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COURT FILE NUMBER 2001-05482

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

APPLICANT IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF ARRANGEMENT OF JMB CRUSHING SYSTEMS INC. AND 2161889 ALBERTA LTD.

DOCUMENT ELEVENTH REPORT OF FTI CONSULTING CANADA INC., IN ITS CAPACITY AS MONITOR OF JMB CRUSHING SYSTEMS INC. AND 2161889 ALBERTA LTD.

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December 5, 2020

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ELEVENTH REPORT OF THE MONITOR

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INTRODUCTION

1. On May 1, 2020 (the “**Filing Date**”), JMB Crushing Systems Inc. (“**JMB**”) and 2161889 Alberta Ltd. (“**216**” and together with JMB, the “**Applicants**”) commenced proceedings (the “**CCAA Proceedings**”) under the Companies’ Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) pursuant to an order granted by this Honourable Court which was subsequently amended and restated on May 11, 2020 (the “**ARIO**”).
2. The ARIO appointed FTI Consulting Canada Inc. as Monitor in the CCAA Proceedings (the “**Monitor**”) and established a stay of proceedings (the “**Stay of Proceedings**”) in favour of the Applicants until July 31, 2020. On November 12, 2020, this Honourable Court granted an order extending the Stay of Proceedings to December 11, 2020.
3. On May 20, 2020, this Honourable Court granted an order (the “**MD Lien Order**”) which set aside the Consent Order, granted on May 11, 2020 and replaced the process set out therein to address the validity of any builders’ lien claims associated with any work done or materials furnished with respect to the agreement between the Municipal District of Bonnyville No. 87 (the “**MD**”) and JMB, dated November 1, 2013, as subsequently amended (the “**MD Contract**”).
4. On October 16, 2020, this Honourable Court granted the following orders:
 - a. an order approving a transaction (the “**Mantle Transaction**”) for the sale to Mantle Materials Group, Ltd. (“**Mantle**”) of certain assets and vesting such assets free and clear of any security interests or other claims other than certain permitted encumbrances (the “**Mantle SAVO**”);
 - b. an order vesting all of JMB’s remaining assets and liabilities that are excluded from the Mantle Transaction in 216 (the “**RVO**”);

- c. an assignment order assigning certain of the Applicants' agreements to Mantle;
and
 - d. an order sanctioning a joint plan of arrangement under the Business Corporations Act, SBC 2002, c 57, as amended and the CCAA.
5. On October 21, 2020, the determination of RBEE Aggregate Consulting Ltd.'s ("**RBEE**") and Jerry Shankowski's and 945441 Alberta Ltd.'s (collectively, "**Shankowski**") contested builder's lien claims was adjourned to November 27, 2020, to allow RBEE and Shankowski additional time to advance any trust claims such parties may have against the \$1.85 million held back by the Monitor pursuant to the MD Lien Order (the "**MD Holdback**").
 6. Between November 5 and 18, 2020, six parties filed applications to be heard on November 27, 2020, claiming, among other relief, a trust over the MD Holdback under and pursuant to paragraph 26 of the MD Contract with such trust claims ("**Trust Claims**") totalling approximately \$2.1 million plus interest and costs.
 7. On November 6, 2020, one of the above mentioned parties, Shankowski, filed an application which sought relief with respect to its Trust Claim but also sought to set aside the Mantle SAVO and RVO (the "**Shankowski Application**") and add additional parties as named respondents to the application. Shankowski's legal counsel has also sought leave to appeal the Mantle SAVO and RVO with the Court of Appeal of Alberta (the "**Sale Order Appeal**"). The portion of the Shankowski Application seeking to set aside the Mantle SAVO and RVO was heard by this Honourable Court on November 27, 2020 and a corresponding judgment is expected to be given on December 7, 2020.
 8. On December 4, 2020, the Applicants filed a Notice of Application for an order extending the Stay of Proceedings until and including January 8, 2021 (the "**Extension Order**") and an order amending the RVO granted October 16, 2020 (the "**RVO Amendment Order**").

9. The purpose of this report is to provide this Honourable Court and the Applicants' stakeholders with information with respect to:
 - a. the status of the Mantle Transaction;
 - b. the Applicants' actual cash receipts and disbursements for the 30-week period ended November 27, 2020 as compared to the Sixth Cash Flow Statement filed with the Ninth Report of the Monitor;
 - c. an updated cash flow statement (the "**Seventh Cash Flow Statement**") prepared by the Applicants for the 39 weeks ending January 29, 2021 including the key assumptions on which the Seventh Cash Flow Statement is based;
 - d. an update on the potential contingent claim of Canada Revenue Agency (the "**CRA**") in respect of certain withholdings associated with a voluntary disclosure made by JMB's predecessor, JMB Crushing Systems ULC ("**JMB ULC**");
 - e. the RVO Amendment Order;
 - f. the Applicants' application for the Stay Extension Order; and
 - g. the Monitor's conclusions and recommendations.

TERMS OF REFERENCE

10. In preparing this report, the Monitor has relied upon certain information (the "**Information**") including information provided by JMB concerning the various assets subject to the various transactions and JMB's unaudited financial information, books and records and discussions with senior management and the Chief Restructuring Advisor (collectively, "**Management**").
11. Except as described in this report, the Monitor has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that

would comply with Generally Accepted Assurance Standards pursuant to the Chartered Professional Accountants of Canada Handbook.

12. The Monitor has not examined or reviewed financial forecasts and projections referred to in this report in a manner that would comply with the procedures described in the Chartered Professional Accountants of Canada Handbook.
13. Future oriented financial information reported to be relied on in preparing this report is based on Management's assumptions regarding future events. Actual results may vary from forecast and such variations may be material.
14. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian dollars.

STATUS OF THE MANTLE TRANSACTION

15. As at December 5, 2020, the Mantle Transaction has not closed. The Mantle SAVO remains subject to, among other things, the parties having obtained the approval by Alberta Environment and Parks (“**AEP**”) of the transfer of the surface mineral leases and certain other Crown dispositions included in the Mantle Transaction.
16. Mantle and the Applicants are working to resolve the remaining issues with the AEP and are having ongoing discussions with the relevant parties involved at the AEP.
17. The Applicants, Fiera, ATB, and Mantle continue to work in consultation with the Monitor to establish an arrangement that would see: (i) Mantle operate the business and fund the ongoing operating costs; and (ii) address all non-operating disbursements and other ongoing costs and expenses associated with these CCAA Proceedings, pending completion of the Mantle Transaction (the “**Funding Agreement**”).

18. The parties' ability and willingness to close the Mantle Transaction may be impacted by, among other things, the outcome of the Shankowski Application, the Sale Order Appeal, and the Funding Agreement.

CASH FLOW VARIANCE ANALYSIS

19. The Monitor has undertaken weekly reviews of JMB's actual cash flows in comparison to those contained in the Sixth Cash Flow Statement. JMB's actual cash receipts and disbursements as compared to the Cash Flow Statement for the period of May 1, 2020, to November 27, 2020, are summarized below:

(\$000's)	Weeks 1 - 30		
	Actual	Forecast	Variance
Operating Receipts			
Collection of Pre-Filing AR - Ellis Don	\$ 2,032	\$ 2,032	\$ -
Collection of Pre-Filing AR - MD of Bonnyville	1,478	1,478	-
Collection of Post Filing AR - MD of Bonnyville	1,566	1,566	-
Post-filing Gravel Sales	49	49	-
SISP Proceeds	577	577	-
Other Receipts	857	857	-
Total Operating Receipts	6,558	6,558	-
Operating Disbursements			
Payroll And Source Deductions	(1,444)	(1,445)	-
Royalties	(408)	(408)	-
Fuel	(207)	(207)	-
Repair & Maintenance	(52)	(52)	-
Office Administration	(42)	(44)	2
Insurance & Benefits	(228)	(325)	97
Jobsite Lodging	(21)	(21)	-
Equipment Loan & Lease Payments	(138)	(138)	-
Occupancy	(249)	(247)	(1)
Other	(59)	(61)	2
Total Operating Disbursements	(2,848)	(2,948)	99
Non-Operating Receipts & Disbursements			
Interim Financing (Repayment)	(211)	(211)	-
Professional Fees	(1,900)	(2,231)	331
Total Disbursements	(4,959)	(5,390)	430
Net Cash Flow	1,599	1,168	430
Opening Cash Balance	-	-	-
Ending Cash	\$ 1,599	\$ 1,168	\$ 430

20. Overall, the Applicants realized a favourable net cash flow variance of approximately \$430,000. The key components of the variance are as follows:

- a. a timing difference of \$97,000 relating to the purchase of an extended claims reporting period in respect of the Applicants' director and officer insurance policy; and

- b. professional fees are approximately \$331,000 lower than forecast and are a result of timing differences.

SEVENTH CASH FLOW STATEMENT

21. The Applicants have prepared the Seventh Cash Flow Statement which includes forecast results for the 39 weeks ending January 29, 2021 (the “**Forecast Period**”). A copy of the Seventh Cash Flow Statement is attached as Appendix “A”.

22. A summary of the Seventh Cash Flow Statement is set out in the table below:

(\$000's)	Weeks 1-30 Actual	Weeks 31-39 Forecast	Total Pro-Forma
Operating Receipts			
Collection of Pre-Filing AR - Ellis Don	\$ 2,032	\$ -	\$ 2,032
Collection of Pre-Filing AR - MD of Bonnyville	1,478	-	1,478
Collection of Post Filing AR - MD of Bonnyville	1,566	-	1,566
Post-filing Gravel Sales	49	-	49
SISP Proceeds	577	-	577
Other Receipts	857	99	956
Total Operating Receipts	6,558	99	6,657
Operating Disbursements			
Payroll And Source Deductions	(1,444)	(135)	(1,580)
Royalties	(408)	-	(408)
Fuel	(207)	(1)	(208)
Repair & Maintenance	(52)	-	(52)
Office Administration	(42)	(13)	(56)
Insurance & Benefits	(228)	(128)	(356)
Jobsite Lodging	(21)	-	(21)
Equipment Loan & Lease Payments	(138)	(2)	(140)
Pit Reclamation Costs	-	(45)	(45)
Occupancy	(249)	(96)	(345)
Other	(59)	(9)	(68)
Total Operating Disbursements	(2,848)	(429)	(3,277)
Non-Operating Receipts & Disbursements			
Interim Financing (Repayment)	(211)	-	(211)
Professional Fees	(1,900)	(963)	(2,863)
Total Disbursements	(4,959)	(1,392)	(6,351)
Net Cash Flow	1,599	(1,293)	306
Opening Cash Balance	-	1,599	-
Ending Cash	\$ 1,599	\$ 306	\$ 306
Ending Cash Including Funds Held in Trust by Monitor	\$ 1,599	\$ 2,363	\$ 2,363

23. The Seventh Cash Flow Statement is based on the following assumptions:

- a. other receipts include \$99,000 relating to anticipated subsidies to be received from the federal government. The Applicants have not assumed any recoveries from the MD Holdback or a holdback of approximately \$207,000 relating to the EllisDon contract (collectively, the “**Holdbacks**”) pending resolution of the disputed lien

determinations, Trust Claims and the potential CRA claim with respect to the Unresolved Tax Liabilities;

- b. forecast insurance and benefit costs primarily relate to the purchase of an extended claims reporting period in respect of the current director and officer insurance policy. The Applicants have been unable to secure fleet insurance for its remaining equipment beyond November 30, 2020 and the Applicants' general liability insurance is scheduled to expire on December 31, 2020. Management is working to source replacement coverage;
- c. pit reclamation costs relate to the potential costs associated with reclamation of certain public lands. The AEP holds approximately \$30,000 in cash security deposits on these lands which is expected to be returned to JMB upon satisfaction of its reclamation obligations;
- d. the remaining operating disbursements relate primarily to ordinary course payments to fund payroll for the limited amount of staff remaining, basic office needs and occupancy costs; and
- e. forecast professional fees are expected to be approximately \$963,000 during the Forecast Period and include fees for the Applicants' legal counsel, the Monitor, the Monitor's legal counsel, certain contract executives of JMB, the Sales Agent's monthly work fee and certain other legal costs. A summary of the actual professional fee disbursements incurred to date and estimated costs to completion are set out in the table below:

<i>(\$000's)</i>			
Role	Weeks 1-30	Weeks 31-39	Weeks 1-39
	Actual	Forecast	Total
Legal Counsel to Applicants	\$ 652	\$ 287	\$ 940
Monitor	362	240	602
Legal Counsel to Monitor	338	217	555
Chief Restructuring Advisor	234	80	314
Sales Agent	234	33	267
Other	79	105	184
Total	\$ 1,900	\$ 963	\$ 2,863

24. Overall, the Applicants are forecasting to achieve a negative net cash flow of approximately \$1.3 million during the Forecast Period and have a remaining cash balance of approximately \$306,000 as at January 29, 2021. If the Holdbacks are released to the Applicants, it is estimated that JMB will have an ending cash balance of approximately \$2.4 million.

CRA VOLUNTARY DISCLOSURE AND CONTIGENT CLAIM

25. As discussed in the Tenth Report, certain unresolved potential tax liabilities (the “**Unresolved Tax Liabilities**”) may exist as a result of the actions of JMB ULC which came to light in the due diligence phase of Resource Land Fund V, LP’s acquisition of the JMB ULC shares.
26. A voluntary disclosure to the CRA was initiated by the shareholders of JMB ULC, on or around July 9, 2019 (the “**Voluntary Disclosure**”) to address the Unresolved Tax Liabilities. The Monitor was informed of the Voluntary Disclosure on November 17, 2020. On December 2, 2020, JMB received notice that the CRA had denied its Voluntary Disclosure application.
27. The CRA has advised the Applicants and the Monitor that it plans to assert a contingent priority claim in connection with the Unresolved Tax Liabilities and may seek an order that amounts be held in trust to deal with these potential claims. To date, the Monitor has not received a formal claim from CRA, nor has the CRA confirmed the quantum of the potential claim.

28. The Applicants and CRA have agreed that in the circumstances, CRA will not seek to collect or enforce its potential contingent claim against Mantle, allowing the Mantle Transaction to close. The CRA will limit their potential priority claim against the Applicants to the Holdbacks, totaling approximately \$2.1 million, and any remaining cash balance in 216 after consummation of the Mantle Transaction. Excluding any possible proceeds of the Holdbacks, the Applicants are forecasting to have approximately \$757,000 at January 8, 2021.
29. To the extent the CRA wishes to claim a deemed trust over the Holdbacks, such potential or contingent claim and its relative priority would need to be determined before a distribution of the MD Holdback can be made.

RVO AMENDMENT

30. Paragraph 13 of the RVO vests certain equipment (the “**Eastside Equipment**”) located in the State of Washington in Eastside Rock Products, Inc. (“**Eastside**”) upon the completion of the Mantle Transaction. Notwithstanding that the Mantle Transaction has yet to close, the amendment to the RVO seeks to immediately vest the Eastside Equipment in Eastside upon the delivery of a certificate by the Monitor having received the consent of Fiera to complete the transfer.
31. The Monitor is supportive of the amendment to the RVO for the following reasons:
- a. the Applicants’ may not be able to extend the insurance coverage in respect of the Eastside Equipment past December 31, 2020;
 - b. the amendment allows for a more efficient and expeditious realization of the Eastside Equipment; and
 - c. Fiera is supportive of the application and appears to be the only party affected by the transfer.

STAY EXTENSION

32. The Monitor has considered JMB's application to extend the Stay of Proceedings and has the following comments:

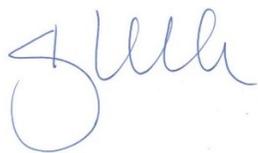
- a. the Applicants require an extension to address the outcome of the Shankowski Application, Sale Order Appeal, the Funding Agreement, advance discussions with AEP and seek to complete the transactions contemplated by the Mantle SAVO;
- b. an extension will allow the Applicants to resolve the Trust Claims, lien claims and potential CRA Voluntary Disclosure claim;
- c. the Seventh Cash Flow Statement forecasts that the Applicants have available liquidity during the period of the proposed extension;
- d. the Monitor has been advised that certain stakeholders, including the senior secured lenders, are supportive of the proposed extension;
- e. the Applicants are acting in good faith and with due diligence; and
- f. JMB's prospects of effecting a viable restructuring will be enhanced by an extension of the Stay of Proceedings until January 8, 2021.

CONCLUSIONS AND RECOMMENDATIONS

33. Based on the foregoing, the Monitor respectfully recommends that this Honourable Court grant the Extension Order and RVO Amendment Order.

All of which is respectfully submitted this 5th day of December, 2020.

FTI Consulting Canada Inc.
in its capacity as Monitor of the Applicants

A handwritten signature in blue ink, appearing to read 'Deryck Helkaa', with a large circular flourish at the beginning.

Deryck Helkaa
Senior Managing Director

A handwritten signature in black ink, appearing to read 'Tom Powell', with a stylized, angular flourish at the beginning.

Tom Powell
Senior Managing Director

Appendix A

Seventh Cash Flow Statement for the 39 Weeks Ending January 29, 2021

Seventh Cash Flow Statement (Notes 1)

	Actual	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Notes
Week #	Weeks 1 - 30	Week 31	Week 32	Week 33	Week 34	Week 35	Week 36	Week 37	Week 38	Week 39	Weeks 31 - 39	Weeks 1 - 39		
Week Ending		4-Dec-20	11-Dec-20	18-Dec-20	25-Dec-20	1-Jan-21	8-Jan-21	15-Jan-21	22-Jan-21	29-Jan-21	Total	Total		
Opening Cash	\$ -	\$ 1,598,606	\$ 1,542,191	\$ 1,109,229	\$ 1,057,891	\$ 834,691	\$ 761,066	\$ 756,866	\$ 530,966	\$ 424,328	\$ 1,598,606	\$ -		
Cash Receipts														
Collection of Canadian Emergency Wage Subsidy	698,080	-	-	17,600	-	-	-	17,600	-	-	35,200	733,280		
Collection of Canadian Emergency Rent Subsidy	-	19,500	23,000	-	-	-	21,000	-	-	-	63,500	63,500		
Collection of Pre-Filing AR - EllisDon (net of lien payouts)	2,031,521	-	-	-	-	-	-	-	-	-	-	2,031,521	2	
Collection of Pre-Filing AR - MD of Bonnyville	1,477,612	-	-	-	-	-	-	-	-	-	-	1,477,612	3	
Collection of Post-Filing AR - MD of Bonnyville	1,565,745	-	-	-	-	-	-	-	-	-	-	1,565,745	4	
Post-Filing Gravel Sales	49,094	-	-	-	-	-	-	-	-	-	-	49,094		
SISP Proceeds	576,990	-	-	-	-	-	-	-	-	-	-	576,990	5	
Other Receipts	159,085	-	-	-	-	-	-	-	-	-	-	159,085		
Total Receipts	6,558,127	19,500	23,000	17,600	-	-	21,000	17,600	-	-	98,700	6,656,827		
Operating Disbursements														
Payroll And Source Deductions	(1,444,379)	(22,490)	(7,087)	(21,000)	(7,200)	(21,000)	(7,200)	(21,000)	(7,200)	(21,000)	(135,177)	(1,579,556)	6,7	
Royalties	(407,629)	-	-	-	-	-	-	-	-	-	-	(407,629)		
Fuel	(207,339)	(500)	-	-	-	-	(500)	-	-	-	(1,000)	(208,339)	6	
Repair & Maintenance	(51,916)	-	-	-	-	-	-	-	-	-	-	(51,916)		
Office Administration	(42,067)	(2,959)	(500)	(500)	(500)	(3,000)	(2,000)	(500)	(500)	(3,000)	(13,459)	(55,525)	6	
Insurance & Benefits	(228,135)	-	(15,000)	-	-	-	(15,000)	-	(97,500)	-	(127,500)	(355,635)	8	
Jobsite Lodging	(20,605)	-	-	-	-	-	-	-	-	-	-	(20,605)	6	
Equipment Loan & Lease Payments	(138,305)	-	-	(938)	-	-	-	-	(938)	-	(1,876)	(140,181)	9	
Pit Reclamation Costs	-	-	-	-	-	-	-	-	-	(45,000)	(45,000)	(45,000)	10	
Occupancy	(248,603)	(30,330)	(1,000)	(500)	(500)	(31,000)	(500)	(1,000)	(500)	(31,000)	(96,330)	(344,934)	11	
Other	(59,183)	(3,373)	-	-	-	(2,625)	-	-	-	(2,625)	(8,623)	(67,806)	12	
Total Disbursements	(2,848,161)	(59,652)	(23,587)	(22,938)	(8,200)	(57,625)	(25,200)	(22,500)	(106,638)	(102,625)	(428,965)	(3,277,126)		
Non-Operating Receipts & Disbursements														
DIP Financing (Repayment)	(211,188)	-	-	-	-	-	-	-	-	-	-	(211,188)		
Professional Fees	(1,900,173)	(16,262)	(432,375)	(46,000)	(215,000)	(16,000)	-	(221,000)	-	(16,000)	(962,637)	(2,862,810)	13	
Total Disbursements	(2,111,361)	(16,262)	(432,375)	(46,000)	(215,000)	(16,000)	-	(221,000)	-	(16,000)	(962,637)	(3,073,998)		
Net Cash Flow	1,598,606	(56,414)	(432,962)	(51,338)	(223,200)	(73,625)	(4,200)	(225,900)	(106,638)	(118,625)	(1,292,902)	305,703		
Ending Cash Balance	\$ 1,598,606	\$ 1,542,191	\$ 1,109,229	\$ 1,057,891	\$ 834,691	\$ 761,066	\$ 756,866	\$ 530,966	\$ 424,328	\$ 305,703	\$ 305,703	\$ 305,703		

Notes

- 1 The Seventh Cash Flow Statement has been prepared to set out the post filing liquidity requirements of JMB Crushing Systems Inc. during the nine weeks ending January 29, 2021 under the Companies' Creditors Arrangement Act proceeding (the "CCAA Proceedings") which commenced effective May 1, 2020.
- 2 Cash receipts and timing of payment of pre-filing amounts due from Ellis Don and held by the Monitor in the amount of \$207,000 are based upon the Lien Determination Notices issued by the Monitor on August 20, 2020 and the determination of the contingent claim of Canada Revenue Agency.
- 3 Cash receipts and timing of payment of pre-filing amounts due from MD of Bonnyville and held by the Monitor in the amount of \$1,850,000 are dependent on the outcome of a Court hearing scheduled for January 2021 in respect of two appeals to the Monitor's Lien Determination Notices, various parties asserting trust interests and the determination of the contingent claim of Canada Revenue Agency.
- 4 Post-filing amounts due from MD of Bonnyville relate to the collection of invoiced amounts for work completed with the timing of receipt of payment based on recent payment terms.
- 5 SISP Proceeds represents sale proceeds received from McDonald Aggregates and Sandhill Equipment Corp. from the sale of select equipment and additional proceeds due from the sale of further equipment to McDonald Aggregates.
- 6 Active business operations ceased on June 26, 2020 with the completion of the MD of Bonnyville project and the majority of the company's employees were terminated. Forecast operating expenses are based on necessary costs to maintain operations to complete the SISP.
- 7 Payroll and source deductions represent forecast payments to remaining employees for wages and vacation pay.
- 8 Insurance & Benefits represent renewal payments for the company's general insurance policy which has been extended to December 31, 2020, workers' compensation benefit premium payments and the forecast purchase of an extended claims reporting period in respect of the Director and Officer insurance policy.
- 9 Equipment Loan and Lease payments represent scheduled payments for automotive equipment currently being utilized.
- 10 Pit Reclamation Costs represent estimated potential costs associated with reclamation of select public lands. Related cash security deposits in the amount of \$30,100 and held by Alberta Environment and Parks will be returned upon JMB satisfying its reclamation obligations.
- 11 Occupancy represents scheduled monthly payments for the company's Edmonton and Bonnyville premises.
- 12 Other disbursements include miscellaneous payments and contingent costs.
- 13 Professional fees relate to the Company's legal counsel, the Monitor, the Monitor's legal counsel, sale consultant, operational consultant and Chief Restructuring Advisor.