

C120374

COURT FILE NUMBER 2001-05482
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

AND IN THE MATTER OF THE COMPROMISE OR
ARRANGEMENT OF 2324159 ALBERTA INC.

DOCUMENT **ORDER (COST ALLOCATION)**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
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DATE ON WHICH ORDER WAS PRONOUNCED: December 1, 2021

LOCATION OF HEARING: Calgary, Alberta

NAME OF JUDGE WHO MADE THIS ORDER: Justice K.M. Eidsvik

UPON the application (the "**Application**") of FTI Consulting Canada Inc., in its capacity as the court-appointed monitor (the "**Monitor**") of 2324159 Alberta Inc. ("**ResidualCo**") pursuant to the initial order granted under the *Companies' Creditors Arrangement Act* (Canada) (the "**CCAA**") on May 1, 2020 (the "**Filing Date**"), as subsequently amended and restated on May 11, 2020 (collectively, the "**ARIO**"), the Amended Reverse Vesting Order granted on March 31, 2021 (the "**Amended RVO**"), and the Order (Enhanced Monitor's Powers), dated May 14, 2021 (the "**EMP Order**"), all in the within proceedings (the "**CCAA Proceedings**"); **AND UPON** reading the Eighteenth Report of the Monitor, dated August 16, 2021 (the "**Eighteenth Monitor's Report**"), and the Nineteenth Report of the Monitor, dated November 25, 2021 (the "**Nineteenth Monitor's Report**"), the Eighteenth Monitor's Report and the Nineteenth Monitor's Report are collectively referred to as, the "**Monitor's Reports**") all filed; **AND UPON** reading Confidential Appendix "A" to the Eighteenth Monitor's Report (the "**Confidential Appendix**"), unfiled, and all other reports and confidential appendices submitted by the Monitor in these CCAA Proceedings; **AND UPON** reading the Affidavit of Service of Katie Doran, sworn on November 30, 2021 (the "**Service**

Affidavit”), filed; **AND UPON** hearing counsel for the Monitor and for any other parties who may be present;

IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE

1. The time for service of the Application and the Monitor’s Reports is abridged, the Application is properly returnable today, service of the Application and the Monitor’s Reports, on the service list (the “**Service List**”) attached as an exhibit to the Service Affidavit, in the manner described in the Service Affidavit, is good and sufficient, and no other persons other than those listed on the Service List are entitled to service of the Application or the Monitor’s Reports.

DEFINED TERMS

2. Capitalized terms used in this Order and not otherwise defined herein shall have the meanings given to them in the Eighteenth Monitor’s Report.

COST ALLOCATION AGREEMENT

3. Notwithstanding the approval of the Cost Allocation (as defined below), nothing in this Order shall prejudice any of the, rights, interests, obligations, liabilities, claims, or causes of action, under or otherwise associated with or between the parties to, the Cost Allocation Agreement, dated April 26, 2021 (the “**Cost Allocation Agreement**”), as between Mantle Materials Group, Ltd., JMB Crushing Systems Inc., 2161889 Alberta Ltd., ATB Financial, 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, or as such Cost Allocation Agreement may subsequently be amended or restated, by the parties thereto.

COST ALLOCATION

4. The cost allocation methodology, as set out in paragraphs 22 – 26 and Appendix “B” of the Eighteenth Monitor’s Report, as updated in Appendix “A” of the Nineteenth Monitor’s Report (collectively, the “**Cost Allocation**”), allocating all of the post-Filing Date costs incurred by the Initial Applicants and ResidualCo, in these CCAA Proceedings, as

between all of the Initial Applicants' and ResidualCo's secured creditors, as set out therein (collectively, the "**Affected Creditors**"), be and is hereby approved.

5. The Affected Creditors are hereby allocated the following costs and amounts in connection with the period up to and until May 28, 2021:
 - (a) ATB - \$4,655,000;
 - (b) Fiera - \$2,246,000;
 - (c) Mantle - \$404,000;
 - (d) PMSI Creditors, as follows:
 - (i) BMO Transportation Finance - \$116,000;
 - (ii) Caterpillar Financial Services Ltd. - \$27,000;
 - (iii) Ford Credit Canada Company, Ford Credit Canada Leasing, Division of Canadian Road Leasing Company, and Ford Credit Canada Limited - \$7,000;
 - (iv) Komatsu International (Canada) Inc. - \$34,000;
 - (v) Canadian Western Bank Leasing Inc. - \$15,000;
 - (vi) TD Equipment Finance Canada, A Division of the Toronto-Dominion Bank, and The Toronto-Dominion Bank - \$25,000; and,
 - (vii) VFS Canada Inc. - \$10,000.
6. With respect to all costs incurred after May 28, 2021, the Monitor is hereby authorized and empowered to utilize all remaining cash and funds held on behalf of ResidualCo to fund such ongoing costs of ResidualCo and these CCAA Proceedings, but shall allocate all such costs, disbursements, and expenses, incurred after May 28, 2021, in accordance with the methodology set out in paragraph 24 of the Eighteenth Monitor's Report.
7. The Monitor is hereby authorized, empowered, and directed to implement the Cost Allocation and to take all such further steps as the Monitor determines are necessary or

advisable to implement the Cost Allocation and to collect all amounts due under the Cost Allocation, as contemplated in paragraphs 5 and 6 of this Order, including, but in no way limited to, reducing or setting off any outstanding amounts owed by an Affected Creditor from any potential distributions to be made to same.

MISCELLAENOUS MATTERS

8. The Monitor and any of the Affected Creditors are hereby authorized and empowered to seek further advice and directions, to the extent necessary, with respect to the Cost Allocation or this Order, as part of the within proceedings; including, but not limited to, following the discharge of the Monitor, if applicable.
9. Service of this Order shall be deemed good and sufficient by:
 - (a) Serving 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;and,
 - (b) posting a copy of this Order on the Monitor's website at <http://cfcanada.fticonsulting.com/jmb/> and service on any other person is hereby dispensed with.
10. Service of this Order shall be deemed good and sufficient by serving the same in accordance with the procedures in the CaseLines Service Order granted on May 29, 2020.



Justice of the Court of Queen's Bench of Alberta