Form 7
Rule 3.8

Clerk's Stamp

JUDICIAL CENTRE OF EDMONTON
FILED
Nov 17, 2025
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by Email
CLERK OF THE COURT

COURT FILE NO.	2503 00016
COURT	Court of King's Bench of Alberta
JUDICIAL CENTRE	Edmonton

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, RSC 1985, c C-36, AS AMENDED

AND IN THE MATTER OF **KMC MINING CORPORATION**

DOCUMENT **APPLICATION – Extend Stay of Proceedings and Ancillary Relief**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	DARREN R. BIEGANEK, KC/ ZACHARY SOPROVICH Barrister & Solicitor Phone: 780.441.4386 Fax: 780.428.9683 Email: dbieganek@dcllp.com	File # 204-219113 **DUNCAN CRAIG LLP** LAWYERS MEDIATORS 2800 Rice Howard Place 10060 Jasper Avenue Edmonton, Alberta T5J 3V9

NOTICE TO THE RESPONDENT(S)

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the Court.

To do so, you must be in Court when the application is heard as shown below:

Date	November 28, 2025
Time	10:00 a.m.
Where	https://albertacourts.webex.com/meet/virtual.courtroom86
Before Whom	Justice D.R. Mah

Go to the end of this document to see what you can do and when you must do it.

Remedy claimed or sought:

1. KMC Mining Corporation ("**KMC**" or the "**Applicant**") seeks an Order, largely in the form attached within **Schedule "A"**:

   (a) abridging time for service of notice of this Application or deeming service of the Application to be good and sufficient, as necessary;

   (b) extending the stay of proceedings ("**Stay Period**") as against KMC to and including January 31, 2026 (or such further and later date as the Monitor may recommend) in respect of all proceedings, rights and remedies against KMC including its respective businesses and property, or the Monitor; and

   (c) declaring that the Stay Period applies to, and prohibits any steps being taken in, Court File No. 2103 02652 (*Wade Wilson v KMC Mining Corporation*) ("**Wilson Action**").

2. KMC seeks the extension of two Sealing Orders with respect to two affidavits (or portions thereof) previously sworn in these proceedings until June 30, 2026, in the form attached within **Schedule "B"**.

3. Such further and other relief as the circumstances may require and the Court deems appropriate.

Grounds from making this application:

Status of CCAA Proceedings

4. On January 10, 2025, the Honourable Justice M.J. Lema granted KMC's requested relief, in all respects, to have its Notice of Intention of Proceedings under the provisions of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 ("**BIA**") taken up and continued under the provisions of the *Companies Creditors Arrangement Act*, RSC 1985, c C-36 as amended ("**CCAA**") (the "**Initial Order**"). FTI Consulting Canada Inc. ("**FTI**") is the Monitor within these CCAA proceedings ("**Monitor**").

5. Concurrent with the granting of the Initial Order, the Court granted an Order approving a Sales and Investment Solicitation Process (the process is herein called the "**SISP**" and the Order the "**Sales Process Order**") through which KMC proceeded to attempt to monetize its assets in an effort to pay down its indebtedness.

6. On January 20, 2025, the Honourable Justice J.T. Neilson granted KMC's application for an Amended and Restated Initial Order ("**ARIO**"), which extended the Stay Period until and including June 16, 2025. The ARIO included approval of a Key Employee Retention Plan ("**KERP**").

7. Concurrent with the granting of the ARIO, the Court granted an Order establishing a process for the sale or return of KMC's leased equipment (the "**Lease Equipment Return Process Order**").

8. Pursuant to the SISP, the marketing period was launched by the sales agent, Ernst & Young Orenda Corporate Finance Inc and Ernst & Young Corporate Finance (Canada) Inc.

9. On April 17, 2025, the Court granted a Sale Approval and Vesting Order (the "**SAVO**"), which approved a transaction of the sale of the vast majority of KMC's property and assets (the "**Transaction**").

10. The Transaction closed on May 2, 2025, and sale proceeds more than $100 Million were wired to the Monitor upon closing of the Transaction.

11. On May 23, 2025, the Honourable Justice L.K. Harris granted KMC's application which extended the Stay Period to and including July 31, 2025 (the "**First Extension Order**").

12. Concurrent with the granting of the Second Extension Order, the Court granted an order approving the Monitor's proposed cost allocation among the secured creditors and authorized and directed the Monitor to make a further distribution of the funds held by it to the secured creditors whose collateral was sold as part of the Transaction.

13. On July 30, 2025, the Honourable Justice D.R. Mah granted KMC's application which extended the Stay Period to and including November 30, 2025 (the "**Second Extension Order**"), and concurrently granted relief related to return of prior landlord security deposits, assignment of certain insurance claims to secured creditors and settling certain grievance claims of Local Union No. 955 members.

Employees and Current Operations

14. Prior to the Transaction closing, KMC employed 92 full-time employees or subcontractors, of which 14 were located at its head office in Edmonton, Alberta, 40 on a labour supply project in British Columbia, and 38 field employees working in Fort McMurray or a field office location maintained there.

15. KMC had in place a purchase order with Hudbay Minerals at its copper mountain mine in British Columbia to supply equipment operators to the site. That purchase order commenced at or around the date of the Initial Order and after several extensions, concluded in September 2025 with the final invoices being paid to KMC in November 2025.

16. At present time KMC has approximately 5 employees full and part time in Edmonton and 2 on labour and supply contracts to the purchaser under the Transaction.

Suncor Claims

17. The circumstances necessitating these CCAA proceedings arose due to several factors, though chief among those factors being the sudden and unexpected cancellation of substantial scopes of work under contracts between KMC and Suncor Energy Inc. ("**Suncor**") or affiliates.

18. Prior to these CCAA proceedings, Suncor was KMC's most significant, if not only, customer. KMC had been providing contracting mining services to Suncor for several decades.

19. The vast majority of KMC's debt obligations were incurred to support and facilitate work KMC contracted to perform for Suncor under various agreements. Suncor abruptly cancelled various work with KMC, without known cause.

20. KMC believes it has substantial claims against Suncor which can be broadly characterized as follows:

(a) a claim for the impacts of adverse site conditions and extended hauling distances on the 2024 Fort Hills Overburden scope of work (the “**Condition Impact Claim**”);

(b) a claim for demobilization costs as permitted under the MUA and applicable purchase order for the 2024 Fort Hills Overburden scope of work (the “**Demobilization Claim**”);

(c) a claim for damages arising from the cancellation of the 2024 Fort Hills Overburden scope of work for convenience (the “**Overburden Cancellation Claim**”);

(d) a claim for damages arising from the cancelation of the waste stream and rejects scope of work (the “**Rejects Cancellation Claim**”); and

(e) a claim for damages for the breach of the Settlement and Release Agreement arising from the cancellation of the 2019 Overburden Removal Contract (the “**Breach of Settlement Claim**”).

21. KMC’s legal counsel conducted a high-level overview of the potential claims against Suncor for, *inter alia*, the circumstances described above. That evaluation has concluded and been reviewed. The combined damage estimate at this time is in the tens of millions of dollars, with the damage evaluation continuing.

22. KMC has been engaged with litigation funders and is assessing its options for pursuit of the claims against Suncor. As part of that process, KMC has engaged separate legal counsel to provide a second opinion on the potential claims against Suncor and that evaluation is ongoing and expected to be completed by end of November 2025.

23. If successful, even in part, the claims against Suncor, and recovery therefrom, would have a material, positive outcome for KMC’s stakeholders.

Miscellaneous Items

24. KMC is also working on the following as part of its wind down process:

(a) KMC has taken steps and wound up its pension plan with Canada Life/London Life for non-union staff. Presently, KMC is waiting on final review and approval from the pension regulator in Alberta;

(b) working with the Workers’ Compensation Board (“**WCB**”) to reconcile 2024 accounts and receiving a credit refund, with a final 2025 account reconciliation being necessary;

(c) working with its heavy equipment insurer with respect to refunds from certain insurance policies, with a $500,000 refund expected within weeks; and

(d) KMC is both a Plaintiff and Defendant in actions related to a new Komatsu 830E that KMC rented from SMS Equipment (“**SMS**”). KMC suffered a loss of approximately $600,000 related to loss of KMC property (tires) as well as cost of removing burned materials from the site where the fire occurred, and has taken steps to preserve limitation periods in respect of either the civil claim or an insurance claim.

Stay of Proceedings re: Court File No. 2103 02652 (Wilson Action)

25. KMC is a Defendant in the Wilson Action which is a claim that seeks to certify a class action claim related to alleged underpayment of severance and pension plan payments to certain KMC former employees. KMC wholly disputes the claim.

26. Currently there is an application scheduled for November 20, 2025 wherein the Plaintiff of the Wilson Action seeks summary judgment and the certification of a class action.

27. The Wilson Action is, and has always been, stayed by these CCAA proceedings and the Stay Period. KMC seeks an explicit declaration to that effect, to avoid the continued and unnecessary use of resources in responding to what is stayed claim.

Continuation of Certain Sealing Orders

28. The Sealing Orders in these proceedings all expire on December 31, 2025. For most, since the Transaction has closed, that date remains appropriate.

29. There are two Affidavits, or portions thereof, wherein an extension of the Sealing Orders to June 30, 2026 is appropriate:

    (a) Exhibit “I” of the Confidential Affidavit of Daniel Klemke sworn December 6, 2024 (in the NOI proceedings, Court File No. 24-3162620, which were taken up and continued in these CCAA proceedings by the Initial Order); and

    (b) the Confidential Affidavit of Bryn Jones sworn April 7, 2025.

30. Both those affidavits contain certain commercially sensitive information related to, among other things, KMC’s contracts with Suncor, which remains a live issue.

Summary

31. KMC continues to, as it has throughout these entire proceedings, act in good faith and with due diligence.

32. The maintenance of the Stay Period is important to enable KMC to continue to effectively wind down its operations and develop a plan for its exit from these proceedings without regard to having to advance defences and collection efforts respecting claims of creditors.

33. All relief sought is appropriate in the circumstances and ought to be approved.

34. KMC is not aware of any creditor that would be materially prejudiced if the relief herein is granted.

35. Such further and other grounds as counsel for KMC may advise and this Honourable Court may permit.

Material or evidence to be relied on:

36. This Application and the Draft Order.

37. Affidavit of Daniel Klemke sworn November 16, 2025.

38. The previously filed Affidavits of Bryn Jones and Daniel Klemke sworn in these proceedings, as necessary.

39. The Orders granted in these proceedings, including the Initial Order granted January 10, 2025, the Amended and Restated Initial Order granted January 20, 2025, the First Extension Order granted May 23, 2025 and the Second Extension Order granted July 30, 2025.

40. Fifth Report of the Monitor dated November 2025, to be filed, and all prior Monitor's Reports filed in these proceedings, as necessary.

41. Bench Brief of KMC.

42. Such further and other evidence as counsel may advise and this Honourable Court may permit.

Applicable Rules:

43. Rules 6.11(1)(f), Part 6, Division 4, 11.27 and 13.5 of the Alberta *Rules of Court.*

44. Such further and other Rules as counsel may advise and this Honourable Court may permit.

Applicable Acts and regulations:

45. *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended, and in particular sections 11, 11.02(2) and (3).

46. Such further and other Acts and regulations as counsel may advise and this Honourable Court may permit.

Any irregularity complained of or objection relied on:

47. N/A.

How the application is proposed to be heard or considered:

48. By way of Webex hearing before the Honourable Justice D.R. Mah.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the Applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the Applicant(s) a reasonable time before the application is to be heard or considered.

Schedule “A”

Draft Order – Stay Extension

COURT FILE NO.	2503 00016	Clerk's Stamp
COURT	Court of King's Bench of Alberta	
JUDICIAL CENTRE	Edmonton	

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

AND IN THE MATTER OF **KMC MINING CORPORATION**

DOCUMENT	**ORDER - Extending the Stay Period**	
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	DARREN R. BIEGANEK, KC/ ZACHARY SOPROVICH Barrister & Solicitor Phone: 780.441.4386 Fax: 780.428.9683 Email: dbieganek@dcllp.com	File # 204-219113 **DUNCAN CRAIG LLP** LAWYERS MEDIATORS 2800 Rice Howard Place 10060 Jasper Avenue Edmonton, Alberta T5J 3V9

DATE ON WHICH ORDER WAS PRONOUNCED	**NOVEMBER 28, 2025**
NAME OF JUSTICE WHO MADE THIS ORDER:	**D.R. MAH**
LOCATION OF HEARING:	**EDMONTON, ALBERTA**

UPON the Application of KMC Mining Corporation (the “**Applicant**”);

AND UPON noting the Initial Order granted in these proceedings (the “**CCAA Proceedings**”) on January 10, 2025 (“**Initial Order**”), the Amended and Restated Initial Order granted in these proceedings on January 20, 2025 (the “**ARIO**”);

AND UPON having read the Application, the Affidavit of Daniel Klemke sworn November 16, 2025, and the Fifth Report of FTI Consulting Canada Inc., in its capacity as monitor (the “**Monitor**”) dated November 2025;

AND UPON noting the stay of proceedings as against the Applicant as referred to and defined in paragraph 15 of the ARIO (“**Stay Period**”); AND UPON noting the extension of the Stay Period via Order of Justice L.K. Harris granted on May 23, 2025 and Order of Justice D.R. Mah on July 30, 2025;

AND UPON hearing the submissions of counsel for the Applicant, Counsel for the Monitor, counsel for ATB Financial in its capacity as Administrative Agent for the Lenders (collectively the “**Syndicate**”) and others appearing;

IT IS HEREBY ORDERED THAT:

Service of Application

1. Service of notice of this application and supporting materials is hereby declared to be good and sufficient and no other persons other than those listed on the service list maintained in these CCAA Proceedings (the "**Service List**") are entitled to service of the Application.

Extension of Stay

2. The Stay Period is hereby extended to January 31, 2026.

3. Without limiting the foregoing or the terms of the ARIO, Court File No. 2103 02652 (*Wade Wilson v KMC Mining Corporation*) is stayed by virtue of the Stay Period and:

no proceeding or enforcement process in any court (each, a "**Proceeding**"), including the Application currently set for November 20, 2025, shall be commenced or continued against or in respect of the Applicant or the Monitor, or affecting the Business or the Property (as defined in the ARIO), except with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicant or affecting the Business or the Property are hereby stayed and suspended pending further order of this Court.

Service and Effective Time

4. Service of this Order shall be deemed good and sufficient by:

   a. serving the same on:

      i. the persons listed on the Service List created in these proceedings;

      ii. any other person served with notice of the application for this Order;

      iii. any other parties attending or represented at the application for this Order;

      iv. the Purchaser or the Purchaser's solicitors; and

   b. posting a copy of this Order on the Monitor's website at: https://cfcanada.fticonsulting.com/KMCMining/.

and service on any other person is hereby dispensed with.

5. Service of this Order may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following transmission or delivery of this Order.

6. This Order and all of its provisions are effective as of 12:01 a.m. Edmonton time on the date this Order is signed by a Justice of the Court of King's Bench of Alberta.

____
Justice of the Court of King's Bench of Alberta

Schedule "B"

Draft Sealing Order

COURT FILE NO.	2503 00016	Clerk's Stamp
COURT	COURT OF KING'S BENCH OF ALBERTA	
JUDICIAL CENTRE	EDMONTON	

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

AND IN THE MATTER OF **KMC MINING CORPORATION**

DOCUMENT	**SEALING ORDER**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	DARREN R. BIEGANEK, KC/ ZACHARY SOPROVICH Barrister & Solicitor Phone: 780.441.4386 Fax: 780.428.9683 Email: dbieganek@dcllp.com	File # 204-219113 **DUNCAN CRAIG LLP** LAWYERS MEDIATORS 2800 Rice Howard Place 10060 Jasper Avenue Edmonton, Alberta T5J 3V9

DATE ON WHICH ORDER PRONOUNCED:	**NOVEMBER 28, 2025**
NAME OF JUSTICE WHO MADE THIS ORDER:	**D.R. MAH**
LOCATION OF HEARING:	**EDMONTON, ALBERTA**

UPON THE APPLICATION of KMC Mining Corporation for an Order sealing (i) **Exhibit "I"** of the Affidavit of Daniel Klemke sworn December 6, 2024 ("**Dec 6 Affidavit**") in Court Action #24-3162620 ("**NOI Proceedings**", which were taken up and continued in these CCAA proceedings), and (ii) the Confidential Supplementary Affidavit of Bryn Jones sworn April 7, 2025 (the "**Confidential Affidavit**"); **AND UPON** noting the Sealing Orders granted in these proceedings on January 10, 2025 and April 17, 2025; **AND UPON** HAVING READ the aforementioned materials, and the Affidavit of Service; **AND UPON** HEARING the submissions of counsel for KMC and any other affected parties that may be present; **IT IS HEREBY ORDERED THAT AND DECLARED THAT:**

1. Service of the notice of application for this Order is hereby deemed good and sufficient and this application is properly returnable as of the date of this Order.

2. The following shall remain sealed on the Court files until **<u>June 30, 2026</u>** (unless extended by further Order of this Court), notwithstanding Division 4 of Part 6 of the Alberta *Rules of Court*:

    (a) Exhibit "I" of the Dec 6 Affidavit (in the NOI Proceedings); and

    (b) the Confidential Affidavit.

3. The Clerk of the Court shall keep the materials in a sealed envelope that sets out the style of cause of these proceedings and states that:

> THIS ENVELOPE CONTAINS CONFIDENTIAL MATERIALS FILED BY KMC MINING CORPORATION AND THE CONFIDENTIAL MATERIALS ARE SEALED PURSUANT TO AN ORDER ISSUED JUSTICE MAH ON NOVEMBER 28, 2025 IN COURT FILE 2503 00016 UNTIL JUNE 30, 2026 (OR AS MAY BE FURTHER EXTENDED BY ORDER OF THIS COURT).

4. This Order may also be filed within the NOI Proceedings.

Justice of the Court of King's Bench of Alberta