

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

**March 26, 2021**

ADDRESS FOR SERVICE AND  
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# FIFTEENTH REPORT OF THE MONITOR

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**Appendix A** – Cash Flow Statement for the 50 weeks ending April 16, 2021

## 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 March 5, 2021, this Honourable Court granted an order extending the Stay of Proceedings to April 2, 2021, conditional upon the Monitor filing a certificate that certain stay extension conditions had been met (the “**Stay Extension Conditions**”). The Monitor filed a certificate on March 11, 2021, confirming that funding of \$300,000 had been provided to the Applicants, thereby satisfying the Stay Extension Conditions and that the Stay of Proceedings was extended to April 2, 2021.
3. On October 16, 2020, this Honourable Court granted the following orders:
  - a. an order (the “**Original SAVO**”) 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;
  - b. an order (the “**Original RVO**”) vesting all of JMB’s remaining assets and liabilities that are excluded from the Mantle Transaction in 216;
  - c. an order (the “**Original Assignment Order**”) assigning certain of the Applicants’ agreements to Mantle; and

- d. an order (the “**Original Sanction Order**”) sanctioning a joint plan of arrangement under the Business Corporations Act, SBC 2002, c 57, as amended and the CCAA.
4. On March 4, 2021, the Applicants served a Notice of Application, initially returnable on March 5, 2021 (the “**March 5, 2021**”) for several amended orders (the “**Amended Orders**”) related to the Mantle Transaction. While certain details of the Amended Orders were heard by this Honourable Court on March 5, 2021, the parties mutually agreed to postpone the relief sought to a later date, pending further discussions and review by key stakeholders, including, among others, the AEP. A brief description of the Amended Orders is as follows:
- a. an order amending and restating the Original SAVO, approving an amended and restated asset purchase agreement between JMB and Mantle and vesting in Mantle all of the right, title and interest of JMB and 216 in the acquired assets, free and clear of all claims and liens other than the permitted encumbrances;
  - b. an order (the “**Amended RVO**”) amending and restating the Original RVO, adding 2324159 Alberta Inc. (“**ResidualCo**”) as an applicant in the CCAA Proceedings, vesting all of the right, title and interest of the remaining assets and liabilities of JMB and 216 in ResidualCo and declaring that section 11.1(2) of the CCAA does not apply in respect of certain past non-compliances of the Applicants (the “**AEP Fee Arrears**”) with respect to the Alberta Environment and Parks (the “**AEP**”). The AEP Fee Arrears include the non-payment of rent, royalties, dues, fees, rates, charges or other money accrued under the public lands dispositions held by the Applicants, prior to the Filing Date, together with interest or penalties thereon. The AEP Fee Arrears exclude the Applicants’ remediation obligations and any requirements to post remediation security with the applicable regulatory authorities;
  - c. an order amending and restating the Original Assignment Order assigning the rights and obligations of the Applicants under certain agreements which contain

provisions restricting their assignment to Mantle under section 11.3 of the CCAA;  
and

- d. an order amending and restating the Original Sanction Order, sanctioning an amended and restated joint plan of arrangement under the *Business Corporations Act, SBC 2202, c 57, as amended* (British Columbia), the *Alberta's Business Corporations Act, RSA 2000, c B-9* and the CCAA.
5. On March 24, 2021, the Applicants provided notice and uploaded to CaseLines a Notice of Application for the following orders:
- a. two orders approving the sale of certain equipment to McDonald Aggregates Inc. (“**McDonald**”) and Summit Trailer Ltd. (“**Summit**”) and vesting the equipment, subject to such sales, to the respective purchaser, free and clear of any security interests or other claims (the “**Equipment SAVOs**”);
  - b. an order (the “**Sealing Order**”) sealing the confidential affidavit of Blake M. Elyea sworn March 24<sup>th</sup>, 2021 (the “**Confidential Affidavit**”) on the Court file until the end of these CCAA Proceedings; and
  - c. an order (the “**Extension Order**”) extending the Stay of Proceedings until and including April 16, 2021.
6. The purpose of this report is to provide this Honourable Court and the Applicants’ stakeholders with information and the Monitor’s comments with respect to:
- a. the status of the Mantle Transaction;
  - b. the Applicants’ application for the Equipment SAVOs;

- c. the Applicants' actual cash receipts and disbursements for the 46-week period ended March 19, 2021 as compared to the Eleventh Cash Flow Statement filed with the affidavit of Blake M. Elyea sworn March 9, 2021;
- d. an updated cash flow statement (the "**Twelfth Cash Flow Statement**") prepared by the Applicants for the 50 weeks ending April 16, 2021 including the key assumptions on which the Twelfth Cash Flow Statement is based;
- e. the Applicants' application for the Extension order; and
- f. the Monitor's conclusions and recommendations.

## **TERMS OF REFERENCE**

- 7. 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**").
- 8. 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.
- 9. 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.
- 10. 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.

11. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian dollars.

## **STATUS OF THE MANTLE TRANSACTION**

12. The Monitor's comments and recommendations with respect to the Amended Orders are described in the Fourteenth Report of the Monitor and are not repeated herein.

13. Subsequent to the Fourteenth Report, the Applicants have advised the Monitor that ten environmental protection orders (each an "EPO") and one enforcement order (the "Enforcement Order", and collectively, the "AEP Orders") have been issued by the AEP with respect to gravel pits included in the Mantle Transaction.

14. The Applicants have advised the Monitor that Mantle, in order to address the AEP Orders and preserve the Mantle Transaction, plans to revise the Amended Orders being sought.

15. The Monitor plans to issue a further report to address any revisions to the Amended Orders and the Mantle Transaction.

## **EQUIPMENT OFFERS**

16. The Applicants, in consultation with the secured lenders, have accepted offers from McDonald and Summit (the "Equipment Offers") to purchase certain specific pieces of equipment. Redacted copies of the asset purchase agreements are attached to the affidavit of Blake M. Elyea sworn March 24<sup>th</sup>, 2021.

17. The Equipment Offers are summarized below:

a. Summit will purchase certain equipment, including:

i. a 2013 Arnes Lowboy Trailer;

ii. a 2015 Arnes Lowboy Trailer;

- iii. a 1996 Arrow Jeep; and
- iv. five 2015 Arnes End Dump Trailers.

b. McDonald will purchase certain equipment, including:

- i. a 2012 Ford F150 XLT;
- ii. a 1997 Great Dane Power Van;
- iii. a 2011 Kolberg-Pioneer, 125' conveyor;
- iv. a 1999 Elrus, 125' portable radial stacking belt conveyor;
- v. a 2006 Isuzu, 20kW diesel generator; and
- vi. miscellaneous spare crusher parts.

18. The Monitor's comments with respect to the Equipment Offers are as follows:

- a. the price and terms of the Equipment Offers represent the highest and best offer in respect of the subject assets;
- b. the Monitor has been advised that key stakeholders, including Fiera, are supportive of accepting the Equipment Offers;
- c. concluding the Equipment Offers will provide for cash consideration that be used to fund estate cost allocations and potential distributions to secured creditors; and
- d. overall, concluding the transactions contemplated by the Equipment Offers is in the best interests of the creditors of JMB and would be more beneficial to JMB's creditors than a sale or disposition under a bankruptcy.



19. The Monitor is advised by the Applicants that the purchase prices of the Equipment Offers are commercially sensitive and that publicly disclosing them may cause serious and irreparable harm to the estates of the Applicants. The Sealing Order will prevent the confidential and commercially sensitive information with respect to the Equipment Offers contained in the Confidential Affidavit from being disclosed.

#### **CASH FLOW VARIANCE ANALYSIS**

20. The Monitor has undertaken weekly reviews of JMB's actual cash flows in comparison to those contained in the Eleventh 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 March 19, 2021, are summarized below:

(\$000's)	Weeks 1 - 46		
	Actual	Forecast	Variance
<b>Operating Receipts</b>			
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	95	95	-
SISP Proceeds	577	577	-
Other Receipts	1,132	1,091	41
<b>Total Operating Receipts</b>	<b>6,879</b>	<b>6,838</b>	<b>41</b>
<b>Operating Disbursements</b>			
Payroll And Source Deductions	(1,717)	(1,699)	(18)
Royalties	(408)	(408)	-
Fuel	(210)	(210)	-
Repair & Maintenance	(54)	(54)	-
Office Administration	(61)	(61)	1
Insurance & Benefits	(278)	(280)	2
Jobsite Lodging	(21)	(21)	-
Equipment Loan & Lease Payments	(142)	(142)	-
Occupancy	(387)	(387)	-
Other	(77)	(77)	-
<b>Total Operating Disbursements</b>	<b>(3,354)</b>	<b>(3,339)</b>	<b>(16)</b>
<b>Non-Operating Receipts &amp; Disbursements</b>			
Interim Financing (Repayment)	(211)	(211)	-
CARC Advance	300	300	-
Professional Fees	(2,726)	(3,325)	600
<b>Total Disbursements</b>	<b>(5,991)</b>	<b>(6,575)</b>	<b>584</b>
<b>Net Cash Flow</b>	<b>888</b>	<b>263</b>	<b>625</b>
Opening Cash Balance	-	-	-
<b>Ending Cash</b>	<b>\$ 888</b>	<b>\$ 263</b>	<b>\$ 625</b>

21. Interim financing proceeds of \$300,000 (the “**CARC Advance**”) were advanced by Canadian Aggregate Resources Corporation (“**CARC**”) on or around March 11, 2021, under the interim revolving credit facility authorized in the ARIO.
22. Overall, the Applicants realized a favourable net cash flow variance of approximately \$625,000 which primarily relates to a timing difference in the payment of professional fees in the amount of \$600,000.

## TWELFTH CASH FLOW STATEMENT

23. The Applicants have prepared the Twelfth Cash Flow Statement which includes forecast results for the 50 weeks ending April 16, 2021 (the “**Forecast Period**”). A copy of the Twelfth Cash Flow Statement is attached as Appendix “A”.

24. A summary of the Twelfth Cash Flow Statement is set out in the table below:

<i>(\$000's)</i>	<b>Weeks 1-46</b>	<b>Weeks 47-50</b>	<b>Total</b>
	<b>Actual</b>	<b>Forecast</b>	<b>Pro-Forma</b>
<b>Operating Receipts</b>			
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	95	-	95
SISP Proceeds	610	421	1,031
Other Receipts	1,099	42	1,141
<b>Total Operating Receipts</b>	<b>6,879</b>	<b>463</b>	<b>7,342</b>
<b>Operating Disbursements</b>			
Payroll And Source Deductions	(1,717)	(49)	(1,766)
Royalties	(408)	-	(408)
Fuel	(210)	(1)	(211)
Repair & Maintenance	(54)	-	(54)
Office Administration	(61)	(5)	(66)
Insurance & Benefits	(278)	(15)	(293)
Jobsite Lodging	(21)	-	(21)
Equipment Loan & Lease Payments	(142)	-	(142)
Occupancy	(387)	(40)	(426)
Other	(77)	(19)	(96)
<b>Total Operating Disbursements</b>	<b>(3,354)</b>	<b>(128)</b>	<b>(3,482)</b>
<b>Non-Operating Receipts &amp; Disbursements</b>			
Interim Financing (Repayment)	(211)	-	(211)
CARC Advance	300	-	300
Professional Fees	(2,726)	(977)	(3,703)
<b>Total Disbursements</b>	<b>(5,991)</b>	<b>(1,105)</b>	<b>(7,096)</b>
<b>Net Cash Flow</b>	<b>888</b>	<b>(642)</b>	<b>246</b>
Opening Cash Balance	-	888	-
<b>Ending Cash</b>	<b>\$ 888</b>	<b>\$ 246</b>	<b>\$ 246</b>

25. The Twelfth Cash Flow Statement is based on the following assumptions:

- a. the Twelfth Cash Flow Statement assumes that the Mantle Transaction will close in the week ending April 16, 2021. As a result, SISP proceeds of approximately \$421,000 are expected to be released to the Applicants;
- b. other receipts include \$42,000 relating to anticipated subsidies to be received from the federal government. The Applicants have not assumed any recoveries from the holdbacks of approximately \$2.1 million, pending determination of entitlement;
- c. the remaining operating disbursements relate primarily to ordinary course payments to fund payroll, general liability insurance, basic office needs and occupancy costs; and
- d. forecast professional fees are expected to be approximately \$977,000 during the Forecast Period. They include payment of the accrued fees of approximately \$600,000 and forecast future fees for the Applicants' legal counsel, the Monitor, the Monitor's legal counsel, the Chief Restructuring Advisor, the Sales Agent and certain other costs relating to AEP compliance matters. 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>	Weeks 1-46	Weeks 47-50	Weeks 1-48
<b>Role</b>	<b>Actual</b>	<b>Forecast</b>	<b>Total</b>
Legal Counsel to Applicants	\$ 652	\$ 578	\$ 1,230
Monitor	696	50	746
Legal Counsel to Monitor	689	65	754
Chief Restructuring Advisor	354	29	383
Sales Agent	234	132	367
Other	101	123	223
<b>Total</b>	<b>\$ 2,726</b>	<b>\$ 977</b>	<b>\$ 3,703</b>

26. Overall, the Applicants are forecasting to incur negative net cash flow of approximately \$642,000 during the Forecast Period and have a remaining cash balance of approximately \$246,000 as at April 16, 2021.

### **STAY EXTENSION**

27. The Monitor has considered JMB's application for the Extension Order and has the following comments:

- a. an extension will allow additional time for the Applicants to attend to and close the Mantle Transaction, determine a cost allocation amongst stakeholders, resolve the remaining contested builder's lien claim of RBEE Aggregate Consulting Ltd. and address any other outstanding matters;
- b. the Twelfth Cash Flow Statement forecasts that the Applicants will have available liquidity during the period of the proposed extension to April 16, 2021;
- c. the Monitor has been advised that certain stakeholders, including the senior secured lenders, are supportive of the proposed extension on these terms;
- d. the Applicants are acting in good faith and with due diligence; and
- e. an extension of the Stay of Proceedings until April 16, 2021 is in the best interests of the Applicants' stakeholders.

## CONCLUSIONS AND RECOMMENDATIONS

28. Based on the foregoing, the Monitor respectfully recommends that this Honourable Court grant the following orders:

- a. the Equipment SAVOs;
- b. the Sealing Order; and
- c. the Extension Order.

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All of which is respectfully submitted this 26<sup>th</sup> day of March, 2021.

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



Deryck Helkaa  
Senior Managing Director



Tom Powell  
Senior Managing Director

# **Appendix A**

Twelfth Cash Flow Statement  
for the 50 Weeks Ending April 16, 2021

## Twelfth Flow Statement (Notes 1)

	Actual	Forecast	Forecast	Forecast	Forecast	Forecast			
Week #	Weeks 1 - 46	Week 47	Week 48	Week 49	Week 50	Weeks 47 - 50	Weeks 1 - 50		
Week Ending		26-Mar-21	2-Apr-21	9-Apr-21	16-Apr-21	Total	Total		Notes
<b>Opening Cash</b>	\$ -	\$ 887,999	\$ 871,745	\$ 809,864	\$ 101,295	\$ 887,999	\$ -		
<b>Cash Receipts</b>									
Collection of Canadian Emergency Wage Subsidy	773,948	20,300	-	-	-	20,300	794,248		
Collection of Canadian Emergency Rent Subsidy	105,161	21,900	-	-	-	21,900	127,061		
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		2
Collection of Post-Filing AR - MD of Bonnyville	1,565,745	-	-	-	-	-	1,565,745		3
Post-Filing Gravel Sales	95,165	-	-	-	-	-	95,165		
SISP Proceeds	609,990	3,575	-	-	417,000	420,575	1,030,565		4
Other Receipts	219,605	-	-	-	-	-	219,605		
<b>Total Receipts</b>	<b>6,878,747</b>	<b>45,775</b>	<b>-</b>	<b>-</b>	<b>417,000</b>	<b>462,775</b>	<b>7,341,522</b>		
<b>Operating Disbursements</b>									
Payroll And Source Deductions	(1,717,427)	(15,300)	(9,000)	(15,300)	(9,000)	(48,600)	(1,766,027)		5,6
Royalties	(407,629)	-	-	-	-	-	(407,629)		
Fuel	(209,927)	(500)	-	(350)	-	(850)	(210,777)		5
Repair & Maintenance	(54,202)	-	-	-	-	-	(54,202)		
Office Administration	(60,566)	(1,700)	(3,087)	(107)	(214)	(5,108)	(65,674)		5
Insurance & Benefits	(277,614)	-	(2,050)	-	(13,000)	(15,050)	(292,664)		7
Jobsite Lodging	(20,766)	-	-	-	-	-	(20,766)		5
Equipment Loan & Lease Payments	(142,057)	-	-	-	(938)	(938)	(142,995)		8
Occupancy	(386,689)	(8,529)	(30,419)	(276)	(547)	(39,771)	(426,460)		9
Other	(77,016)	(16,000)	(2,625)	-	-	(18,625)	(95,641)		10
<b>Total Disbursements</b>	<b>(3,353,892)</b>	<b>(42,029)</b>	<b>(47,181)</b>	<b>(16,033)</b>	<b>(23,699)</b>	<b>(128,942)</b>	<b>(3,482,834)</b>		
<b>Non-Operating Receipts &amp; Disbursements</b>									
DIP Financing (Repayment)	(211,188)	-	-	-	-	-	(211,188)		
CARC Advance	300,000	-	-	-	-	-	300,000		11
Professional Fees	(2,725,668)	(20,000)	(14,700)	(692,536)	(249,600)	(976,836)	(3,702,504)		12
<b>Total Disbursements</b>	<b>(2,636,856)</b>	<b>(20,000)</b>	<b>(14,700)</b>	<b>(692,536)</b>	<b>(249,600)</b>	<b>(976,836)</b>	<b>(3,613,692)</b>		
<b>Net Cash Flow</b>	<b>887,999</b>	<b>(16,254)</b>	<b>(61,881)</b>	<b>(708,569)</b>	<b>143,701</b>	<b>(643,003)</b>	<b>244,996</b>		
<b>Ending Cash Balance</b>	<b>\$ 887,999</b>	<b>\$ 871,745</b>	<b>\$ 809,864</b>	<b>\$ 101,295</b>	<b>\$ 244,996</b>	<b>\$ 244,996</b>	<b>\$ 244,996</b>		



**Notes**

- 1 The Twelfth Cash Flow Statement has been prepared to set out the post filing liquidity requirements of JMB Crushing Systems Inc. during the four weeks ending April 16, 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 MD of Bonnyville and held by the Monitor in the amount of \$2.1 million are dependent on the determination of the entitlement to the funds.
- 3 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.
- 4 SISP Proceeds represent equipment sale proceeds, GST collected on equipment sale proceeds held by the Monitor and certain gross proceeds from the Mantle transaction forecast to close in Week 50.
- 5 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.
- 6 Payroll and source deductions represent forecast payments to remaining employees for wages and vacation pay.
- 7 Insurance & Benefits represent renewal payments for the company's general insurance policy which has been extended to March 31, 2021, forecast renewals and workers' compensation benefit premium payments.
- 8 Equipment Loan and Lease payments represent scheduled payments for automotive equipment currently being utilized.
- 9 Occupancy represents scheduled monthly payments for the company's Edmonton and Bonnyville premises.
- 10 Other disbursements include miscellaneous payments, contingent costs and GST remittances.
- 11 The CARC Advance represents advances under the interim revolving credit facility provided by Canadian Aggregate Resources Corporation ("CARC") in accordance with the terms of the commitment letter dated April 30, 2020 between CARC, JMB and 216 as authorized in the Amended and Restated CCAA Initial Order dated May 11, 2020.
- 12 Professional fees relate to the Company's legal counsel, the Monitor, the Monitor's legal counsel, sale consultant, operational consultant, Chief Restructuring Advisor and consultants to assist with AEP compliance matters.