove any stockpiled materials.
2. By April 13, 2021, the Parties shall submit to the Inspector for the Inspector's approval, the name and qualifications of a consultant who carries a professional designation authorized to practice reclamation on private land, which the Parties will retain to prepare and sign the below noted reclamation and remedial plan.
3. By May 20, 2021, the Parties shall submit to the Inspector for the Inspector's review and approval a written reclamation and remedial plan ("Plan").
4. The Parties shall include at minimum include all of the following in the Plan:
  - a. Particulars of the characteristics and properties of the land including topography, drainage, soils, vegetation and land capability.
  - b. A historical synopsis of the surface, subsurface and groundwater disturbance.
  - c. A description of the adjacent land uses.
  - d. An accounting of what volume of marketable aggregate is left within the O'Kane Pit and its value.
  - e. A description of the reclamation work including the type of equipment, methods and materials that will be used in implementing the Plan.
  - f. A description of the proposed reclaimed land use that includes elevations, soil



- 5 -

replacement and re-vegetation.

- g. A description of how ground water infiltrating open excavations will be addressed and justification for any surface and water related improvements to be left in place.
- h. A proposed Schedule of Implementation that shall have October 29, 2022 as the completion date.
- i. A 6 month monitoring and maintenance program commencing October 29, 2022.

5. Upon approval of the Plan by the Inspector, the Parties shall conduct the work described in the approved Plan, according to the approved schedule of implementation, unless otherwise authorized in writing by the Inspector.

6. The Parties shall submit progress updates to the Inspector on July 30, 2021, November 30, 2021, March 31, 2022, and July 29, 2022 that include a detailed summary of all reclamation activities undertaken at O'Kane Pit;

7. Within 14 days of the completion of the requirements of this Order, the Parties shall submit to the Inspector a final written report prepared and signed by the consultant describing the work undertaken to comply with this Order.

DATED at the City of Spruce Grove in the Province of Alberta, this Thursday on the 11<sup>th</sup> day of March, 2021.



April Franks,  
Inspector,  
Environmental Protection Officer,  
North Region

- 6 -

Section 91 of the *Environmental Protection and Enhancement Act* may provide a right of appeal against this decision to the Alberta Environmental Appeals Board. There may be a strict time limit for filing such an appeal. A copy of section 91 is enclosed. For further information, please contact the Board Secretary at #306 Peace Hills Trust Tower, 10011 - 109 Street, Edmonton, Alberta, T5J 3S8; telephone (780) 427-6207; fax (780) 427-4693.

Notwithstanding the above requirements, the Party shall obtain all necessary approvals in complying with this order.

Take notice that this environmental protection order is a remedial tool only, and in no way precludes any enforcement proceedings being taken regarding this matter under this Act or any other legislation.

Further, contravention of the Environmental Protection Order may lead to additional enforcement proceedings, up to and including prosecution.



Regulatory Assurance  
North Region - Capital  
PO Box 4240 (T7X 3B4)  
Suite #1, 250 Diamond Avenue  
Spruce Grove AB T7X 4C7  
Telephone: 780-960-8600

**ENVIRONMENTAL PROTECTION AND ENHANCEMENT ACT**

BEING RSA 2000, c. E-12 (the "Act")

ENVIRONMENTAL PROTECTION ORDER EPO-EPEA-35659-05

JMB Crushing Systems Inc.  
Suite 2300, Bentall 5 550, Burrard Street  
Vancouver BC  
V6C 2B5,  
Canada

Byron Levkulich, Director  
JMB Crushing Systems Inc.  
1400 16<sup>th</sup> Street, Suite 320  
Denver CO 80202  
United States

Aaron Patsch, Director  
JMB Crushing Systems Inc.  
1400 16<sup>th</sup> Street, Suite 320  
Denver CO 80202  
United States

Jeffrey Buck, former Director  
JMB Crushing Systems Inc.  
3439 Keswick Boulevard SW  
Edmonton, AB  
T6W 3B2

Collectively referred to as the "Parties"

WHEREAS JMB Crushing Systems Inc. ("JMB") operates a pit under Registration No. 15048-00-00 located at NE 24-056-07-W4M (Buksa Pit) in the County of St. Paul No. 19;

WHEREAS Byron Levkulich and Aaron Patsch are Directors of JMB and Jeffrey Buck is a former Director of JMB ("Parties");

WHEREAS 302016 Alberta Ltd. owns the land on which Buksa Pit is location;

WHEREAS Harvey Buksa is a Director of 302016 Alberta Ltd.;

WHEREAS section 2.1.1 of the *Code of Practice for Pits* states any person who carries out an activity at a pit must do so in accordance with this Code of Practice;



- 2 -

WHEREAS an "activity at a pit" is defined in the *Code of Practice for Pits* to mean the construction, operation or reclamation of a pit;

WHEREAS on October 20, 2020 Alberta Environment and Parks ("AEP") sent an email to JMB stating that the Buska Pit security Bond No. BND0015360 in the amount of \$50,442.14 expires December 12, 2020.

WHEREAS on May 1, 2020, JMB obtained an initial order from the Court under the *Companies Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended;

WHEREAS on November 18, 2020, AEP sent a letter to JMB indicating they failed to replace financial security instruments on 7 pits that were registered to JMB and are located on private land, including the Buksa Pit;

WHEREAS on January 26, 2021, April Franks, an Environmental Protection Officer ("EPO") and a designated Inspector under the *Environmental Protection and Enhancement Act* RSA 2000, c E-12 (the "Inspector"), conducted a review of the Buksa Pit Activities Plan and 2019 satellite imagery of the area and determined that JMB contravened the *Code of Practice for Pits* by:

- failing to restore the required security as required under section 3.2.2 of the *Code of Practice for Pits*;
- failing to follow the Activities Plan mining sequence including not conducting reclamation as required under section 4.1.1 of the *Code of Practice for Pits*;
- failing to comply to the boundary approved in the Registration as required under section 4.1.1 of the *Code of Practice for Pits*;
- failing to report regulatory non-compliances to the Director as required under section 6.1.1 of the *Code of Practice for Pits*;

WHEREAS section 3.2.2 of the *Code of Practice for Pits* states "unless exempted by the Act or the *Conservation and Reclamation Regulation*, as amended from time to time, no person shall commence or continue an activity at a pit unless the full amount of security for that pit has been provided to the Director, as authorized in writing by the Director."

WHEREAS section 4.1.1 of the *Code of Practice for Pits* states "no person shall conduct any activity at a pit except in accordance with the most recent Activities Plan.";

WHEREAS section 6.1.1 of the *Code of Practice for Pits* states "in addition to any other reporting required pursuant to this Code of Practice, the Act or the regulations under the Act, any person carrying out an activity at a pit shall immediately report any contravention of this Code of Practice to: (a) the registration holder; and (b) the Director: (i) by telephone at (780) 422-4505, or (ii) by a method:(A) in compliance with the release reporting provisions of the Act and the regulations; or(B) authorized in writing by the Director.";

WHEREAS on February 12, 2021, AEP issued a Notice of Non Compliance ("NONC") to JMB stating that AEP had identified non-compliances under the *Code of Practice for Pits* on pits registered to JMB located on private land, including the Buksa Pit;

WHEREAS the NONC also stated that, by February 18, 2021, JMB was to provide:

- 3 -

- an assessment of the pits against the terms and conditions of the Registration and the *Code of Practice for Pits*, and
- a plan to bring each pit into compliance with the Registration and the *Code of Practice for Pits*;

WHEREAS JMB requested two extensions to the deadline to provide the information requested in the NONC, which AEP granted;

WHEREAS on February 24, 2021, JMB provided AEP with its response to the NONC, which stated that JMB's intentions with respect to the Buska Pit were as follows:

- to post a security bond as a part of the closing of the CCAA court proceedings upon acceptance of the updated activities plan, and

WHEREAS on February 23, 2021, the EPO had a conversation with the landowner, Harvey Buksa, who indicated that:

- JMB last operated Buksa Pit on or about summer 2018; and
- JMB has not communicated its intentions to reclaim or operate Buksa Pit;

WHEREAS section 137 of the *Environmental Protection and Enhancement Act* states that an operator must conserve and reclaim specified land and unless exempted by the regulation, obtain a reclamation certificate in respect of the conservation and reclamation;

WHEREAS JMB is an 'operator' under section 134(b)(ii) of the *Environmental Protection and Enhancement Act*;

WHEREAS the Buksa Pit is a "pit" as defined in the *Activities Designation Regulation* section 3(3)(d), for the purposes of Division 3 of Schedule 2;

WHEREAS the surface land disturbance in the Buksa Pit is "specified lands" as defined by the *Conservation and Reclamation Regulation* section 1(t)(v);

WHEREAS the Parties are operators as defined in section 134(b)(i) of *EPEA*, i.e. an approval or registration holder who carries on or has carried on an activity on or in respect of specified land pursuant to an approval or registration, and section 34(b) vii), i.e. a person who acts as principal or agent of a person referred to in any of subclauses (i) to (vi);

WHEREAS section 3.1 of the *Conservation and Reclamation Regulation* states that the *Code of Practice for Pits*, as published by AEP, is adopted and forms part of that regulation and requires that a person carrying on an activity referred to in Column A of the Schedule must comply with the corresponding Code of Practice in Column B of the Schedule in carrying on that activity;

WHEREAS the Schedule of the *Conservation and Reclamation Regulation* states that the construction, operation or reclamation of a pit that is listed in Schedule 2, Division 3 of the *Activities Designation Regulation* must comply with the *Code of Practice for Pits*;

WHEREAS EPO April Franks, North Region (the "Inspector") has been designated as an



- 4 -

Inspector for the purposes of issuing environmental protection orders under section 140 the *Environmental Protection and Enhancement Act*;

WHEREAS the Inspector is of the opinion that the suspension of the operation in the Buksa Pit and directing the performance of work is necessary in order to conserve and reclaim the Buksa Pit;

WHEREAS the Inspector is of the opinion that the surface land disturbance meets the criteria of "specified lands" defined by the *Conservation and Reclamation Regulation* section 1(t)(v)

THEREFORE, I April Franks, Inspector, North Region, pursuant to section 140 of the *Environmental Protection and Enhancement Act*, DO HEREBY ORDER:

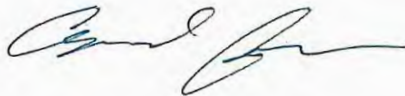
1. The Parties shall immediately suspend any and all work at the Buksa Pit, and shall not remove any stockpiled materials.
2. By April 13, 2021, the Parties shall submit to the Inspector for the Inspector's approval, the name and qualifications of a consultant who carries a professional designation authorized to practice reclamation on private land, which the Parties will retain to prepare and sign the below noted reclamation and remedial plan.
3. By May 20, 2021, the Parties shall submit to the Inspector for the Inspector's review and approval a written reclamation and remedial plan ("Plan").
4. The Parties shall include at minimum include all of the following in the Plan:
  - a. Particulars of the characteristics and properties of the land including topography, drainage, soils, vegetation and land capability.
  - b. A historical synopsis of the surface, subsurface and groundwater disturbance.
  - c. A description of the adjacent land uses.
  - d. An accounting of what volume of marketable aggregate is left within the Buksa Pit and its value.
  - e. A description of the reclamation work including the type of equipment, methods and materials that will be used in implementing the Plan.
  - f. A description of the proposed reclaimed land use that includes elevations, soil replacement and re-vegetation.
  - g. A description of how ground water infiltrating open excavations will be addressed and justification for any surface and water related improvements to be left in place.
  - h. A proposed Schedule of Implementation that shall have October 29, 2022 as the completion date.



- 5 -

- i. A 6 month monitoring and maintenance program commencing October 29, 2022.
5. Upon approval of the Plan by the Inspector, the Parties shall conduct the work described in the approved Plan, according to the approved schedule of implementation, unless otherwise authorized in writing by the Inspector.
  6. The Parties shall submit progress updates to the Inspector on July 30, 2021, November 30, 2021, March 31, 2022, and July 29, 2022 that include a detailed summary of all reclamation activities undertaken at Buksa Pit;
  7. Within 14 days of the completion of the requirements of this Order, the Parties shall submit to the Inspector a final written report prepared and signed by the consultant describing the work undertaken to comply with this Order.

DATED at the City of Spruce Grove in the Province of Alberta, this Thursday on 11<sup>th</sup> day of March, 2021.



April Franks,  
Inspector,  
Environmental Protection Officer,  
North Region

- 6 -

Section 91 of the *Environmental Protection and Enhancement Act* may provide a right of appeal against this decision to the Alberta Environmental Appeals Board. There may be a strict time limit for filing such an appeal. A copy of section 91 is enclosed. For further information, please contact the Board Secretary at #306 Peace Hills Trust Tower, 10011 - 109 Street, Edmonton, Alberta, T5J 3S8; telephone (780) 427-6207; fax (780) 427-4693.

Notwithstanding the above requirements, the Party shall obtain all necessary approvals in complying with this order.

Take notice that this environmental protection order is a remedial tool only, and in no way precludes any enforcement proceedings being taken regarding this matter under this Act or any other legislation.

Further, contravention of the Environmental Protection Order may lead to additional enforcement proceedings, up to and including prosecution.



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Suite #1, 250 Diamond Avenue  
Spruce Grove AB T7X 4C7  
Telephone: 780-960-8600

**ENVIRONMENTAL PROTECTION AND ENHANCEMENT ACT**

BEING RSA 2000, c. E-12 (the "Act")

ENVIRONMENTAL PROTECTION ORDER EPO-EPEA-35659-04

JMB Crushing Systems Inc.  
Suite 2300, Bentall 5 550, Burrard Street  
Vancouver BC  
V6C 2B5,  
Canada

Byron Levkulich, Director  
JMB Crushing Systems Inc.  
1400 16<sup>th</sup> Street, Suite 320  
Denver CO 80202  
United States

Aaron Patsch, Director  
JMB Crushing Systems Inc.  
1400 16<sup>th</sup> Street, Suite 320  
Denver CO 80202  
United States

Jeffrey Buck, former Director  
JMB Crushing Systems Inc.  
3439 Keswick Boulevard SW  
Edmonton, AB  
T6W 3B2

Collectively referred to as the "Parties"

WHEREAS JMB Crushing Systems Inc. ("JMB") operates a pit under Registration No. 17395-01-00 located at NW 16-056-07-W4M (Havener Pit) in the County of St. Paul No. 19 (the "Havener Pit");

WHEREAS Byron Levkulich and Aaron Patsch are Directors of JMB and Jeffrey Buck is a former Director of JMB ("Parties");

WHEREAS Lynne Havener and Gail Havener own the land on which Havener Pit is located;

WHEREAS section 2.1.1 of the *Code of Practice for Pits* states any person who carries out an activity at a pit must do so in accordance with this Code of Practice;

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- 2 -

WHEREAS an "activity at a pit" is defined in the *Code of Practice for Pits* to mean the construction, operation or reclamation of a pit;

WHEREAS on January 20, 2020 Alberta Environment and Parks ("AEP") sent an email to JMB stating that Havener Pit security Bond No. BND0015361 in the amount of \$41,872.00 is expiring March 9, 2020.

WHEREAS on May 1, 2020 JMB indicated to AEP that they were entering The Companies Creditors Arrangement Act proceedings;

WHEREAS on May 1, 2020, JMB obtained an initial order from the Court under the *Companies Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended;

WHEREAS on November 18, 2020, AEP sent a letter to JMB indicating they failed to replace financial security instruments on 7 pits that were registered to JMB and located on private land, including the Havener Pit;

WHEREAS on January 26, 2021, April Franks, an Environmental Protection Officer ("EPO") and a designated Inspector under the *Environmental Protection and Enhancement Act* RSA 2000, c E-12 (the "Inspector"), conducted a review of the Havener Pit Activities Plan and 2019 satellite imagery of the area and determined that JMB contravened the *Code of Practice for Pits* by:

- failing to restore the required financial security as required under section 3.2.2 of the *Code of Practice for Pits*;
- failing to follow the Activities Plan mining sequence including not conducting reclamation as required under section 4.1.1 of the *Code of Practice for Pits*;
- failing to comply to the boundary approved in the Registration as required under section 4.1.1 of the *Code of Practice for Pits*;
- failing to report non-compliance issues to the Director as required under section 6.1.1 of the *Code of Practice for Pits*;

WHEREAS reclamation of the disturbed land on Havener Pit has not occurred to date;

WHEREAS section 3.2.2 of the *Code of Practice for Pits* states "unless exempted by the Act or the *Conservation and Reclamation Regulation*, as amended from time to time, no person shall commence or continue an activity at a pit unless the full amount of security for that pit has been provided to the Director, as authorized in writing by the Director."

WHEREAS section 4.1.1 of the *Code of Practice for Pits* states "no person shall conduct any activity at a pit except in accordance with the most recent Activities Plan.";

WHEREAS section 6.1.1 of the *Code of Practice for Pits* states "in addition to any other reporting required pursuant to this Code of Practice, the Act or the regulations under the Act, any person carrying out an activity at a pit shall immediately report any contravention of this Code of Practice to: (a) the registration holder; and (b) the Director: (i) by telephone at (780) 422-4505, or (ii) by a method:(A) in compliance with the release reporting provisions of the Act and the regulations; or(B) authorized in writing by the Director.";

- 3 -

WHEREAS on February 12, 2021, AEP issued a Notice of Non Compliance ("NONC") to JMB stating that AEP had identified non-compliances under the *Code of Practice for Pits* on pits registered to JMB located on private land, including the Havener Pit;

WHEREAS the NONC also stated that, by February 18, 2021, JMB was to provide:

- an assessment of the pits against the terms and conditions of the Registration and the *Code of Practice for Pits*, and
- a plan to bring each pit into compliance with the Registration and the *Code of Practice for Pits*;

WHEREAS JMB requested two extensions to the deadline to provide the information requested in the NONC, which AEP granted;

WHEREAS on February 24, 2021, JMB provided AEP with its response to the NONC, which stated that JMB's intentions with respect to the Havener Pit were as follows:

- to submit an updated Activities Plan by May 31, 2021;
- to post a security bond as a part of the closing of the CCAA court proceedings upon acceptance of the updated activities plan; and
- implement reclamation within three years of the updated activities plan approval;

WHEREAS on February 22, 2021 the EPO had a conversation with the landowner, Lynn Havener, who indicated that:

- JMB last operated the Havener Pit on or about summer 2018; and
- JMB breached a contract with Lynn Havener regarding Havener Pit in 2017 and 2018 and still owe payment of royalties to her;

WHEREAS section 137 of the *Environmental Protection and Enhancement Act* states that an operator must conserve and reclaim specified land and unless exempted by the regulation, obtain a reclamation certificate in respect of the conservation and reclamation;

WHEREAS JMB is an 'operator' under section 134(b)(ii) of the *Environmental Protection and Enhancement Act*;

WHEREAS the Havener Pit is a "pit" as defined in the *Activities Designation Regulation* section 3(3)(d), for the purposes of Division 3 of Schedule 2;

WHEREAS the surface land disturbance in the Havener Pit is "specified lands" as defined by the *Conservation and Reclamation Regulation* section 1(t)(v);

WHEREAS the Parties are operators as defined in section 134(b)(i) of *EPEA*, i.e. an approval or registration holder who carries on or has carried on an activity on or in respect of specified land pursuant to an approval or registration, and section 34(b) vii), i.e. a person who acts as principal or agent of a person referred to in any of subclauses (i) to (vi);

WHEREAS section 3.1 of the *Conservation and Reclamation Regulation* states that the *Code of Practice for Pits*, as published by AEP, is adopted and forms part of that regulation and



- 4 -

requires that a person carrying on an activity referred to in Column A of the Schedule must comply with the corresponding Code of Practice in Column B of the Schedule in carrying on that activity;

WHEREAS the Schedule of the *Conservation and Reclamation Regulation* states that the construction, operation or reclamation of a pit that is listed in Schedule 2, Division 3 of the *Activities Designation Regulation* must comply with the *Code of Practice for Pits*;

WHEREAS April Franks, EPO North Region (the "Inspector") has been designated as an Inspector for the purposes of issuing environmental protection orders under section 140 the *Environmental Protection and Enhancement Act*;

WHEREAS the Inspector is of the opinion that the suspension of the operation in the Havener Pit and directing the performance of work is necessary in order to conserve and reclaim the Havener Pit;

WHEREAS the Inspector is of the opinion that the surface land disturbance meets the criteria of "specified lands" defined by the *Conservation and Reclamation Regulation* section 1(t)(v);

THEREFORE, I April Franks, Inspector, North Region, pursuant to section 140 of the *Environmental Protection and Enhancement Act*, DO HEREBY ORDER:

1. The Parties shall immediately suspend any and all work at the Havener Pit, and shall not remove any stockpiled materials.
2. By April 13, 2021, the Parties shall submit to the Inspector for the Inspector's approval, the name and qualifications of a consultant who carries a professional designation authorized to practice reclamation on private land, which the Parties will retain to prepare and sign the below noted reclamation and remedial plan.
3. By May 20, 2021, the Parties shall submit to the Inspector for the Inspector's review and approval a written reclamation and remedial plan ("Plan").
4. The Parties shall include at minimum include all of the following in the Plan:
  - a. Particulars of the characteristics and properties of the land including topography, drainage, soils, vegetation and land capability.
  - b. A historical synopsis of the surface, subsurface and groundwater disturbance.
  - c. A description of the adjacent land uses.
  - d. An accounting of what volume of marketable aggregate is left within the Havener pit and its value.
  - e. A description of the reclamation work including the type of equipment, methods and materials that will be used in implementing the Plan.

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- 5 -

- f. A description of the proposed reclaimed land use that includes elevations, soil replacement and re-vegetation.
  - g. A description of how ground water infiltrating open excavations will be addressed and justification for any surface and water related improvements to be left in place.
  - h. A proposed Schedule of Implementation that shall have October 29, 2022 as the completion date.
  - i. A 6 month monitoring and maintenance program commencing October 29, 2022.
5. Upon approval of the Plan by the Inspector, the Parties shall conduct the work described in the approved Plan, according to the approved schedule of implementation, unless otherwise authorized in writing by the Inspector.
6. The Parties shall submit progress updates to the Inspector on July 30, 2021, November 30, 2021, March 31, 2022, and July 29, 2022 that include a detailed summary of all reclamation activities undertaken at Havener Pit;
7. Within 14 days of the completion of the requirements of this Order, the Parties shall submit to the Inspector a final written report prepared and signed by the consultant describing the work undertaken to comply with this Order.

DATED at the City of Spruce Grove in the Province of Alberta, this Thursday on the 11<sup>th</sup> day of March, 2021.



April Franks,  
Inspector,  
Environmental Protection Officer,  
North Region

SK

- 6 -

Section 91 of the *Environmental Protection and Enhancement Act* may provide a right of appeal against this decision to the Alberta Environmental Appeals Board. There may be a strict time limit for filing such an appeal. A copy of section 91 is enclosed. For further information, please contact the Board Secretary at #306 Peace Hills Trust Tower, 10011 - 109 Street, Edmonton, Alberta, T5J 3S8; telephone (780) 427-6207; fax (780) 427-4693.

Notwithstanding the above requirements, the Party shall obtain all necessary approvals in complying with this order.

Take notice that this environmental protection order is a remedial tool only, and in no way precludes any enforcement proceedings being taken regarding this matter under this Act or any other legislation.

Further, contravention of the Environmental Protection Order may lead to additional enforcement proceedings, up to and including prosecution.



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Telephone: 780-960-8600

**ENVIRONMENTAL PROTECTION AND ENHANCEMENT ACT**

BEING RSA 2000, c. E-12 (the "Act")

ENVIRONMENTAL PROTECTION ORDER EPO-EPEA-35659-03

JMB Crushing Systems Inc.  
Suite 2300, Bentall 5 550, Burrard Street  
Vancouver BC  
V6C 2B5,  
Canada

Byron Levkulich, Director  
JMB Crushing Systems Inc.  
1400 16<sup>th</sup> Street, Suite 320  
Denver CO 80202  
United States

Aaron Patsch, Director  
JMB Crushing Systems Inc.  
1400 16<sup>th</sup> Street, Suite 320  
Denver CO 80202  
United States

Jeffrey Buck, former Director  
JMB Crushing Systems Inc.  
3439 Keswick Boulevard SW  
Edmonton, AB  
T6W 3B2

Collectively referred to as the "Parties"

WHEREAS JMB Crushing Systems Inc. ("JMB") operates a pit under Registration No. 306490-00-00 located on NW 17, NE 18 and SE-19-063-09-W4M (Kucy Pit) in the MD of Bonnyville No.87 (the "Kucy Pit");

WHEREAS Byron Levkulich and Aaron Patsch are Directors of JMB and Jeffrey Buck is a former Director of JMB ("Parties");

WHEREAS Robert Niedzielski, Travis Kwiatkowski, John Kwiatkowski, Leo Kwiatkowski, Ron Kucy, and Rita Kucy own the land on which the Kucy Pit is located;

WHEREAS section 2.1.1 of the *Code of Practice for Pits* states any person who carries out an activity at a pit must do so in accordance with this Code of Practice;



- 2 -

WHEREAS an "activity at a pit" is defined in the *Code of Practice for Pits* to mean the construction, operation or reclamation of a pit;

WHEREAS on January 20, 2020, Alberta Environment and Parks ("AEP") sent an email to JMB stating that the Kucy Pit security Bond No. BND0015364 in the amount of \$31,872.25 is expiring March 9, 2020.

WHEREAS on May 1, 2020, JMB obtained an initial order from the Court under the *Companies Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended;

WHEREAS on November 18, 2020, AEP sent a letter to JMB indicating it failed to replace financial security instruments on 7 pits that were registered to JMB and located on private land, including the Kucy Pit;

WHEREAS on January 26, 2021, April Franks, an Environmental Protection Officer ("EPO") and a designated Inspector under the *Environmental Protection and Enhancement Act* RSA 2000, c E-12 (the "Inspector"), conducted a review of the Kucy Pit Activities Plan and 2019 satellite imagery of the area and determined that JMB contravened the *Code of Practice for Pits* by:

- failing to restore the required financial security as required under section 3.2.2 of the *Code of Practice for Pits*;
- failing to follow the Activities Plan mining sequence including not conducting reclamation noted as required under section 4.1.1 of the *Code of Practice for Pits*;
- failing to comply to the boundary approved in the Registration as required under section 4.1.1 of the *Code of Practice for Pits*;
- failing to report regulatory non-compliances to the Director as required under section 6.1.1 of the *Code of Practice for Pits*;

WHEREAS reclamation of the disturbed land on Kucy Pit has not occurred to date;

WHEREAS section 3.2.2 of the *Code of Practice for Pits* states "unless exempted by the Act or the *Conservation and Reclamation Regulation*, as amended from time to time, no person shall commence or continue an activity at a pit unless the full amount of security for that pit has been provided to the Director, as authorized in writing by the Director."

WHEREAS section 4.1.1 of the *Code of Practice for Pits* states "no person shall conduct any activity at a pit except in accordance with the most recent Activities Plan.";

WHEREAS section 6.1.1 of the *Code of Practice for Pits* states "in addition to any other reporting required pursuant to this Code of Practice, the Act or the regulations under the Act, any person carrying out an activity at a pit shall immediately report any contravention of this Code of Practice to: (a) the registration holder; and (b) the Director: (i) by telephone at (780) 422-4505, or (ii) by a method:(A) in compliance with the release reporting provisions of the Act and the regulations; or(B) authorized in writing by the Director.";

WHEREAS on February 12, 2021, AEP issued a Notice of Non Compliance ("NONC") to JMB stating that AEP had identified non-compliances under the *Code of Practice for Pits* on pits registered to JMB located on private land, including the Kucy Pit;

- 3 -

WHEREAS the NONC also stated that, by February 18, 2021, JMB was to provide:

- an assessment of the pits against the terms and conditions of the Registration and the *Code of Practice for Pits*, and
- a plan to bring each pit into compliance with the Registration and the *Code of Practice for Pits*;

WHEREAS JMB requested two extensions to the deadline to provide information requested in the NONC, which AEP granted;

WHEREAS on February 24, 2021, JMB provided AEP with its response to the NONC, which stated that JMB's intentions with respect to the Kucy Pit were as follows:

- to submit an updated Activities Plan by March 31, 2021 for the purpose of reclamation,
- Submit a Water Act application in 2021 based on consultation with AEP
- to post a security bond as a part of the closing of the CCAA court proceedings upon acceptance of the updated activities plan, and
- implement reclamation within three years of the updated activities plan approval;

WHEREAS on February 23, 2021, the EPO had a conversation with the landowner, Ron Kucy, who indicated that:

- JMB last operated the Kucy Pit on or about summer 2018
- JMB does not plan to mine additional gravel at Kucy Pit and Ron Kucy is concerned the land will not be reclaimed

WHEREAS on March 2, 2021, the EPO had a conversation with the landowner, John Kwaitkowski, who indicated that:

- JMB last operated the Kucy Pit on or about summer 2018
- JMB signed a royalty contract with John Kwaitkowski in 2012 and shortly after it hauled gravel off site without payment to the landowner;
- JMB does not plan to mine any additional gravel at Kucy Pit and John Kwaitkowski is concerned the land will not be reclaimed;

WHEREAS section 137 of the *Environmental Protection and Enhancement Act* states that an operator must conserve and reclaim specified land and unless exempted by the regulation, obtain a reclamation certificate in respect of the conservation and reclamation;

WHEREAS JMB is an 'operator' under section 134(b)(ii) of the *Environmental Protection and Enhancement Act*;

WHEREAS the Kucy Pit is a "pit" as defined in the *Activities Designation Regulation* section 3(3)(d), for the purposes of Division 3 of Schedule 2;

WHEREAS the surface land disturbance in the Kucy Pit is "specified lands" as defined by the *Conservation and Reclamation Regulation* section 1(t)(v);



- 4 -

WHEREAS the Parties are operators as defined in section 134(b)(i) of *EPEA*, i.e. an approval or registration holder who carries on or has carried on an activity on or in respect of specified land pursuant to an approval or registration, and section 34(b) vii), i.e. a person who acts as principal or agent of a person referred to in any of subclauses (i) to (vi);

WHEREAS section 3.1 of the *Conservation and Reclamation Regulation* states that the *Code of Practice for Pits*, as published by AEP, is adopted and forms part of that regulation and requires that a person carrying on an activity referred to in Column A of the Schedule must comply with the corresponding Code of Practice in Column B of the Schedule in carrying on that activity;

WHEREAS the Schedule of the *Conservation and Reclamation Regulation* states that the construction, operation or reclamation of a pit that is listed in Schedule 2, Division 3 of the *Activities Designation Regulation* must comply with the *Code of Practice for Pits*;

WHEREAS EPO, April Franks, North Region (the "Inspector") has been designated as an Inspector for the purposes of issuing environmental protection orders under section 140 the *Environmental Protection and Enhancement Act*;

WHEREAS the Inspector is of the opinion that the suspension of the operation in the Kucy Pit and directing the performance of work is necessary in order to conserve and reclaim the Kucy Pit;

WHEREAS the Inspector is of the opinion that the surface land disturbance meets the criteria of "specified lands" defined by the *Conservation and Reclamation Regulation* section 1(t)(v)

THEREFORE, I April Franks, Inspector, North Region, pursuant to section 140 of the *Environmental Protection and Enhancement Act*, DO HEREBY ORDER:

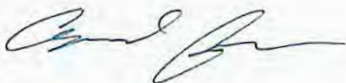
1. The Parties shall immediately suspend any and all work at the Kucy Pit, and shall not remove any stockpiled materials.
2. By April 13, 2021 the Parties shall submit to the Inspector for the Inspector's approval, the name and qualifications of a consultant who carries a professional designation authorized to practice reclamation on private land, which the Parties will retain to prepare and sign the below noted reclamation and remedial plan.
3. By May 20, 2021, the Parties shall submit to the Inspector for the Inspector's review and approval a written reclamation and remedial plan ("Plan").
4. The Parties shall include at minimum include all of the following in the Plan:
  - a. Particulars of the characteristics and properties of the land including topography, drainage, soils, vegetation and land capability.
  - b. A historical synopsis of the surface, subsurface and groundwater disturbance.



- 5 -

- c. A description of the adjacent land uses.
  - d. An accounting of what volume of marketable aggregate is left within the Kucy Pit and its value.
  - e. A description of the reclamation work including the type of equipment, methods and materials that will be used in implementing the Plan.
  - f. A description of the proposed reclaimed land use that includes elevations, soil replacement and re-vegetation.
  - g. A description of how ground water infiltrating open excavations will be addressed and justification for any surface and water related improvements to be left in place.
  - h. A proposed Schedule of Implementation that shall have October 29, 2022 as the completion date.
  - i. A 6 month monitoring and maintenance program commencing October 29, 2022.
5. Upon approval of the Plan by the Inspector, the Parties shall conduct the work described in the approved Plan, according to the approved schedule of implementation, unless otherwise authorized in writing by the Inspector.
6. The Parties shall submit progress updates to the Inspector on July 30, 2021, November 30, 2021, March 31, 2022, and July 29, 2022 that include a detailed summary of all reclamation activities undertaken at Kucy Pit;
7. Within 14 days of the completion of the requirements of this Order, the Parties shall submit to the Inspector a final written report prepared and signed by the consultant describing the work undertaken to comply with this Order.

DATED at the City of Spruce Grove in the Province of Alberta, this Thursday on the 11<sup>th</sup> day of March, 2021.



April Franks,  
Inspector,  
Environmental Protection Officer,  
North Region

- 6 -

Section 91 of the *Environmental Protection and Enhancement Act* may provide a right of appeal against this decision to the Alberta Environmental Appeals Board. There may be a strict time limit for filing such an appeal. A copy of section 91 is enclosed. For further information, please contact the Board Secretary at #306 Peace Hills Trust Tower, 10011 - 109 Street, Edmonton, Alberta, T5J 3S8; telephone (780) 427-6207; fax (780) 427-4693.

Notwithstanding the above requirements, the Party shall obtain all necessary approvals in complying with this order.

Take notice that this environmental protection order is a remedial tool only, and in no way precludes any enforcement proceedings being taken regarding this matter under this Act or any other legislation.

Further, contravention of the Environmental Protection Order may lead to additional enforcement proceedings, up to and including prosecution.



**Regulatory Assurance  
Capital Region**  
PO Box 4240 (T7X 3B4)  
Suite #1, 250 Diamond Avenue  
Spruce Grove AB T7X 4C7  
Telephone: 780-960-8600

**ENVIRONMENTAL PROTECTION AND ENHANCEMENT ACT**

BEING RSA 2000, c. E-12 (the "Act")

ENVIRONMENTAL PROTECTION ORDER EPO-EPEA-35659-02

JMB Crushing Systems Inc.  
Suite 2300, Bentall 5 550, Burrard Street  
Vancouver BC  
V6C 2B5,  
Canada

Byron Levkulich, Director  
JMB Crushing Systems Inc.  
1400 16<sup>th</sup> Street, Suite 320  
Denver CO 80202  
United States

Aaron Patsch, Director  
JMB Crushing Systems Inc.  
1400 16<sup>th</sup> Street, Suite 320  
Denver CO 80202  
United States

Jeffrey Buck, former Director  
JMB Crushing Systems Inc.  
3439 Keswick Boulevard SW  
Edmonton, AB  
T6W 3B2

Collectively referred to as the "Parties"

WHEREAS JMB Crushing Systems Inc. ("JMB") operates a pit under Registration No. 149949-00-00 located at SE-35-058-16-W4M and SW 36-058-16-W4M (Megley Pit) in Lamont County (the "Megley Pit");

WHEREAS Byron Levkulich and Aaron Patsch are Directors of JMB and Jeffrey Buck is a former Director of JMB ("Parties");

WHEREAS Sharon Cook, Cheryl Megley, Douglas Megley, Bill Kryzanoski own the land on which the Megley Pit is located;

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- 2 -

WHEREAS section 2.1.1 of the *Code of Practice for Pits* states any person who carries out an activity at a pit must do so in accordance with this Code of Practice;

WHEREAS an "activity at a pit" is defined in the *Code of Practice for Pits* to mean the construction, operation or reclamation of a pit;

WHEREAS on January 20, 2020 Alberta Environment and Parks ("AEP") sent an email to JMB stating that the Megley Pit security Bond No. BND0015359 expires March 9, 2020.

WHEREAS on November 18, 2020, AEP sent a letter to JMB indicating it failed to replace security instruments on 7 pits that were registered to JMB and located on private land, including the Megley Pit;

WHEREAS on January 26, 2021, April Franks, an Environmental Protection Officer ("EPO") and a designated Inspector under the *Environmental Protection and Enhancement Act* RSA 2000, c E-12 (the "Inspector"), conducted a review of the Megley Pit Activities Plan and 2019 satellite imagery of the area and determined that JMB contravened the *Code of Practice for Pits* by:

- failing to restore the required financial security as required under section 3.2.2 of the *Code of Practice for Pits*;
- failing to follow the Activities Plan mining sequence including not conducting reclamation as required under section 4.1.1 of the *Code of Practice for Pits*;
- failing to comply to the boundary approved in the Registration as required under section 4.1.1 of the *Code of Practice for Pits*;
- failing to report regulatory non-compliances to the Director as required under section 6.1.1 of the *Code of Practice for Pits*;

WHEREAS reclamation of the disturbed land on Megley Pit has not occurred to date;

WHEREAS section 3.2.2 of the *Code of Practice for Pits* states "unless exempted by the Act or the *Conservation and Reclamation Regulation*, as amended from time to time, no person shall commence or continue an activity at a pit unless the full amount of security for that pit has been provided to the Director, as authorized in writing by the Director."

WHEREAS section 4.1.1 of the *Code of Practice for Pits* states "no person shall conduct any activity at a pit except in accordance with the most recent Activities Plan.";

WHEREAS section 6.1.1 of the *Code of Practice for Pits* states "in addition to any other reporting required pursuant to this Code of Practice, the Act or the regulations under the Act, any person carrying out an activity at a pit shall immediately report any contravention of this Code of Practice to: (a) the registration holder; and (b) the Director: (i) by telephone at (780) 422-4505, or (ii) by a method:(A) in compliance with the release reporting provisions of the Act and the regulations; or(B) authorized in writing by the Director.";

WHEREAS on February 12, 2021, AEP issued a Notice of Non Compliance ("NONC") to JMB stating that AEP had identified non-compliances under the *Code of Practice for Pits* on pits registered to JMB located on private land, including the Megley Pit;

WHEREAS the NONC also stated that, by February 18, 2021, JMB was to provide:

- 3 -

- an assessment of the pits against the terms and conditions of the Registration and the *Code of Practice for Pits*, and
- a plan to bring each pit into compliance with the Registration and the *Code of Practice for Pits*;

WHEREAS JMB requested two extensions to the deadline to provide the information requested in the NONC, which AEP granted;

WHEREAS on February 24, 2021, JMB provided AEP with its response to the NONC, which stated that JMB's intentions with respect to the Megley Pit were as follows:

- to submit an updated Activities Plan by March 31, 2021 for the purpose of reclamation,
- Submit a Water Act application in 2021 based on consultation with AEP
- to post a security bond as a part of the closing of the CCAA court proceedings upon acceptance of the updated activities plan, and
- implement reclamation within three years of the updated activities plan approval;

WHEREAS on February 18, 2020 EPO had a conversation with the landowner, Douglas Megley, who indicated that:

- JMB last operated the pit on or about winter 2019, at which time they crushed and hauled gravel offsite without payment to the landowner;
- JMB breached its contract held between with Douglas Megley which required payment of royalties to Douglas Megley and completion of reclamation at the pit;
- Douglas Megley is concerned that reclamation will not be completed on Megley Pit

WHEREAS section 137 of the *Environmental Protection and Enhancement Act* states that an operator must conserve and reclaim specified land and unless exempted by the regulation, obtain a reclamation certificate in respect of the conservation and reclamation;

WHEREAS JMB is an 'operator' under section 134(b)(ii) of the *Environmental Protection and Enhancement Act*;

WHEREAS the Megley Pit is a "pit" as defined in the *Activities Designation Regulation* section 3(3)(d), for the purposes of Division 3 of Schedule 2;

WHEREAS the surface land disturbance in the Megley Pit is "specified lands" as defined by the *Conservation and Reclamation Regulation* section 1(t)(v);

WHEREAS the Parties are operators as defined in section 134(b)(i) of *EPEA*, i.e. an approval or registration holder who carries on or has carried on an activity on or in respect of specified land pursuant to an approval or registration, and section 34(b) vii), i.e. a person who acts as principal or agent of a person referred to in any of subclauses (i) to (vi);

WHEREAS section 3.1 of the *Conservation and Reclamation Regulation* states that the *Code of Practice for Pits*, as published by AEP, is adopted and forms part of that regulation and requires that a person carrying on an activity referred to in Column A of the Schedule



- 4 -

must comply with the corresponding Code of Practice in Column B of the Schedule in carrying on that activity;

WHEREAS the Schedule of the *Conservation and Reclamation Regulation* states that the construction, operation or reclamation of a pit that is listed in Schedule 2, Division 3 of the *Activities Designation Regulation* must comply with the *Code of Practice for Pits*;

WHEREAS EPO April Franks, has been designated as an Inspector for the purposes of issuing environmental protection orders under section 140 the *Environmental Protection and Enhancement Act*;

WHEREAS the Inspector is of the opinion that the suspension of the operation in the Megley Pit and directing the performance of work is necessary in order to conserve and reclaim the Megley Pit;

WHEREAS the Inspector is of the opinion that the surface land disturbance meets the criteria of "specified lands" defined by the *Conservation and Reclamation Regulation* section 1(t)(v)

THEREFORE, I April Franks, Inspector, North Region, pursuant to section 140 of the *Environmental Protection and Enhancement Act*, DO HEREBY ORDER:


1. The Parties shall immediately suspend any and all work at the Megley Pit, and shall not remove any stockpiled materials.
2. By April 13, 2021, the Parties shall submit to the Inspector for the Inspector's approval, the name and qualifications of a consultant who carries a professional designation authorized to practice reclamation on private land, which the Parties will retain to prepare and sign the below noted reclamation and remedial plan.
3. By May 20, 2021, the Parties shall submit to the Inspector for the Inspector's review and approval a written reclamation and remedial plan ("Plan").
4. The Parties shall include at minimum include all of the following in the Plan:
  - a. Particulars of the characteristics and properties of the land including topography, drainage, soils, vegetation and land capability.
  - b. A historical synopsis of the surface, subsurface and groundwater disturbance.
  - c. A description of the adjacent land uses.
  - d. An accounting of what volume of marketable aggregate is left within the Megley pit and its value.
  - e. A description of the reclamation work including the type of equipment, methods and materials that will be used in implementing the Plan.
  - f. A description of the proposed reclaimed land use that includes elevations, soil replacement and re-vegetation.



- 5 -

- g. A description of how ground water infiltrating open excavations will be addressed and justification for any surface and water related improvements to be left in place.
  - h. A proposed Schedule of Implementation that shall have October 29, 2022 as the completion date.
  - i. A 6 month monitoring and maintenance program commencing October 29, 2022.
5. Upon approval of the Plan by the Inspector, the Parties shall conduct the work described in the approved Plan, according to the approved schedule of implementation, unless otherwise authorized in writing by the Inspector.
6. The Parties shall submit progress updates to the Inspector on July 30, 2021, November 30, 2021, March 31, 2022, and July 29, 2022 that include a detailed summary of all reclamation activities undertaken at Megley Pit;
7. Within 14 days of the completion of the requirements of this Order, the Parties shall submit to the Inspector a final written report prepared and signed by the consultant describing the work undertaken to comply with this Order.

DATED at the City of Spruce Grove in the Province of Alberta, this Thursday on the 11<sup>th</sup> day of March, 2021.



April Franks,  
Inspector,  
Environmental Protection Officer,  
North Region

- 6 -

Section 91 of the *Environmental Protection and Enhancement Act* may provide a right of appeal against this decision to the Alberta Environmental Appeals Board. There may be a strict time limit for filing such an appeal. A copy of section 91 is enclosed. For further information, please contact the Board Secretary at #306 Peace Hills Trust Tower, 10011 - 109 Street, Edmonton, Alberta, T5J 3S8; telephone (780) 427-6207; fax (780) 427-4693.

Notwithstanding the above requirements, the Party shall obtain all necessary approvals in complying with this order.

Take notice that this environmental protection order is a remedial tool only, and in no way precludes any enforcement proceedings being taken regarding this matter under this Act or any other legislation.

Further, contravention of the Environmental Protection Order may lead to additional enforcement proceedings, up to and including prosecution.

THIS IS EXHIBIT "N" REFERRED TO IN  
THE AFFIDAVIT OF TYLER PELL  
SWORN BEFORE ME  
THIS 22<sup>ND</sup> DAY OF MARCH, 2021



A Commissioner for Oaths in and for the  
Province of Alberta

**Stephen Kreger**  
*Barrister & Solicitor*

A Notary Public/Commissioner for Oaths  
in and for the Province of Alberta  
My Commission expires at the pleasure of  
the Lieutenant Governor in Council

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**ENVIRONMENTAL PROTECTION AND ENHANCEMENT ACT**

BEING RSA 2000, c. E-12 (the "Act")

ENVIRONMENTAL PROTECTION ORDER EPO-EPEA-35659-07

2161889 Alberta Ltd.  
P.O. Box 6977  
Bonnyville, AB  
T9N 2H4

Byron Levkulich, former Director of 2161889 Alberta Ltd.  
JMB Crushing Systems Inc.  
1400 16<sup>th</sup> Street, Suite 320  
Denver CO 80202  
United States

Aaron Patsch, former Director of 2161889 Alberta Ltd.  
JMB Crushing Systems Inc.  
1400 16<sup>th</sup> Street, Suite 320  
Denver CO 80202  
United States

Jeffrey Buck, former Director of 2161889 Alberta Ltd.  
JMB Crushing Systems Inc.  
3439 Keswick Boulevard SW  
Edmonton, AB  
T6W 3B2

Lisa Ball, former Director of 2161889 Alberta Ltd.  
2161889 Alberta Ltd.  
PO Box 211  
Boyle, AB  
T0A 0M0

541466 Alberta Ltd.  
2300, 10180 – 101 St NW  
Edmonton, AB  
T5J 1V3

Robert W. Beaverford  
52547 RR 223  
Sherwood Park, AB  
T8A 4P7

[Collectively, the "Parties"]

WHEREAS 2161889 Alberta Ltd. ("216") has operated a gravel pit (the "Pit") in 2019 and 2020 on a portion of public land legally described as SW-13-065-18-W4M [the "Lands"] in Athabasca County, in the Province of Alberta;

WHEREAS the Pit covers approximately 11.271 hectares on the Lands and the approximate boundaries of the Pit are shown on the map in Appendix A to this Order;

WHEREAS the *Environmental Protection and Enhancement Act* ("EPEA") section 1(xx) defines pit as an operation on or excavation from the surface of the land for the purpose of removing sand and gravel and includes any associated infrastructure;

WHEREAS the Lands are contained in surface material lease 060060 ("SML 060060") that is a disposition issued to 216 under the *Public Lands Act* as a result of an assignment on March 15, 2019. SML 060060 expires on May 28, 2024;

WHEREAS Byron Levkulich, Aaron Patsch, Jeffrey Buck, and Lisa Ball are former Directors for 216;

WHEREAS Robert W. Beaverford held SML 060060 between June 27, 2008 and March 15, 2019;

WHEREAS 541466 Alberta Ltd. ("541") operated the Pit between May 2017 and March 15, 2019;

WHEREAS Lisa Ball has been a Director for 541 from November 1999 to March 10, 2021 (present);

WHEREAS Clause 6 of Schedule A to SML 060060 – "Operating Conditions to the Agreement" requires the holder to reclaim any land disturbed in accordance with the approved Conservation and Reclamation Business Plan (CRBP). CRBP dated: May 28, 2014;

WHEREAS on May 28, 2014, Alberta Environment and Parks ("AEP") approved the Conservation and Reclamation Business Plan Approval for SML060060 ("CRBP");

WHEREAS on May 10, 2017 an Alberta Environment and Parks ("AEP") Public Lands Officer ["PLO"] inspected the Lands and observed the Lands had been recently logged but not yet been disturbed by mining activities;

WHEREAS on January 22, 2019 Robert Beaverford filed an annual return documenting the removal of 174,965.19 cubic yards of material from SML 060060 during the 2018 operating year;

WHEREAS on March 26, 2019 the Director issued an administrative penalty to 541466 Alberta Ltd. and Robert Beaverford for:

- Entering public land without authorization;
- Cleared public land without authority;
- Causing loss and damage with rutting and vegetation removal by heavy equipment;



- Contravened the terms of the lease by operating during a timing restriction; and
- Caused loss and damage to public land with root removal and vegetation piling and the removal of topsoil, which are all contraventions of the *Public Lands Act* or the SML

WHEREAS on May 1, 2020, 216 entered into proceedings under the *Companies Creditors Arrangement Act* R.S.C., 1985, c. C-36;

WHEREAS Clause 13 of Schedule A to SML 060060 – “Operating Conditions to the Agreement” requires the holder to leave a buffer zone of undisturbed vegetation a minimum width of 100 m between the Lands and all waterbodies and courses;

WHEREAS on October 7, 2020 the AEP PLO inspected the Lands and observed:

- Pit operations had not followed pit development sequencing as required by the CRBP;
- Drainage patterns in the south of the Pit do not match details shown in the CRBP;
- The 3 m vegetation buffer was not in place around the perimeter of the Pit (refer to Appendix A);
- Erosion washing to the adjacent vegetation resulting in trespass of public land (“trespass” on map in Appendix A);
- Rills and gullies formed along southern boundary of the Lands (refer to Appendix A);
- Noxious weeds were present throughout the south of the Pit;
- An end pit lake had formed in the Pit (refer to Appendix A);
- Subsoil and aggregate stockpiles were located on the edges of the end pit lake;
- Stockpiles of topsoil interspersed with stockpiles of non-processed aggregate and subsoil in the Pit; and
- A watercourse that was not identified on the CRBP (refer to “draw” in Appendix A);

WHEREAS Clause 28 of SML 060060 requires the holder to strip and pile topsoil separately from any woody material and subsoil;

WHEREAS Clause 33 of SML 060060 requires the holder to take all precautions and safeguards necessary to prevent soil and surface erosion to the satisfaction of the Department in its sole discretion;

WHEREAS on January 31, 2020 216 filed an annual return documenting the removal of 3,384.41 cubic yards of material from SML 060060 during the 2019 operating year;

WHEREAS on February 10, 2021, 216 filed an annual return documenting the removal of 2,254 cubic yards of (material) from SML 060060 during the 2020 operating year;

WHEREAS on February 10, 2021 an AEP Environmental Protection Officer [“EPO”] identified that the CRBP committed the operator to dry excavation only in the pit sequencing notes;



WHEREAS on February 17, 2021, Nathan Polturak, an Environmental Protection Officer ("EPO") and Inspector under the *Environmental Protection and Enhancement Act* RSA 2000, c E-12 (the "Inspector"), conducted a review of the terms and conditions of SML 060060 and 2019 satellite imagery of the area and determined that 216 contravened the *Public Lands Act* and *Public Lands Administration Regulation* by:

- caused, permitted, or allowed loss or damage to public land;
- caused, permitted, or allowed the creation of conditions likely to result in soil erosion on public land; and
- contravened one or more provisions of the disposition.
- failed to pay fees owing to AEP;
- failed to adhere to disturbance standards;
- allowed or caused loss or damage on the subject land; and
- failed to report these non-compliance issues to the Director.

WHEREAS on February 23, 2021, AEP issued a Notice of Non-Compliance ("NONC") to 216 stating that AEP had identified issues of non-compliance of the *Public Lands Act* under SLM 060060.

WHEREAS on February 26, 2021, 216 provided AEP with its response to the NONC, which stated that since March 2019, 216 has completed minor earthworks and hauling of crushed gravel. It also stated that 216's intentions with respect to the Pit were as follows;

- to engage the services of a legal land surveyor to survey the southern boundary in question. Forward results of the surveyor to AEP for further consultation and possible action;
- to work with AEP to determine final *Water Act* authorization requirements for filling in the constructed water body;
- to update CRBP as needed; and
- to submit non-compliance for construction of water body without authorization.

WHEREAS section 137 of the *Environmental Protection and Enhancement Act* states that an operator must conserve and reclaim specified land and unless exempted by the regulation, obtain a reclamation certificate in respect of the conservation and reclamation;

WHEREAS the surface land disturbance in the Pit is "specified lands" as defined by the *Conservation and Reclamation Regulation* section 1(t)(v);

WHEREAS the Parties are persons who carry on or have carried on an activity on or in respect of specified land other than pursuant to an approval or registration, and are persons who act as principal or agent of person(s) referred to in any of *EPEA* section 134(b)(i) to (vi), and therefore are operators;

WHEREAS Nathan Polturak, Environmental Protection Officer, North Region (the "Inspector") has been designated as an Inspector for the purposes of issuing environmental protection orders under section 140 the *Environmental Protection and Enhancement Act*; , and

WHEREAS the Inspector is of the opinion that the suspension of the operation in the Pit and directing the performance of work is necessary in order to conserve and reclaim specified land.

THEREFORE, I Nathan Polturak, Inspector, North Region, pursuant to section 140 of the *Environmental Protection and Enhancement Act*, DO HEREBY ORDER:

1. The Parties shall immediately suspend any and all work at the Pit, and shall not remove any stockpiled materials.
2. By **March 19, 2021**, the Parties shall submit to the Inspector for the Inspector's approval, the name and qualifications of a consultant who carries a professional designation authorized to practice reclamation on private land, which the Parties will retain to prepare and sign the below noted reclamation and remedial plan.
3. By **March 31, 2021**, the Parties shall submit to the Inspector for the Inspector's review and approval a written reclamation and remedial plan ("Plan").
4. The Parties shall include at minimum include all of the following in the Plan:
  - a. Particulars of the characteristics and properties of the land including topography, drainage, soils, vegetation and land capability.
  - b. A historical synopsis of the surface, subsurface and groundwater disturbance.
  - c. A description of the adjacent land uses.
  - d. An accounting of what volume of marketable aggregate is left within the Pit and its value.
  - e. A description of the reclamation work including the type of equipment, methods and materials that will be used in implementing the Plan.
  - f. A description of the proposed reclaimed land use that includes elevations, soil replacement and re-vegetation.
  - g. A description of how ground water infiltrating open excavations will be addressed and justification for any surface and water related improvements to be left in place.
  - h. A proposed Schedule of Implementation that shall have **September 20, 2022** as the completion date.
  - i. A six month monitoring and maintenance program commencing **September 20, 2022**.
5. Upon approval of the Plan by the Inspector, the Parties shall conduct the work described in the approved Plan, according to the approved schedule of implementation, unless otherwise authorized in writing by the Inspector.
6. The Parties shall submit progress updates to the Inspector on **July 30, 2021**, **November 30, 2021**, **March 31, 2022**, and **July 29, 2022** that include a detailed summary of all reclamation activities undertaken at the Pit;



7. Within 14 days of the completion of the requirements of this Order, the Parties shall submit to the Inspector a final written report prepared and signed by the consultant describing the work undertaken to comply with this Order.

DATED at the Town of Lac La Biche in the Province of Alberta, the 12<sup>th</sup> day of March, 2021.



Nathan Polturak  
Inspector,  
Environmental Protection Officer  
North Region

**Section 91 of the *Environmental Protection and Enhancement Act* may provide a right of appeal against this decision to the Alberta Environmental Appeals Board. There may be a strict time limit for filing such an appeal. A copy of section 91 is enclosed. For further information, please contact the Board Secretary at:**

**#306 Peace Hills Trust Tower  
10011 - 109 Street  
Edmonton, Alberta, T5J 3S8  
Telephone (780) 427-6207  
Fax (780) 427-4693.**

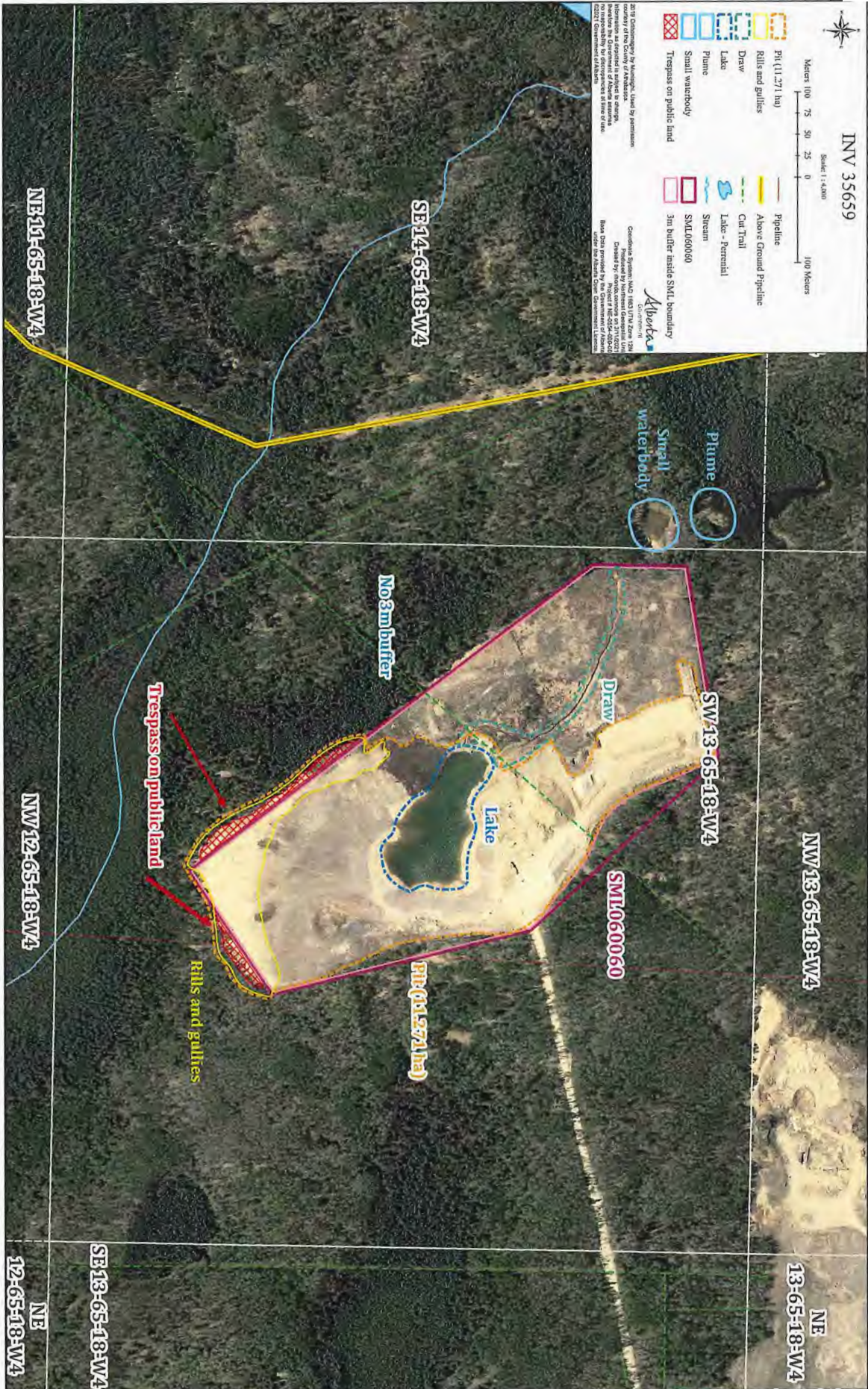
**Notwithstanding the above requirements, the Parties shall obtain all necessary authorizations from any regulatory agency (federal, provincial, or municipal) in complying with this order.**

**Take notice that this environmental protection order is a remedial tool only, and in no way precludes any enforcement proceedings being taken regarding this matter under this Act or any other legislation. Failure to comply with this order may result in further enforcement proceedings.**




## APPENDIX A

SK





THIS IS EXHIBIT "O" REFERRED TO IN  
THE AFFIDAVIT OF TYLER PELL  
SWORN BEFORE ME  
THIS 22<sup>ND</sup> DAY OF MARCH, 2021



A Commissioner for Oaths in and for the  
Province of Alberta

**Stephen Kroeger**

*Barrister & Solicitor*

A Notary Public/Commissioner for Oaths  
in and for the Province of Alberta

My Commission expires at the pleasure of  
the Lieutenant Governor in Council





Regulatory Assurance  
North Region - Capital  
PO Box 4240 (T7X 3B4)  
Suite #1, 250 Diamond Avenue  
Spruce Grove AB T7X 4C7  
Telephone: 780-960-8600

**ENVIRONMENTAL PROTECTION AND ENHANCEMENT ACT**

BEING RSA 2000, c. E-12 (the "Act")

**Amendment No.1**

To

ENVIRONMENTAL PROTECTION ORDER EPO-EPEA-35659-01

JMB Crushing Systems Inc.  
Suite 2300, Bentall 5 550, Burrard Street  
Vancouver BC  
V6C 2B5,  
Canada

Byron Levkulich, Director  
JMB Crushing Systems Inc.  
1400 16<sup>th</sup> Street, Suite 320  
Denver CO 80202  
United States

Aaron Patsch, Director  
JMB Crushing Systems Inc.  
1400 16<sup>th</sup> Street, Suite 320  
Denver CO 80202  
United States

Jeffrey Buck, former Director  
JMB Crushing Systems Inc.  
3439 Keswick Boulevard SW  
Edmonton, AB  
T6W 3B2

Collectively referred to as the "Parties"

WHEREAS Environmental Protection Order No.35659-01 was issued to the Parties on March 3, 2021;

WHEREAS on March 12, 2021 JMB Crushing Inc. requested an extension to Clause 3 of the Environmental Protection Order, requesting to change the Plan's submission date from March 20, 2021 to March 27, 2021:

WHEREAS section 243 (1) (a) of the *Environmental Protection and Enhancement Act* states the Director may amend a term or condition of an environmental protection order;

SX

- 2 -

THEREFORE, I, Maxwell Harrison, the Director pursuant to section 243 of the *Environmental Protection and Enhancement Act*, DO HEREBY ORDER:

1. In Clause 3 of the Environmental Protection Order, that the date of "March 20, 2021" be deleted and replaced by "**March 27, 2021**".

DATED at the City of Edmonton in the Province of Alberta, this Tuesday on the 16<sup>th</sup> day of March 2021.



Maxwell Harrison,  
Compliance Manager,  
Regulatory Assurance Division, Northern Region

**Section 91 of the *Environmental Protection and Enhancement Act* may provide a right of appeal against this decision to the Alberta Environmental Appeals Board. There may be a strict time limit for filing such an appeal. A copy of section 91 is enclosed. For further information, please contact the Board Secretary at #306 Peace Hills Trust Tower, 10011 - 109 Street, Edmonton, Alberta, T5J 3S8; telephone (780) 427-6207; fax (780) 427-4693.**

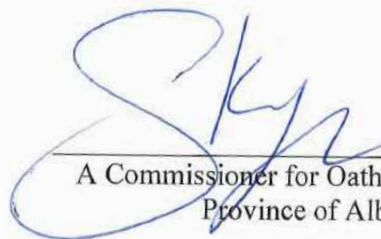
**Notwithstanding the above requirements, the Party shall obtain all necessary approvals in complying with this order.**

**Take notice that this environmental protection order is a remedial tool only, and in no way precludes any enforcement proceedings being taken regarding this matter under this Act or any other legislation.**

**Further, contravention of the Environmental Protection Order may lead to additional enforcement proceedings, up to and including prosecution.**

58

THIS IS EXHIBIT "P" REFERRED TO IN  
THE AFFIDAVIT OF TYLER PELL  
SWORN BEFORE ME  
THIS 22<sup>ND</sup> DAY OF MARCH, 2021



A Commissioner for Oaths in and for the  
Province of Alberta

**Stephen Kroeger**

*Barrister & Solicitor*

A Notary Public/Commissioner for Oaths  
in and for the Province of Alberta

My Commission expires at the pleasure of  
the Lieutenant Governor in Council



---

**From:** Tyler Pell <tylerpell@jmbcrush.com>  
**Sent:** March 12, 2021 11:39 AM  
**To:** Cumming, Tom; Josh Inglett; Kroeger, Stephen; Anton Trainer  
(anton.trainer@rlholdings.com)  
**Subject:** FW: EPO-EPEA-35659-01, EPO-EPEA-35659-02, EPO-EPEA-35659-03, EPO-EPEA-35659-04, EPO-EPEA-35659-05, EPO-EPEA-35659-06 / Submission of Authorized Designated Professional

**This message originated from outside of Gowling WLG. | Ce message provient de l'extérieur de Gowling WLG.**

---

Tyler Pell  
1.780.815.0139

**From:** April Franks <April.Franks@gov.ab.ca>  
**Sent:** March 12, 2021 11:29  
**To:** Tyler Pell <tylerpell@jmbcrush.com>  
**Subject:** RE: EPO-EPEA-35659-01, EPO-EPEA-35659-02, EPO-EPEA-35659-03, EPO-EPEA-35659-04, EPO-EPEA-35659-05, EPO-EPEA-35659-06 / Submission of Authorized Designated Professional

Thanks Tyler,

Received.

April Franks

Classification: Protected A

**From:** Tyler Pell <tylerpell@jmbcrush.com>  
**Sent:** March-12-21 9:20 AM  
**To:** April Franks <April.Franks@gov.ab.ca>  
**Subject:** EPO-EPEA-35659-01, EPO-EPEA-35659-02, EPO-EPEA-35659-03, EPO-EPEA-35659-04, EPO-EPEA-35659-05, EPO-EPEA-35659-06 / Submission of Authorized Designated Professional

**CAUTION: This email has been sent from an external source. Treat hyperlinks and attachments in this email with care.**

Good morning April,

As required in EPO-EPEA-35659-01, EPO-EPEA-35659-02, EPO-EPEA-35659-03, EPO-EPEA-35659-04, EPO-EPEA-35659-05, and EPO-EPEA-35659-06, JMB respectfully submits Tyler Pell, RPFT registration #930009 under the Association of Alberta Forest Management Professionals (AAFMP), as the individual who carries a professional designation that authorizes Tyler to practice reclamation in the province of Alberta. Tyler has over 25 years of experience and is a member in good standing with AAFMP.

If you require further details please let me know.

Regards,

Tyler Pell

SK

THIS IS EXHIBIT "Q" REFERRED TO IN  
THE AFFIDAVIT OF TYLER PELL  
SWORN BEFORE ME  
THIS 22<sup>ND</sup> DAY OF MARCH, 2021



A Commissioner for Oaths in and for the  
Province of Alberta

**Stephen Kroeger**  
*Barrister & Solicitor*

A Notary Public/Commissioner for Oaths  
in and for the Province of Alberta  
My Commission expires at the pleasure of  
the Lieutenant Governor in Council!



---

**WATER ACT**

BEING CHAPTER W-3 R.S.A. 2000 (the "Act")

**ENFORCEMENT ORDER NO. EO-WA-35659-01**

2161889 Alberta Ltd.  
P.O. Box 6977  
Bonnyville, AB  
T9N 2H4

Byron Levkulich, former Director of 2161889 Alberta Ltd.  
JMB Crushing Systems Inc.  
1400 16<sup>th</sup> Street, Suite 320  
Denver CO 80202  
United States

Aaron Patsch, former Director of 2161889 Alberta Ltd.  
JMB Crushing Systems Inc.  
1400 16<sup>th</sup> Street, Suite 320  
Denver CO 80202  
United States

Jeffrey Buck, former Director of 2161889 Alberta Ltd.  
JMB Crushing Systems Inc.  
3439 Keswick Boulevard SW  
Edmonton, AB  
T6W 3B2

Lisa Ball, former Director of 2161889 Alberta Ltd.  
2161889 Alberta Ltd.  
PO Box 211  
Boyle, AB  
T0A 0M0

541466 Alberta Ltd.  
o/a JLG Ball Enterprises  
2300, 10180 – 101 St NW  
Edmonton, AB  
T5J 1V3

Robert W. Beaverford  
52547 RR 223  
Sherwood Park, AB  
T8A 4P7

[Collectively, the "Parties"]

WHEREAS 2161889 Alberta Ltd. ("216") has operated a gravel pit (the "Pit") in 2019 and 2020 on a portion of public land legally described as SW-13-065-18-W4M [the "Lands"] in Athabasca County, in the Province of Alberta;

WHEREAS the Pit covers approximately 11.271 hectares on the Lands and the approximate boundaries of the Pit are shown on the map in Appendix A to this Order;

WHEREAS the Lands are contained in surface material lease 060060 ("SML 060060") that is a disposition issued to 216 under the *Public Lands Act* as a result of an assignment on March 15, 2019. SML 060060 expires on May 28, 2024;

WHEREAS Byron Levkulich, Aaron Patsch, Jeffrey Buck, and Lisa Ball are former Directors for 216;

WHEREAS Robert W. Beaverford held SML 060060 between June 27, 2008 and March 15, 2019;

WHEREAS 541466 Alberta Ltd. ("541") operated the Pit between May 2017 and March 15, 2019;

WHEREAS Lisa Ball has been a Director for 541 from November 1999 to March 10, 2021 (present);

WHEREAS Clause 6 of Schedule A to SML 060060 – "Operating Conditions to the Agreement" requires the holder to reclaim any land disturbed in accordance with the approved Conservation and Reclamation Business Plan (CRBP). CRBP dated: May 28, 2014;

WHEREAS on May 28, 2014, Alberta Environment and Parks ("AEP") approved the Conservation and Reclamation Business Plan Approval for SML060060 ("CRBP");

WHEREAS Clause 13 of Schedule A to SML 060060 – "Operating Conditions to the Agreement" requires the holder to leave a buffer zone of undisturbed vegetation a minimum width of 100 m between the Lands and all waterbodies and courses;

WHEREAS on May 10, 2017, an AEP Public Lands Officer ["PLO"] inspected the Lands and observed that the Lands had been recently logged, but had not yet been disturbed by mining activities;

WHEREAS on January 22, 2019 Robert Beaverford filed an annual return documenting the removal of 174,965.19 cubic yards of material from SML 060060 during the 2018 operating year;

WHEREAS on March 26, 2019 the Director issued an administrative penalty to 541466 Alberta Ltd. and Robert Beaverford, for:

- Entering public land without authorization;



- Cleared public land without authority;
- Causing loss and damage with rutting and vegetation removal by heavy equipment;
- Contravened the terms of the lease by operating during a timing restriction; and
- Caused loss and damage to public land with root removal and vegetation piling and the removal of topsoil, which are all contraventions of the *Public Lands Act* or SML 0600060;

WHEREAS on May 1, 2020, 216 entered into proceedings under the *Companies Creditors Arrangement Act* R.S.C., 1985, c. C-36;

WHEREAS on October 7, 2020, the PLO inspected the Lands, took photos, and identified:

- An end pit waterbody ("Lake") in the Pit (refer to Appendix A);
- Drainage patterns in the south of the Pit do not match details shown in the CRBP;
- Erosion washing to the adjacent vegetation resulting in trespass of public land ("trespass" on map in Appendix A);
- Rills and gullies formed along southern boundary of the Lands (refer to Appendix A);
- Subsoil and aggregate stockpiles were located on the edges of the Lake;
- A trench ("Ditch A") that was not identified on the CRBP that functioned as outflow for the Lake;
- The trench exited the Lands near a small waterbody located across from the northwest corner of SML 060060 in SE-14-065-18-W4M; and
- Siltation occurring to the small waterbody;

WHEREAS on January 31, 2020 216 filed an annual return documenting the removal of 3,384.41 cubic yards of material from SML 060060 during the 2019 operating year;

WHEREAS on February 10, 2021 216 filed an annual return documenting the removal of 2,254 cubic yards of material from SML 060060 during the 2020 operating year;

WHEREAS the *Public Lands Administration Regulation* section 105(c) defines operations as the removal of surface material from public land described in a lease;

WHEREAS the *Public Lands Administration Regulation* section 105(g) defines surface material means sand and gravel;

WHEREAS on February 10, 2021, an AEP Environmental Protection Officer ("EPO") identified that the approved CRBP committed to dry excavation only in the pit sequencing;

WHEREAS on February 10, 2021, the EPO conducted a search of the AEP Authorization Viewer for the Lands for a *Water Act* Approval to conduct activities and determined there is no authorization on record;

WHEREAS on February 17, 2021, Nathan Polturak, an EPO and Inspector under the *Water Act*



RSA 2000, c W-3 (the "Inspector"), conducted a review of the terms and conditions of SML 060060 and 2019 satellite imagery of the area and determined that 216 contravened the *Public Lands Act* and the *Water Act* by:

- Contravened one or more provisions of the disposition; and
- commencing or continuing an activity except pursuant to an approval where no authorization was granted

WHEREAS on February 23, 2021, AEP issued a Notice of Non-Compliance ("NONC") to 216 stating that AEP had identified issues of non-compliance of the *Public Lands Act* under SLM 060060.

WHEREAS the NONC stated that, by February 26, 2021 216 was to provide a written plan:

- detailing its assessment of the disposition against the terms and conditions of SML 060060, the *Public Lands Act* and the *Public Lands Administration Regulation*;
- describing how 216 plans to bring the disposition into compliance with the *Public Lands Act*, *Public Lands Administration Regulation*, and the terms and conditions of the disposition, including a timeline to completion; and
- stating its immediate plans to operate the pit on the lands contained in SML 060060.

WHEREAS on February 26, 2021, 216 provided AEP with its response to the NONC, which clarified with respect to SML 060060, that since March 2019, 216 has completed minor earthworks and hauling of crushed gravel and stated that 216's intentions were as follows;

- engage the services of a legal land surveyor to survey the southern boundary in question. Forward results to AEP for further consultation and possible action;
- work with AEP to determine final *Water Act* authorization requirements for filling in the constructed water body;
- update CRBP as needed; and
- submit non-compliance for construction of water body without authorization.

WHEREAS on February 26, 2021, the EPO identified off-site impacts to a waterbody due to erosion and siltation originating from the Lake. The observation was made on the Athabasca County MuniSight website using the 2019 ortho base layer. Observed impacts include silty water in a small waterbody across from the northwest corner of SML 060060 in SE-14-065-18-W4M as well as a siltation plume (refer to Appendix A) extending north from the small waterbody into a wetland complex ("the waterbodies") that empties to Amisk Lake;

WHEREAS altering the flow, direction of flow or level of water or changing the location of water for the purpose of drainage is an "activity" as defined in Section 1(1)(b)(i) and (ii) of the *Water Act*;

WHEREAS the maintaining, removing or disturbing ground or carrying out of any undertaking that causes, may cause or may become capable of causing the siltation of water is an "activity" as defined in Section 1(1)(b)(i) of the *Water Act*;

WHEREAS section 36(1) of the *Water Act* states that no person shall commence or continue an activity except pursuant to an approval unless otherwise authorized under the *Act*;

WHEREAS AEP has not issued an approval or licence to any of the Parties or to any person for the creation of the Lake and this activity is not otherwise authorized under the *Water Act*;

WHEREAS AEP has not issued an approval or licence to any of the Parties or to any person for any undertaking resulting in the siltation of the waterbodies and this activity is not otherwise authorized under the *Water Act*;

WHEREAS section 135(1) of the *Water Act* states the Director may issue an enforcement order to any person if, in the Director's opinion, that person has contravened this *Act*, whether or not that person has been charged or convicted in respect of the contravention;

WHEREAS Heather Dent, Compliance Manager, Alberta Environment and Parks, has been designated as a Director for the purpose of issuing enforcement orders under the *Water Act* [ the "Director" ],;

WHEREAS the Director is of the opinion that the Parties have contravened Section 36(1) of the *Water Act* by commencing or continuing an activity without an approval;

THEREFORE, I, Heather Dent, the Director, pursuant to Sections 135(1) and 136(1) of the *Water Act*, DO HEREBY ORDER THAT:

1. The Parties shall immediately cease all unauthorized activities on the Lands, including any work on, in or around the Lake.
2. The Parties shall submit to the Director, for the Director's approval, the name and qualifications of a Professional who is a member in good standing with a Professional Regulatory Organization, with experience in preparing a remedial plan and managing groundwater by **March 19, 2021**.
3. The Parties shall submit to the Director, for the Director's approval, a written remedial plan ("Remedial Plan") signed and stamped by the Professional by **March 31, 2021**.
4. The Parties shall include in the Remedial Plan all of the following:
  - a. A detailed assessment of the Lands including drainage, soils, vegetation, water (ground/surface) and any affected areas surrounding the Lands;
  - b. Apply for required authorization to conduct remedial activities of the Land;



- c. A detailed map to determine:
    - i. The source of the water in the Lake;
    - ii. The original drainage prior to any activity on the Lands; and
    - iii. The current drainage including the extent water is discharging off the Lands.
  - d. A hydrological assessment of:
    - i. the amount of water that is discharging off of the Lands annually; and
    - ii. The sediment load eroded from the Lands annually;
  - e. A detailed description of how the Lake on the Lands will be reclaimed;
  - f. A detailed plan on how water will be managed on the Lands and be returned to the natural drainage system once the Lake has been decommissioned;
  - g. A description of the type of equipment, methods, and materials that will be used in implementing the Remedial Plan;
  - h. A description of the long-term monitoring and maintenance measures that will be implemented to ensure that remedial works remain effective at achieving the goals in Paragraphs 4E and 4F of this Order; and
  - i. A schedule of implementing the Remedial Plan with a completion date no later than **October 1, 2021**.
5. In the Water Act Remedial Plan, the Parties must include a detailed plan to permanently render ineffective Ditch A
  6. The Parties shall implement the Remedial Plan as approved in writing by the Director in accordance with the schedule of implementation approved by the Director.
  7. The Parties shall provide the Director with a minimum of 2 business days' notice by email prior to commencing any work under the Remedial Plan.
  8. The Parties shall submit progress updates to the Director on **July 15, 2021**; **November 15, 2021**; **May 15, 2022**; and **July 31, 2022** that include a detailed summary of all remedial activities undertaken pursuant to this Enforcement Order;
  9. The Parties shall submit a final report prepared and signed by the approved Professional describing the work undertaken to comply with this Order by **October 30, 2022**.



DATED at the City of Edmonton in the Province of Alberta, this 12th day of March 2021.

---

Heather Dent  
Compliance Manager  
Boreal North Region

Section 115 of the *Water Act* may provide a right of appeal against this decision to the Alberta Environmental Appeals Board. There may be a strict time limit for filing such an appeal. A copy of section 115 is enclosed. For further information, please contact the Board Secretary at:

#306 Peace Hills Trust Tower  
10011 - 109 Street  
Edmonton, Alberta, T5J 3S8  
Telephone (780) 427-6207  
Fax (780) 427-4693.

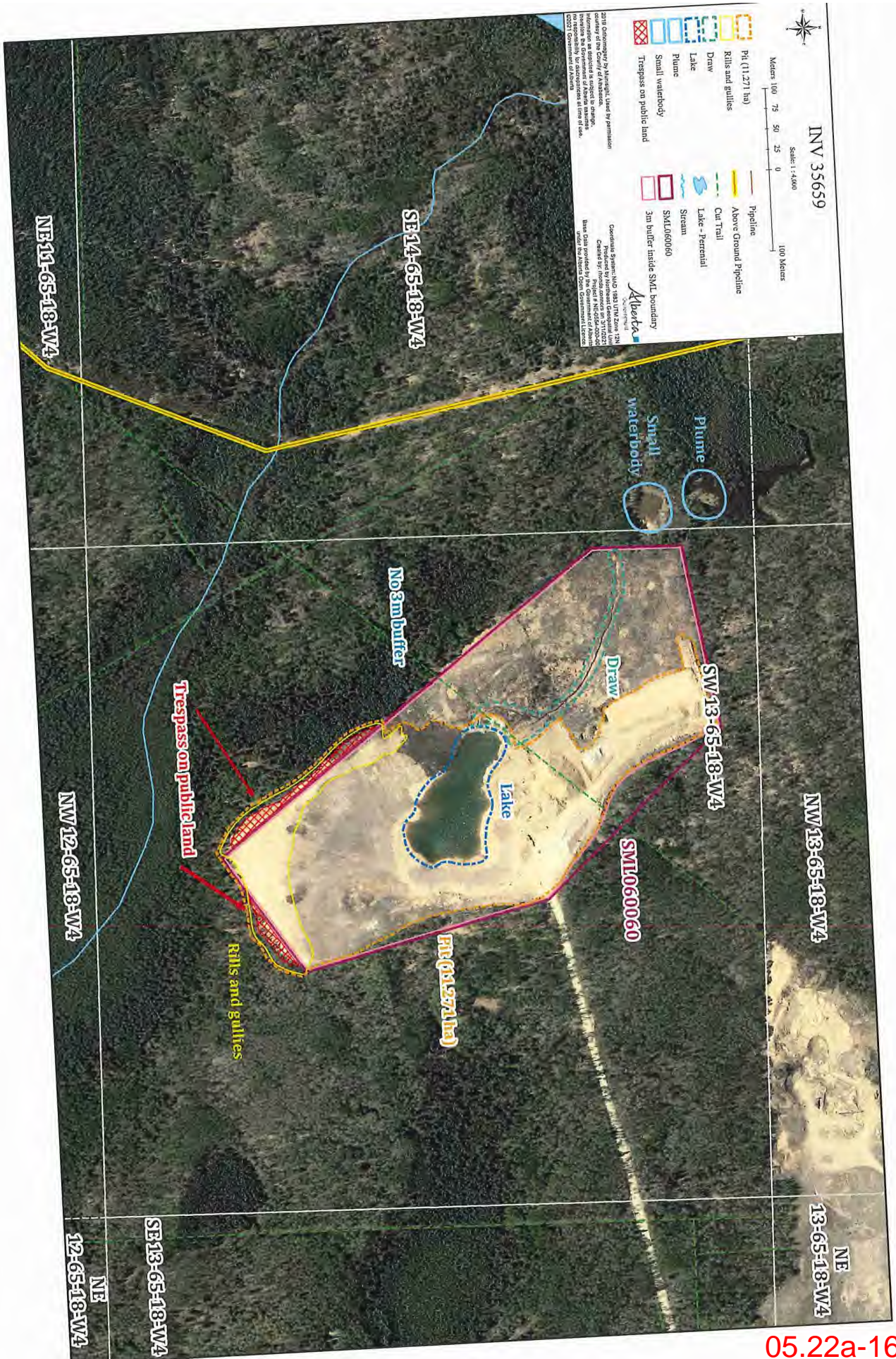
Notwithstanding the above requirements, the Parties shall obtain all necessary authorizations from any regulatory agency (federal, provincial, or municipal) in complying with this order.

Take notice that this environmental protection order is a remedial tool only, and in no way precludes any enforcement proceedings being taken regarding this matter under this Act or any other legislation. Failure to comply with this order may result in further enforcement proceedings.

## APPENDIX A



SK





THIS IS EXHIBIT "R" REFERRED TO IN  
THE AFFIDAVIT OF TYLER PELL  
SWORN BEFORE ME  
THIS 22<sup>ND</sup> DAY OF MARCH, 2021



A Commissioner for Oaths in and for the  
Province of Alberta

**Stephen Kroeger**  
*Barrister & Solicitor*

A Notary Public/Commissioner for Oaths  
in and for the Province of Alberta  
My Commission expires at the pleasure of  
the Lieutenant Governor in Council

**ENVIRONMENTAL PROTECTION AND ENHANCEMENT ACT**

BEING CHAPTER E-12 R.S.A. 2000 (the "Act")

**ENVIRONMENTAL PROTECTION ORDER NO. EPO-EPEA-35659-09**

JMB Crushing Systems Inc.  
Suite 2300, Bentall 5 550, Burrard Street  
Vancouver BC  
V6C 2B5,  
Canada

Byron Levkulich, Director  
Suite 2300, Bentall 5 550, Burrard Street  
Vancouver BC  
V6C 2B5,  
Canada

Aaron Patsch, Director  
Suite 2300, Bentall 5 550, Burrard Street  
Vancouver BC  
V6C 2B5,  
Canada

Jeffrey Buck, former Director  
JMB Crushing Systems Inc.  
3439 Keswick Boulevard SW  
Edmonton, AB  
T6W 3B2

[Collectively, the "Parties"]

WHEREAS JMB Crushing Systems Inc. ["JMB"; the "Operator"] has operated a gravel pit [the "Pit"] on a portion of public land legally described as SW-21-063-12-W4M [the "Lands"] in Lac La Biche County, in the Province of Alberta;

WHEREAS the Pit is approximately 5.850 hectares in area. Appendix A to this Order contains a map showing the dimensions, location and features of the Pit;

WHEREAS the *Environmental Protection and Enhancement Act* ("EPEA") section 1(xx) defines pit as an operation on or excavation from the surface of the land for the purpose of removing sand and

gravel and includes any associated infrastructure;

WHEREAS the Lands are contained in surface material lease 980116 ("SML 980116") that is a disposition issued to JMB under the *Public Lands Act* on February 16, 1999;

WHEREAS Byron Levkulich, Aaron Patsch are Directors for JMB and Jeffrey Buck is a former Director of JMB;

WHEREAS the disposition agreement for SML 980116 currently in force dates to February 16, 1999;

WHEREAS on October 25, 1999 Alberta Environment and Parks ("AEP") approved the Conservation and Reclamation Plan ("CORP") for SML 980116;

WHEREAS on May 16, 2008 an Alberta Environment and Parks ("AEP") Public Lands Officer ["PLO"] inspected the Lands. Inspection notes record:

- The client does not need the pit anymore as gravel removal is complete;
- Reclamation is to be done that year;
- The Pit should be renewed for a short time to allow reclamation;
- Department is to send a letter outlining reclamation timeline and to request an increase the security deposit to ensure compliance; and
- Outstanding work includes brush disposal, levelling and back sloping, and vegetation establishment;

WHEREAS on February 15, 2009 SML 980116 expired;

WHEREAS on September 4, 2015 an AEP PLO inspected the Lands. Inspection notes record:

- Renewal not recommended, no indication the gravel pit is still in operation;
- Cattle currently grazing the site;
- Top soil piles are present;
- Invasive plants on site (Canada thistle) in concentrated areas by the top soil piles and along the access; and
- Reclamation remains outstanding;

WHEREAS on September 16, 2015 the PLO sent a letter to JMB requiring them to distribute the remaining topsoil pile be distributed evenly over the Pit;

WHEREAS on May 1, 2020 JMB entered into proceedings under the *Companies Creditors Arrangement Act*, R.S.C., 1985, c. C-36;

WHEREAS on December 18, 2020 the AEP EPO completed an inspection of the Lands and found:

- Access was barred by a locked gate. Access appeared shared with a CNRL installation;
- Cattle were present on the Lands;
- Good revegetation observed through sparse snow around the site including grasses, forbs,



trees, and shrubs; and

- A stockpile observed against the treeline on the northwest side. The stockpile was covered with grasses. Material was not determined due to the cattle present.

WHEREAS on February 23, 2021 the EPO spoke with Tyler PELL of JMB who stated:

- JMB's staff and consultants visited the pit December 11, 2020;
- JMB cannot comment on the nature of the stockpile;
- The Lands looked highly used by the cattle. There is no record of allowing grazing and he is concerned about the impact of cattle trails and use on reclamation;
- Thistle was present, but he wondered if this is due to cattle;
- There is a wet area off the access road, west of the line of spruce in the middle of the SML. Appeared to attract cattle; and
- They will need to assess if there is enough material to cover the outstanding reclamation area.

WHEREAS on March 15, 2021 the EPO identified that the access through the Pit was issued under an LOC in 1989;

WHEREAS the Parties are persons who carry on or have carried on an activity on or in respect of specified land other than pursuant to an approval or registration, and are persons who act as principal or agent of person(s) referred to in any of the *Environmental Protection and Enhancement Act* section 134(b)(i) to (vi), and therefore are operators;

WHEREAS the surface land disturbance in the Pit is "specified lands" as defined by the *Conservation and Reclamation Regulation* section 1(t)(v);

WHEREAS Clause 12 of the Indenture to SML 980116 commits the Operator to delivering the Lands to the Minister in a satisfactory condition upon cancellation of the lease [sic];

WHEREAS Clause 13 of the Indenture to SML 980116 commits the Operator to reclaiming the surface of the land in a manner satisfactory to the Minister;

WHEREAS Nathan Polturak, Environmental Protection Officer, North Region (the "Inspector"), has been designated as an Inspector for the purpose of issuing Environmental Protection Orders under section 140 of the *Environmental Protection and Enhancement Act*;

WHEREAS the Inspector is of the opinion that directing the performance of work is necessary in order to conserve and reclaim specified land;

THEREFORE, I, Nathan Polturak, Inspector, North Region pursuant to Section 140 of the *Environmental Protection and Enhancement Act*, DO HEREBY ORDER THAT:

1. The Parties shall not remove any stockpiled materials.
2. By **March 26, 2021**, the Parties shall submit to the Inspector for the Inspector's approval, the name and qualifications of a consultant who carries a professional designation authorized to practice reclamation on private land, which the Parties will retain to prepare and sign the below noted reclamation and remedial plan.
3. By **May 31, 2021**, the Parties shall submit to the Inspector for the Inspector's review and approval a written reclamation and remedial plan ("Plan").
4. The Parties shall include at minimum include all of the following in the Plan:
  - a. Particulars of the characteristics and properties of the land including topography, drainage, soils, vegetation and land capability.
  - b. A historical synopsis of the surface, subsurface and groundwater disturbance.
  - c. A description of the adjacent land uses.
  - d. An accounting of what volume of marketable aggregate is left within the Pit and its value.
  - e. A description of the reclamation work including the type of equipment, methods and materials that will be used in implementing the Plan.
  - f. A description of the proposed reclaimed land use that includes elevations, soil replacement and re-vegetation.
  - g. A description of how ground water infiltrating open excavations will be addressed and justification for any surface and water related improvements to be left in place.
  - h. A proposed Schedule of Implementation that shall have **September 20, 2022** as the completion date.
  - i. A six month monitoring and maintenance program commencing **September 20, 2022**.
5. Upon approval of the Plan by the Inspector, the Parties shall conduct the work described in the approved Plan, according to the approved schedule of implementation, unless otherwise authorized in writing by the Inspector.
6. The Parties shall submit progress updates to the Inspector on **July 30, 2021**, **November 30, 2021**, **March 31, 2022**, and **July 29, 2022** that include a detailed summary of all reclamation activities undertaken at the Pit;
7. Within 14 days of the completion of the requirements of this Order, the Parties shall



submit to the Inspector a final written report prepared and signed by the consultant describing the work undertaken to comply with this Order.

DATED at the Town of Lac La Biche in the Province of Alberta, this 19<sup>th</sup> day of March 2021.



Nathan Polturak  
Inspector,  
Environmental Protection Officer  
North Region

Section 91 of the *Environmental Protection and Enhancement Act* may provide a right of appeal against this decision to the Alberta Environmental Appeals Board. There may be a strict time limit for filing such an appeal. A copy of Section 91 is enclosed. For further information, please contact the Board Secretary at:

#306 Peace Hills Trust Tower  
10011 - 109 Street  
Edmonton, Alberta, T5J 3S8  
Telephone (780) 427-6207  
Fax (780) 427-4693.

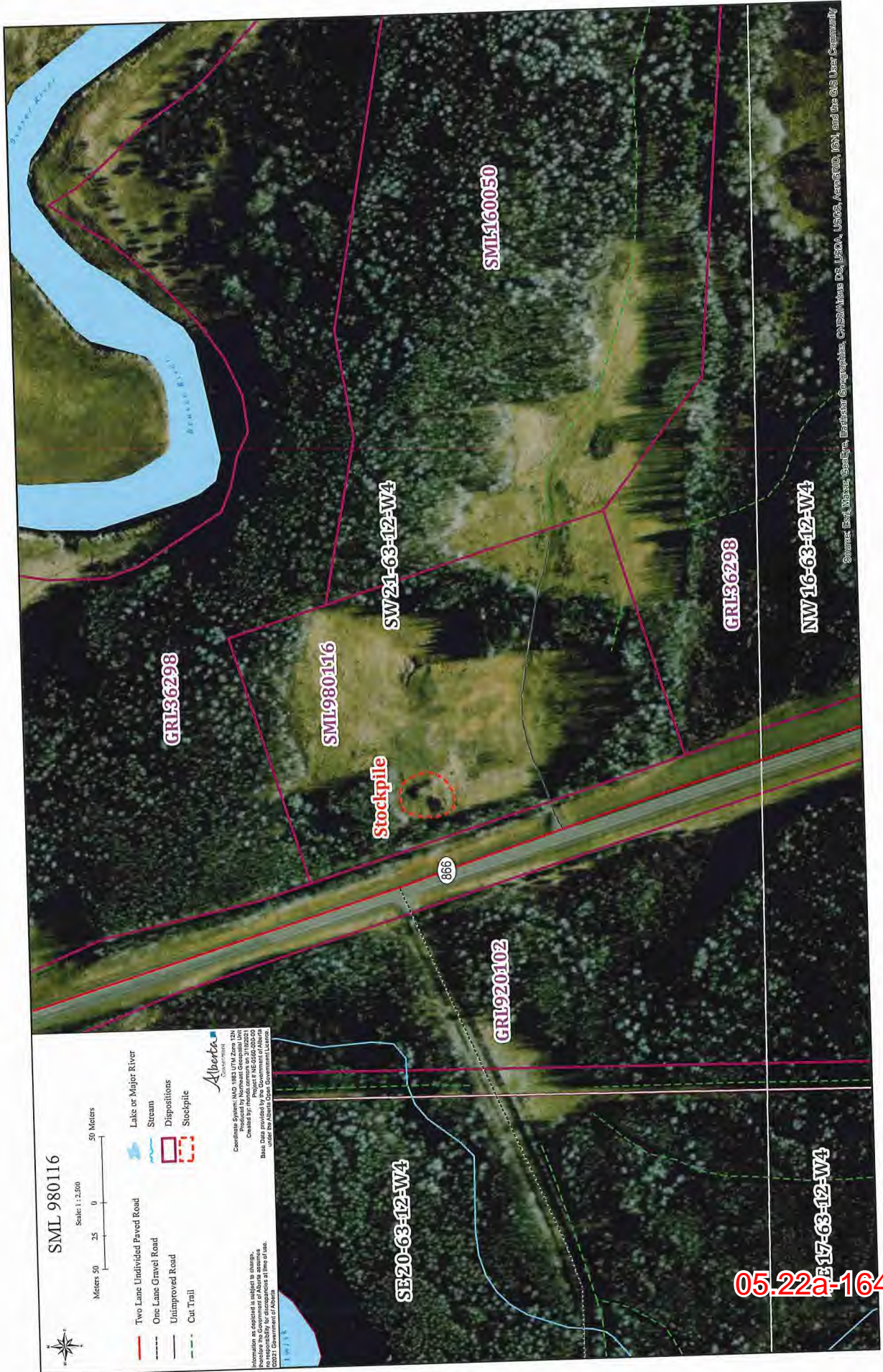
Notwithstanding the above requirements, the Parties shall obtain all necessary authorizations in complying with this order.

Take notice that this Environmental Protection Order is a remedial tool only, and in no way precludes any enforcement proceedings being taken regarding this matter under this Act or any other legislation.



## APPENDIX A

51



SK



**ENVIRONMENTAL PROTECTION AND ENHANCEMENT ACT**

BEING CHAPTER E-12 R.S.A. 2000 (the "Act")

**ENVIRONMENTAL PROTECTION ORDER NO. EPO-EPEA-35659-10**

JMB Crushing Systems Inc.  
Suite 2300, Bentall 5 550, Burrard Street  
Vancouver BC  
V6C 2B5,  
Canada

Byron Levkulich, Director  
Suite 2300, Bentall 5 550, Burrard Street  
Vancouver BC  
V6C 2B5,  
Canada

Aaron Patsch, Director  
Suite 2300, Bentall 5 550, Burrard Street  
Vancouver BC  
V6C 2B5,  
Canada

Jeffrey Buck, former Director  
JMB Crushing Systems Inc.  
3439 Keswick Boulevard SW  
Edmonton, AB  
T6W 3B2

(Collectively, the "Parties")

WHEREAS JMB Crushing Systems Inc. ("JMB") has operated a gravel pit (the "Pit") on a portion of public land legally described as SW-30-063-08-W4M (the "Lands") in the Municipal District of Bonnyville, in the Province of Alberta;

WHEREAS Byron Levkulich and Aaron Patsch are Directors of JMB and Jeffrey Buck is a former Director of JMB ("Parties");

WHEREAS the Pit is approximately 0.347 Hectares in area. Appendix A to this Order contains a map showing the dimensions, location and features of the Pit;

WHEREAS a "pit" is defined in the *Environmental Protection and Enhancement Act* ("EPEA") to mean an operation on or excavation from the surface of the land for the purpose of removing sand and gravel and includes any associated infrastructure;



WHEREAS the Lands are contained in surface material lease 120027 ("SML 027") that is a disposition issued to JMB under the *Public Lands Act* on January 13, 2020. SML 027 expires on January 12, 2030;

WHEREAS the Lands were held by JMB under SMC 110019 from May 26, 2011 to June 26, 2015;

WHEREAS on June 11, 2012 JMB was issued TFA 123579, authorizing early entry to SML 120027;

WHEREAS TFA 123579 was subject to the following conditions:

- The holder shall reclaim all disturbed land surfaces within two growing seasons, to occur concurrently with operations;
- Final surface reclamation must meet the requirements for the specific activity in place at time of abandonment;
- Initial efforts at re-establishing a vegetative cover on disturbed surface must be accomplished by planting native tree and shrub species; and
- The holder shall take all precautions and safeguards necessary to prevent soil and surface erosion to the satisfaction of the department in its sole discretion;

WHEREAS on January 31, 2013 JMB filed an annual return documenting the removal of 14,768.57 cubic yards of material from SML 027 during the 2012 operating year;

WHEREAS in 2014, JMB filed an annual return documenting the removal of 3,625 cubic yards of material from SML 027 during the 2013 operating year;

WHEREAS on January 13, 2020 AEP approved the Conservation and Reclamation Business Plan ("CRBP") for SML 027;

WHEREAS Clause 13 of Schedule A – Operating Conditions to the Agreement requires the Operator to reclaim any land disturbed in accordance with the approved conservation, operation and reclamation plans;

WHEREAS on May 1, 2020, JMB obtained an initial order from the Court under the *Companies Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended;

WHEREAS on May 11, 2020 Alberta Environment and Parks ("AEP") Public Lands Officer ("PLO") completed an inspection on the Lands and identified the following:

- the Lands were dormant and appeared to be in the stages of final reclamation;
- lack of topsoil replacement on a large portion of the pit

WHEREAS on December 4, 2020 JMB indicated they will not be completing any further reclamation works on the Lands;

WHEREAS on February 17, 2021, Nathan Polturak, an Environmental Protection Officer ("EPO") and Inspector under the *Environmental Protection and Enhancement Act* RSA 2000, c E-12 (the "Inspector"), conducted a review of the terms and conditions of SML 027 and 2019 satellite imagery of the area and determined that JMB contravened the *Public Lands Act* and Public Lands Administration Regulation by allowing erosion and sedimentation on or adjacent to the Lands;

WHEREAS on February 23, 2021, AEP issued a Notice of Non-Compliance ("NONC") to JMB stating that AEP had identified issues of non-compliance of the *Public Lands Act* under SLM 027.

WHEREAS on February 26, 2021, 216 provided AEP with its response to the NONC, which stated that SML 027 is depleted and 99% of reclamation is complete;

WHEREAS section 137 of the *Environmental Protection and Enhancement Act* states that an operator must conserve and reclaim specified land and unless exempted by the regulation, obtain a reclamation certificate in respect of the conservation and reclamation;

WHEREAS the surface land disturbance in the Pit is "specified lands" as defined by the Conservation and Reclamation Regulation section 1(t)(v);

WHEREAS the Parties are persons who carry on or have carried on an activity on or in respect of specified land other than pursuant to an approval or registration, and are persons who act as principal or agent of person(s) referred to in any of EPEA section 134(b)(i) to (vi), and therefore are operators;

WHEREAS Nathan Polturak, Environmental Protection Officer, North Region (the "Inspector") has been designated as an Inspector for the purposes of issuing Environmental Protection Orders under section 140 the *Environmental Protection and Enhancement Act*; and

WHEREAS the Inspector is of the opinion that the suspension of the operation in the Pit and directing the performance of work is necessary in order to conserve and reclaim specified land.

THEREFORE, I Nathan Polturak, Inspector, North Region, pursuant to section 140 of the *Environmental Protection and Enhancement Act*, DO HEREBY ORDER:

1. By **March 26, 2021**, the Parties shall submit to the Inspector for the Inspector's approval, the name and qualifications of a consultant who carries a professional designation authorized to practice reclamation, which the Parties will retain to prepare and sign the below noted reclamation and remedial plan.
2. By **May 31, 2021**, the Parties shall submit to the Inspector for the Inspector's review and approval a written reclamation and remedial plan ("Plan").
3. The Parties shall include at minimum include all of the following in the Plan:
  - a. Particulars of the characteristics and properties of the land including topography, drainage, soils, vegetation and land capability.
  - b. A description of the adjacent land uses.
  - c. A description of the reclamation work including the type of equipment, methods and materials that will be used in implementing the Plan.
  - d. A description of the proposed reclaimed land use that includes elevations, soil replacement and re-vegetation.



- e. A proposed Schedule of Implementation that shall have **June 30, 2022** as the completion date.
  - f. A six month monitoring and maintenance program commencing **June 30, 2022**.
4. Upon approval of the Plan by the Inspector, the Parties shall conduct the work described in the approved Plan, according to the approved schedule of implementation, unless otherwise authorized in writing by the Inspector.
  5. The Parties shall submit progress updates to the Inspector on **July 30, 2021, November 30, 2021, March 31, 2022, and July 29, 2022** that include a detailed summary of all reclamation activities undertaken at the Pit;

DATED at the Town of Lac La Biche in the Province of Alberta, this 19<sup>th</sup> day of March 2021.



Nathan Polturak  
Inspector  
Environmental Protection Officer  
North Region

**Section 91 of the *Environmental Protection and Enhancement Act* may provide a right of appeal against this decision to the Alberta Environmental Appeals Board. There may be a strict time limit for filing such an appeal. A copy of Section 91 is enclosed. For further information, please contact the Board Secretary at:**

**#306 Peace Hills Trust Tower  
10011 - 109 Street  
Edmonton, Alberta, T5J 3S8  
Telephone (780) 427-6207  
Fax (780) 427-4693.**

**Notwithstanding the above requirements, the Parties shall obtain all necessary authorizations in complying with this order.**

**Take notice that this enforcement order is a remedial tool only, and in no way precludes any enforcement proceedings being taken regarding this matter under this Act or any other legislation.**



## APPENDIX A

Sk





**ENVIRONMENTAL PROTECTION AND ENHANCEMENT ACT**

BEING CHAPTER E-12 R.S.A. 2000 (the "Act")

**ENVIRONMENTAL PROTECTION ORDER NO. EPO-EPEA-35659-08**

JMB Crushing Systems Inc.  
Suite 2300, Bentall 5 550, Burrard Street  
Vancouver BC  
V6C 2B5,  
Canada

Byron Levkulich, Director  
Suite 2300, Bentall 5 550, Burrard Street  
Vancouver BC  
V6C 2B5,  
Canada

Aaron Patsch, Director  
Suite 2300, Bentall 5 550, Burrard Street  
Vancouver BC  
V6C 2B5,  
Canada

Jeffrey Buck, former Director  
JMB Crushing Systems Inc.  
3439 Keswick Boulevard SW  
Edmonton, AB  
T6W 3B2

George Shandro  
Box 7556  
Bonnyville, AB  
T9N 2H8

[Collectively, the "Parties"]

WHEREAS JMB Crushing Systems Inc. ["JMB"; the "Operator"] has operated a gravel pit [the "Pit"] on a portion of public land legally described as 08-23-061-07-W4M [the "Lands"] in the Municipal District of Bonnyville, in the Province of Alberta;

WHEREAS the Pit is approximately XXXX hectares in area. Appendix A to this Order contains a map showing the dimensions, location and features of the Pit;



WHEREAS the *Environmental Protection and Enhancement Act* ("EPEA") section 1(xx) defines pit as an operation on or excavation from the surface of the land for the purpose of removing sand and gravel and includes any associated infrastructure;

WHEREAS Byron Levkulich, Aaron Patsch are Directors for JMB and Jeffrey Buck is a former Director of JMB;

WHEREAS George Shandro was issued surface material lease ["SML 930040"] on July 29, 1993;

WHEREAS the disposition agreement for SML 930040 currently in force dates to January 14, 2004;

WHEREAS JMB [the "Operator"] was assigned SML 930040 on December 15, 2008;

WHEREAS the last documented activity at the pit was recorded in an annual return for the period ending July 28, 2010;

WHEREAS on January 29, 2013 an Alberta Environmental and Parks ["AEP"] Public Lands Officer ["PLO"] inspected the Lands and observed:

- The Pit was heavily recreated by all-terrain vehicles;
- The Pit is basically a big hole;
- Due to relatively small size of the SML and large size of the Pit there is little opportunity to continue operations; and
- The field recommended the SML not be renewed and the Operator seek reclamation in accordance with the field officer;

WHEREAS on July 28, 2013 SML 930040 expired;

WHEREAS on October 17, 2016 an AEP PLO inspected the Lands and noted the Pit appeared to be a depression in the snow with some vegetation growth;

WHEREAS on March 17, 2017 AEP issued JMB a letter cancelling SML 930040;

WHEREAS on May 1, 2020 JMB entered into proceedings under the *Companies Creditors Arrangement Act*, R.S.C., 1985, c. C-36;

WHEREAS on May 28, 2020 an AEP Environmental Protection Officer ["EPO"] completed an inspection of the Lands and found:

- An open pit impacted by ATV use; and
- Garbage located around the site.

WHEREAS on December 18, 2020 the AEP EPO completed an inspection of the Lands and found:

- There was no recent activity at the pit;
- The pit is approximately 3.5 m deep; and
- Small hillocks of an undetermined material were present on the north and west edges of the pit.

WHEREAS on February 23, 2021 the EPO spoke with Tyler Pell of JMB who stated:

- JMB visited the pit in October 2020;

- JMB observed rooting and grass growing from the soil piles north of the pit; and
- JMB will need to assess if there is enough material to cover the outstanding reclamation area.

WHEREAS the Parties are persons who carry on or have carried on an activity on or in respect of specified land other than pursuant to an approval or registration, and are persons who act as principal or agent of person(s) referred to in any of *Environmental Protection and Enhancement Act* section 134(b)(i) to (vi), and therefore are operators;

WHEREAS the surface land disturbance in the Pit is "specified lands" as defined by the *Conservation and Reclamation Regulation* section 1(t)(v);

WHEREAS Clause 12 of the Indenture to SML 930040 commits the Operator to delivering the Lands to the Minister in a satisfactory condition upon cancellation of the lease;

WHEREAS Clause 13 of the Indenture to SML 930040 commits the Operator to reclaiming the surface of the land in a manner satisfactory to the Minister;

WHEREAS Nathan Polturak, Environmental Protection Officer, North Region (the "Inspector"), has been designated as an Inspector for the purpose of issuing Environmental Protection Orders under section 140 of the *Environmental Protection and Enhancement Act*;

WHEREAS the Inspector is of the opinion that directing the performance of work is necessary in order to conserve and reclaim specified land;

THEREFORE, I, Nathan Polturak, Inspector, North Region pursuant to Section 140 of the *Environmental Protection and Enhancement Act*, DO HEREBY ORDER THAT:

1. The Parties shall not remove any saleable aggregate materials from SML 930040;
2. By **March 26, 2021**, the Parties shall submit to the Inspector for the Inspector's approval, the name and qualifications of a consultant who carries a professional designation authorized to practice reclamation, which the Parties will retain to prepare and sign the below noted reclamation and remedial plan.
3. By **May 31, 2021**, the Parties shall submit to the Inspector for the Inspector's review and approval a written reclamation and remedial plan ("Plan").
4. The Parties shall at minimum include all of the following in the Plan:
  - a. Particulars of the characteristics and properties of the land including topography, drainage, soils, vegetation and land capability.
  - b. A historical synopsis of any surface, subsurface and groundwater disturbance.
  - c. A description of the adjacent land uses.
  - d. An accounting of what volume of marketable aggregate is left within the Pit and



its value.

- e. A description of the reclamation work including the type of equipment, methods and materials that will be used in implementing the Plan.
  - f. A description of the proposed reclaimed land use that includes elevations, soil replacement and re-vegetation.
  - g. A description of how ground water infiltrating open excavations will be addressed and justification for any surface and water related improvements to be left in place.
  - h. A proposed Schedule of Implementation that shall have **September 20, 2022** as the completion date.
  - i. A six month monitoring and maintenance program commencing **September 20, 2022**.
5. Upon approval of the Plan by the Inspector, the Parties shall conduct the work described in the approved Plan, according to the approved schedule of implementation, unless otherwise authorized in writing by the Inspector.
6. The Parties shall submit progress updates to the Inspector on **July 30, 2021**, **November 30, 2021**, **March 31, 2022**, and **July 29, 2022** that include a detailed summary of all reclamation activities undertaken at the Pit;
7. Within 14 days of the completion of the requirements of this Order, the Parties shall submit to the Inspector a final written report prepared and signed by the consultant describing the work undertaken to comply with this Order.

DATED at the Town of Lac La Biche in the Province of Alberta, this 19<sup>th</sup> day of March 2021.



Nathan Polturak  
Inspector  
Environmental Protection Officer  
North Region

**Section 91 of the *Environmental Protection and Enhancement Act* may provide a right of appeal against this decision to the Alberta Environmental Appeals Board. There may be a strict time limit for filing such an appeal. A copy of Section 91 is enclosed. For further information, please contact the Board Secretary at:**



**#306 Peace Hills Trust Tower  
10011 - 109 Street  
Edmonton, Alberta, T5J 3S8  
Telephone (780) 427-6207  
Fax (780) 427-4693.**

**Notwithstanding the above requirements, the Parties shall obtain all necessary authorizations in complying with this order.**

**Take notice that this Environmental Protection Order is a remedial tool only, and in no way precludes any enforcement proceedings being taken regarding this matter under this Act or any other legislation.**

SK

## APPENDIX A

50

SL



**SML 930040**  
Scale 1:1,000

Meters 20 10 0 20

One Lane Gravel Road  
Track Trail  
Powerline  
SML930040  
Pit (0.38 ha)  
Trespass on public land (0.02 ha)

Information as depicted is subject to change. The Government of Alberta reserves the right to amend this information without notice. © 2021 Government of Alberta

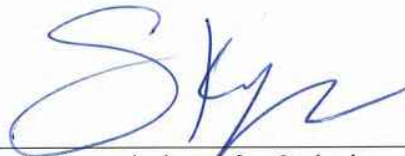
Coordinate System: NAD 1983 UTM Zone 12N  
Projection: UTM  
Datum: North American Datum of 1983  
Created by: Project NE562-200-00  
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Alberta  
Government

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 Environment and Parks, Government of Alberta



THIS IS EXHIBIT "S" REFERRED TO IN  
THE AFFIDAVIT OF TYLER PELL  
SWORN BEFORE ME  
THIS 22<sup>ND</sup> DAY OF MARCH, 2021



A Commissioner for Oaths in and for the

~~Province of Alberta~~  
**Stephen Kløger**

*Barrister & Solicitor*

A Notary Public/Commissioner for Oaths  
in and for the Province of Alberta

My Commission expires at the pleasure of  
the Lieutenant Governor in Council

SK

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**From:** Tyler Pell <tylerpell@jmbcrush.com>  
**Sent:** March 21, 2021 10:49 AM  
**To:** Kroeger, Stephen  
**Subject:** FW: EPO-EPEA-35659-08, EPO-EPEA-35659-09, and EPO-EPEA-35659-10 / Designated Professional for EPO Plans

**This message originated from outside of Gowling WLG. | Ce message provient de l'extérieur de Gowling WLG.**

---

Tyler Pell  
1.780.815.0139

**From:** Tyler Pell  
**Sent:** March 21, 2021 10:46  
**To:** Nathan Polturak (nathan.polturak@gov.ab.ca) <nathan.polturak@gov.ab.ca>  
**Cc:** Cumming, Tom <Tom.Cumming@gowlingwlg.com>  
**Subject:** EPO-EPEA-35659-08, EPO-EPEA-35659-09, and EPO-EPEA-35659-10 / Designated Professional for EPO Plans

Good morning Nathan

As required in EPO-EPEA-35659-08, EPO-EPEA-35659-09, and EPO-EPEA-35659-10 JMB respectfully submits Tyler Pell, RPFT registration #930009 under the Association of Alberta Forest Management Professionals (AAFMP), as the individual who carries a professional designation that authorizes Tyler to practice reclamation in the province of Alberta. Tyler has over 25 years of experience and is a member in good standing with AAFMP. Tyler will be leading the preparation and will sign off on the EPO Plans.


If you require further details please let me know.

Regards,

Tyler Pell  
1.780.815.0139

SK

THIS IS EXHIBIT "T" REFERRED TO IN  
THE AFFIDAVIT OF TYLER PELL  
SWORN BEFORE ME  
THIS 22<sup>ND</sup> DAY OF MARCH, 2021



---

A Commissioner for Oaths in and for the  
Province of Alberta

**Stephen Kroeger**

*Barrister & Solicitor*

A Notary Public/Commissioner for Oaths  
in and for the Province of Alberta  
My Commission expires at the pleasure of  
the Lieutenant Governor in Council



---

**From:** Heather Dent <Heather.Dent@gov.ab.ca>  
**Sent:** March 18, 2021 5:01 PM  
**To:** Tyler Pell <tylerpell@jmbcrush.com>  
**Cc:** Nathan Polturak <Nathan.Polturak@gov.ab.ca>  
**Subject:** RE: EPO-EPEA-35659-07 / EO-WA-35659-01 : SML 060060 Operations

Good afternoon Mr. Pell,

Based on this scenario you've described below, I would recommend 2161889 Alberta Ltd. put forward a request to AEP for an amendment to or sublease of SML 060060 (as per section 146 of the Public Lands Administration Regulation). Additional information on these processes can be found at: <https://www.alberta.ca/disposition-management-post-issuance.aspx#jumplinks-2>.

Regards

**Heather Dent**  
*Compliance Manager*  
Alberta Environment and Parks  
Regulatory Assurance Division  
Phone: 780.427.9335  
[Heather.Dent@gov.ab.ca](mailto:Heather.Dent@gov.ab.ca)



To report an environmental emergency, incident, or complaint please phone the 24-hour **Environmental Response Centre** at 1-800-222-6514.

Classification: Protected A

SK

**From:** Tyler Pell <[tylerpell@jmbcrush.com](mailto:tylerpell@jmbcrush.com)>  
**Sent:** March 17, 2021 2:02 PM  
**To:** Heather Dent <[Heather.Dent@gov.ab.ca](mailto:Heather.Dent@gov.ab.ca)>; Nathan Polturak <[Nathan.Polturak@gov.ab.ca](mailto:Nathan.Polturak@gov.ab.ca)>  
**Subject:** EPO-EPEA-35659-07 / EO-WA-35659-01 : SML 060060 Operations

**CAUTION: This email has been sent from an external source. Treat hyperlinks and attachments in this email with care.**

Hi Heather and Nathan

A question has come in regards to continued pit extracting and processing.

Whether under the SML lease authority, under the EPO Plan, and/or under the EO Remedial Plan, is there an option to operate portions of SML that are not contentious with AEP and possibly during the same time as the implementation of the Plans?

We would like to have Skoreyko Crushing utilize the remaining resource that is viable for his operational set up. The operations would be under the current SML lease authority and conditions of 2161889 Alberta Ltd, and if a viable option for AEP, laid out in the EPO Plan, an updated CRBP, or via a separate operational plan that aligns with the EPO Plan and is approved by AEP.

In summary is there a regulatory option to have Skoreyko utilize the aggregate resource under 2161889 Alberta Ltd before the EPO and EO is closed?


If you need further clarification please let me know.

Regards,

Tyler Pell  
1.780.815.0139

SK

THIS IS EXHIBIT "U" REFERRED TO IN  
THE AFFIDAVIT OF TYLER PELL  
SWORN BEFORE ME  
THIS 22<sup>ND</sup> DAY OF MARCH, 2021



---

A Commissioner for Oaths in and for the  
Province of Alberta

**Stephen Kroeger**

*Barrister & Solicitor*

A Notary Public/Commissioner for Oaths  
in and for the Province of Alberta  
My Commission expires at the pleasure of  
the Lieutenant Governor in Council



Holder	No.	Name	PRE / POST November 1 <sup>st</sup> , 2018 Disturbance of native vegetation or disturbance of native topsoil or agriculture topsoil
<b>Active 216 Dispositions</b>			
216	SML 080085	JLG 3	No disturbances
216	SML 110025	JLG 5	PRE
216	SML 110026	JLG 6	PRE
216	SML 110045	JLG 7	PRE
216	SML 110046	JLG 8	PRE
216	SML 110047	JLG 9	POST
216	SML 120005	JLG 10	POST
216	SML 120006	JLG 11	No disturbances
216	SML 120100	JLG 12	No disturbances
216	SML100085	JLG 4	No disturbances
<b>Inactive 216 Dispositions</b>			
216	SML 060060	SML 060060	PRE  The construction of the water body and all other disturbances existed before 216 was assigned SML 060060 in March 2019.  JLG Ball Enterprises is believed to be the operator of the pit prior to March 2019.  216 has not operated in the water body since being assigned the disposition.  216's operations since March 2019 have not increased the overall disturbance footprint of the disposition or further disturbed areas logged of trees but not previously striped of the original root mat. Only a very minor amount of earthworks was completed on area already devoid of native topsoil. This was necessary to support the hauling of saleable crushed material produced by the previous operator of the SML.
216	DLO 170011	SML 060060 Access	PRE
216	DLO 200059		No disturbances
216	DML 200017		No disturbances
216	TFA 201094		No disturbances
216	TFA 201290		No disturbances
<b>EPEA Registrations for Active Royalty Agreements</b>			
JMB	308161-00-00	Shankowski	PRE and POST
JMB	17395-01-00	Havener	PRE
<b>EPEA Registrations for Inactive Royalty Agreements</b>			
JMB	306490-00-00	Hoye / Kucy	PRE
JMB	293051-00-00	MacDonald	PRE
JMB	149949-00-00	Megley	PRE



Holder	No.	Name	PRE / POST November 1 <sup>st</sup> , 2018 Disturbance of native vegetation or disturbance of native topsoil or agriculture topsoil
JMB	263318-00-00	O'Kane	PRE
JMB	15048-03-02	Buksa	PRE
<b>Inactive JMB Dispositions</b>			
JMB	SML 120027	SML 120027 (Sand)	PRE
JMB	SML 930040	SML 930040	PRE
JMB	SML 980116	SML 980116 (Sand)	PRE
JMB	DML 120032	N/A	PRE
JMB	SME 150106	N/A	No disturbances
JMB	SME 200009	N/A	No disturbances
JMB	TFA 194837		No disturbances

COURT FILE NO.: 2001-05482

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

PROCEEDINGS IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, RSC 1985, c C-36, as amended  
AND IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF JMB CRUSHING SYSTEMS INC. and 2161889 ALBERTA LTD.  
  
AND IN THE MATTER OF A PLAN OF ARRANGEMENT OF JMB CRUSHING SYSTEMS INC. and MANTLE MATERIALS GROUP, LTD. UNDER THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, RSC 1985, c C-36, as amended, and the *BUSINESS CORPORATIONS ACT*, SBC 2002, c 57, as amended

APPLICANTS JMB CRUSHING SYSTEMS INC., 2161889 ALBERTA LTD., MANTLE MATERIALS GROUP, LTD. and 2324159 ALBERTA INC.

DOCUMENT **CERTIFICATE OF REMOTE COMMISSIONING FOR THE AFFIDAVIT OF TYLER PELL**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT  
**Gowling WLG (Canada) LLP**  
1600, 421 – 7<sup>th</sup> Avenue SW  
Calgary, AB T2P 4K9  
  
Attn: **Tom Cumming/Caireen E. Hanert**  
Phone: 403-298-1938 / 403-298-1992  
Fax: 403-263-9193  
  
File No.: A163514

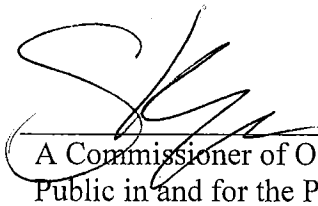
I, Stephen Kroeger, a Commissioner of Oaths and Notary Public in and for the Province of Alberta, certify that the requirements outlined in the Court of Queen's Bench of Alberta, Notice to the Profession and Public, "Remote Commissioning of Affidavits for Use in Civil and Family Proceedings During the COVID-19 Pandemic" dated March 25, 2020 (the "Notice"), has been complied with as follows:

1. I met with Tyler Pell on March 22, 2021, using video technology.
2. While connected to video technology, I undertook the following steps in accordance with the Notice:



- (a) verified and retained “screenshot” copies of the front and back of Tyler Pell’s government issued photo identification;
  - (b) verified that both parties had a paper copy of the Affidavit and all Exhibits before them during the video conference;
  - (c) reviewed every page of the Affidavit and Exhibits with Tyler Pell, with both parties initialing the lower right corner of each page to verify the pages are identical; and
  - (d) administered the oath at the end of the review and observed Tyler Pell sign his name to the Affidavit.
3. I received the signed Affidavit with Exhibits from Tyler Pell electronically, and upon receipt, verified that this copy was identical to the one I initialed during the video conference, and signed the jurat. Both copies are attached to this Certificate.
4. I believe that remote commissioning is necessary because it is impossible or unsafe, for medical reasons, to physically meet with Tyler Pell to commission the Affidavit.

SIGNED at the City of Calgary, in the  
Province of Alberta, this 22nd day of  
March, 2021.



---

A Commissioner of Oaths and Notary  
Public in and for the Province of Alberta