

Clerk's stamp:

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, RSC 1985, c C-13, as amended

AND IN THE MATTER OF THE COMPROMISE OR
ARRANGEMENT OF JMB CRUSHING SYSTEMS INC. and
2161889 ALBERTA LTD.

APPLICANT: JMB CRUSHING SYSTEMS INC.

DOCUMENT: **ORDER**

ADDRESS FOR SERVICE AND CONTACT
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DOCUMENT:

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File No: A163514

DATE ON WHICH ORDER WAS PRONOUNCED: May 15, 2020

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

LOCATION WHERE PRONOUNCED: Calgary

UPON THE APPLICATION of JMB Crushing Systems Inc. ("JMB"); **AND UPON HEARING** counsel for JMB; **AND UPON HEARING** counsel for EllisDon Industrial Inc. (the "EllisDon"); **AND UPON HEARING** counsel for those parties present; **IT IS HEREBY ORDERED THAT:**

1. The time for service of notice of application for this Order is hereby abridged and deemed good and sufficient and this application is properly returnable today

2. Pursuant to Section 48 of the *Builders' Lien Act*, R.S.A. 2000, c. B-7 (the "*Builders' Lien Act*"), the Applicant or EllisDon may pay into Court the amount of **\$58,609** plus **\$8,360.90** as security for interest (if any) and costs for a total of **\$66,969.90** (the "Security"). If the amount to be paid into Court is greater than \$75,000, then the amount paid into Court pursuant to this section shall be deposited into an interest-bearing account, and all interest earned shall follow the principal.

3. Upon being provided with an electronically filed or paper version of a filed Form 50 (Money Paid Into Court) filed with the Clerk of the Court evidencing the provision of Security in accordance with this Order, together with a certified copy of this Order (which can be electronically filed), the **REGISTRAR OF LAND TITLES** shall, pursuant to section 191(3)(a) of the *Land Titles Act*, R.S.A. 2000, c. L-4, forthwith remove the registration of the lien of the Lien Claimant 1577248 Alberta Ltd., registered as Instrument/Registration No. **202 093 308** (the "Lien") from the title to the following lands described as follows:

<u>No.</u>	<u>Legal Land Description</u>	<u>Title No.</u>												
1	<p>LEGAL DESCRIPTION</p> <p>MERIDIAN 4 RANGE 22 TOWNSHIP 56 SECTION 11 ALL THAT PORTION OF THE NORTH EAST QUARTER WHICH LIES SOUTH OF A LINE DRAWN THROUGHOUT AND AT RIGHT ANGLES TO THE EAST BOUNDARY 407.4 METRES SOUTHERLY FROM THE NORTH EAST CORNER THEREOF; CONTAINING 32.0 HECTARES (79 ACRES) MORE OR LESS. EXCEPTING THEREOUT ALL MINES AND MINERALS</p>	162 224 619												
2	<p>LEGAL DESCRIPTION</p> <p>MERIDIAN 4 RANGE 22 TOWNSHIP 56 SECTION 11 ALL THAT PORTION OF THE NORTH EAST QUARTER WHICH LIES NORTH OF A LINE DRAWN THROUGHOUT AND AT RIGHT ANGLES TO THE EAST BOUNDARY 407.4 METRES SOUTHERLY FROM THE NORTH EAST CORNER THEREOF; CONTAINING 32.8 HECTARES (81 ACRES) MORE OR LESS. EXCEPTING THEREOUT:</p> <table data-bbox="324 1591 1079 1669"> <thead> <tr> <th></th> <th>HECTARES</th> <th>(ACRES)</th> <th>MORE OR LESS</th> </tr> </thead> <tbody> <tr> <td>A) PLAN 5345NY - ROAD</td> <td>0.809</td> <td>2.00</td> <td></td> </tr> <tr> <td>B) PLAN 0426682 - ROAD</td> <td>0.394</td> <td>0.97</td> <td></td> </tr> </tbody> </table> <p>EXCEPTING THEREOUT ALL MINES AND MINERALS</p>		HECTARES	(ACRES)	MORE OR LESS	A) PLAN 5345NY - ROAD	0.809	2.00		B) PLAN 0426682 - ROAD	0.394	0.97		162 224 620
	HECTARES	(ACRES)	MORE OR LESS											
A) PLAN 5345NY - ROAD	0.809	2.00												
B) PLAN 0426682 - ROAD	0.394	0.97												

3	<p>LEGAL DESCRIPTION</p> <p>FIRST MERIDIAN 4 RANGE 22 TOWNSHIP 56 SECTION 12 THE NORTH WEST QUARTER CONTAINING 64.7 HECTARES (160 ACRE) MORE OR LESS EXCEPTING THEREOUT:</p> <table><thead><tr><th></th><th>HECTARES</th><th>(ACRES)</th><th>MORE OR LESS</th></tr></thead><tbody><tr><td>A) PLAN 5345NY - ROAD</td><td>0.813</td><td>2.01</td><td></td></tr><tr><td>B) PLAN 0426682 - ROAD</td><td>0.394</td><td>0.97</td><td></td></tr></tbody></table> <p>EXCEPTING THEREOUT ALL MINES AND MINERALS</p> <p>SECOND MERIDIAN 4 RANGE 22 TOWNSHIP 56 SECTION 12 THE NORTH EAST QUARTER CONTAINING 64.7 HECTARES (160 ACRES) MORE OR LESS EXCEPTING THEREOUT:</p> <table><thead><tr><th></th><th>HECTARES</th><th>(ACRES)</th><th>MORE OR LESS</th></tr></thead><tbody><tr><td>A) PLAN 5345NY - ROAD</td><td>0.813</td><td>2.01</td><td></td></tr><tr><td>B) PLAN 9020063 - ROAD</td><td>2.01</td><td>4.97</td><td></td></tr><tr><td>C) PLAN 0426682 - ROAD</td><td>0.230</td><td>0.57</td><td></td></tr></tbody></table> <p>EXCEPTING THEREOUT ALL MINES AND MINERALS</p>		HECTARES	(ACRES)	MORE OR LESS	A) PLAN 5345NY - ROAD	0.813	2.01		B) PLAN 0426682 - ROAD	0.394	0.97			HECTARES	(ACRES)	MORE OR LESS	A) PLAN 5345NY - ROAD	0.813	2.01		B) PLAN 9020063 - ROAD	2.01	4.97		C) PLAN 0426682 - ROAD	0.230	0.57		162 224 632
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4. The provisions of Section 48(2) of the *Builders' Lien Act* shall apply to the Security.
5. The Security shall be held by the Clerk of the Court pending further Order of this Court respecting the enforcement of the Lien or the handling of the Security.
6. Without prejudice to any party's right to seek other applicable remedies under the *Builders' Lien Act*, any Lien Claimant shall, not later than 180 days following the date of the registration of the applicable Lien with the Registrar of Land Titles, either:
 - a. commence a separate court action to enforce the Lien;
 - b. commence a separate court action to preserve remedies under the *Builders' Lien Act* and commence arbitration proceedings where the agreement between the parties authorizes or requires such proceedings; or
 - c. if authorized by separate Court Order, file a "statement of the plaintiff's claim" in these proceedings,

(collectively, the "Lien Enforcement Proceedings"), failing which the Lien shall cease to exist.

7. Any party to this Order, or any party affected by the Lien, is at liberty to make further application to the Court of Queen's Bench in the applicable Lien Enforcement Proceedings, including an application under Section 53 of the *Builders' Lien Act*, for further directions respecting any matter pertaining to the Lien, the Security, or the issues in dispute, including but not limited to:

- a. the validity of the Lien;
- b. the adjustment of the type or amount of the Security or the extent of its application;
- c. the discharge of any further liens registered that are related to or duplicative of the Lien;
- d. the establishment and calculation of a lien fund; or
- e. the enforcement of an award made in any related arbitration proceedings.

8. The posting of Security in accordance with this Order shall not constitute an admission as to the validity of the registration, or the amount, of the Lien. For greater certainty, nothing in this Order shall waive any entitlement that JMB might have to the Security, if such entitlement is later proven to exist, nor have any effect on any priority rights the Canada Revenue Agency might have as it relates to the Security, and the posting of said Security is without prejudice to any such rights if proven to later exist.

9. Nothing in this Order shall in any way restrict the rights or obligations of the parties under the *Builders' Lien Act* except as expressly stated herein.

10. Costs of this application shall be in the cause.

~~11. Where this Order proceeds by way of consent, it may be consented to in counterpart by facsimile or electronic transmission.~~

Justice of the Court of Queen's Bench of Alberta