

Clerk's Stamp:

COURT FILE NUMBER 2101-05019

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

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

IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF COALSPUR MINES (OPERATIONS) LTD.

DOCUMENT **APPLICATION BY STILLWATER SUPPLY CORP. (DISPUTE OF NOTICE OF DISALLOWANCE)**

DLA Piper (Canada) LLP  
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ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

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File No. 104233-00001

### NOTICE TO RESPONDENT(S)

This application is made against you. You are Respondents.

You have the right to state your side of this matter before the Master/Judge.

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

Date: November 18, 2021  
Time: 11:00 a.m. on the Commercial List  
Where: Calgary Courts Centre via Webex  
Before Whom: The Honourable Madam Justice K. M. Eidsvik

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

**Remedy claimed or sought:**

1. The Applicant, Stillwater Supply Corp. (“**Stillwater**”) seeks an Order:
  - (a) setting aside the Notice of Disallowance served by the Monitor on October 8, 2021 and directing the Monitor to accept the pre-filing claims of Stillwater as set out in the Proof of Claim filed by Stillwater on September 12, 2021, namely (i) an unsecured claim in the amount of \$882,299.83 (the “**Unsecured Claim**”); and (ii) an secured claim in the amount of \$829,686.80 plus interest in the amount of \$238,261.64 for a total of \$1,067,948.44 (the “**Secured Claim**”); and
  - (b) such further and other relief as Counsel may advise and this Honourable Court may permit.

**Grounds for making this application:**

1. Stillwater and Coalspur Mines (Operations) Ltd. (“**Coalspur**”) entered into a services agreement dated November 14, 2019 (the “**Agreement**”), pursuant to which Stillwater provided Coalspur with services and equipment to assist with the dewatering of underflow at Coalspur’s coal mining operation in Hinton, Alberta.
2. On January 10, 2020, Coalspur purported to terminate the Agreement on January 10, 2020 and thereafter failed to pay Stillwater in accordance with the terms of the Agreement. On February 24, 2020, Stillwater secured their Secured Claim by registering liens against the coal leases pursuant to the provisions of the *Builders’ Lien Act*, RSA 2000, c. B-7.
3. On April 4, 2020, Stillwater commenced proceedings against Coalspur in the Court of Queen’s Bench of Alberta, Court File No. 2001-05044 (the “**Proceedings**”) in respect of the amounts owing to Stillwater under the Agreement.
4. On April 27, 2021, Coalspur commenced proceedings under the *Companies’ Creditors Arrangement Act* (the “**CCAA**”). As a result of the filing, the Proceedings are subject to a stay of proceedings.
5. On August 9, 2021, against Coalspur sought and obtained a Order from this Honourable Court which set out the process for the identification, quantification and resolution of Claims as against Coalspur (the “**Claims Process Order**”). The Claims Bar Date was established to be September 23, 2021.

6. Stillwater submitted its Proof of Claim to Coalspur and FTI Consulting Inc., in its capacity as court-appointed monitor of Coalspur (the “**Monitor**”) on September 12, 2021.
7. On October 8, 2021, the Monitor served Stillwater with a Notice of Disallowance wherein the Monitor disallowed the Unsecured Claim and the Secured Claim in their entirety.
8. In accordance with the terms of the Claims Process Order, Stillwater was required to file a Notice of Dispute and serve and file an application, together with supporting affidavit setting out the basis for its dispute of the Notice of Disallowance. The application is to be returnable within 30 days or such further or other date as the Court may direct or the Monitor, in consultation with Coalspur, may agree in writing.

**Material or evidence to be relied on:**

1. The Affidavit of Andrew Larocque sworn October 22, 2021; and
2. Such further and other materials as Counsel may advise and this Honourable Court permits.

**Applicable rules:**

1. *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c.C-36, as amended

**Applicable Acts and regulations:**

1. *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c.C-36, as amended

**How the application is proposed to be heard or considered:**

1. The Applicant proposes that this application be heard in the Chambers of the Honourable Madam Justice K. M. Eidsvik.

**WARNING**

You are named as a respondent because you have made or are expected to make an adverse claim in respect of this originating application. If you do not come to Court either in person or by your lawyer, the Court may make an order declaring you and all persons claiming under you to be barred from taking any further proceedings against the applicant(s) and against all persons claiming under the applicant(s). You will be bound by any order the Court makes, or another order might be given or other proceedings taken which the applicant(s) is/are entitled to make without any further notice to you. If you want to take part in the application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of this 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.