

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*, R.S.C. 1985, c. C-36, AS AMENDED

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

DOCUMENT **ORDER – Enhance Monitor’s Powers and 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: dbieganeke@dcllp.com	File # 204-219113 <b>DUNCAN CRAIG LLP</b> LAWYERS MEDIATORS 2800 Rice Howard Place 10060 Jasper Avenue Edmonton, Alberta T5J 3V9
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<b>DATE ON WHICH ORDER WAS PRONOUNCED</b>	<b>MAY 15, 2026</b>
<b>NAME OF JUSTICE WHO MADE THIS ORDER:</b>	<b>G.S. DUNLOP</b>
<b>LOCATION OF HEARING:</b>	<b>EDMONTON, ALBERTA</b>

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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 May 4, 2026, and the Seventh Report of FTI Consulting Canada Inc., in its capacity as monitor (the “**Monitor**”) dated May 11, 2026; AND UPON having read the Confidential Appendix B to the Seventh Report, which includes a [Litigation Services Agreement](#) between ~~the Monitor and~~ MLT Aikins LLP (“**Litigation Counsel**”) and the Monitor (the “**Litigation Services Agreement**”) for initiating and prosecuting litigation on behalf of the Applicant against Suncor Energy Inc. or affiliates ([collectively, “Suncor”](#)); ~~the “Litigation Fee Retainer”~~;

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, the Order of Justice D.R. Mah granted on July 30, 2025, the Order of Justice D.R. Mah granted on November 28, 2025 and the Order of Justice C.D. Simard granted on February 24, 2026;

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**"), [counsel to Suncor](#)) 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 June 30, 2027.

**Enhanced Monitor's Powers**

3. Without in any way limiting the powers and duties of the Monitor as set out within the Initial Order, the ARIO or CCAA, and without altering in any way the limitations and obligations of the Applicant in these proceedings, the Monitor is hereby empowered and authorized, but not obliged, to do any of the following in the name and on behalf of the Applicant, where the Monitor considers it necessary or desirable:
  - a. preserve, protect and maintain control of the Applicant's remaining personal property, books, records, and documents (paper and electronic) (collectively "**Property**"), and any and all proceeds, receipts and disbursements arising out of or from the Property or any parts thereof;
  - b. manage, operate and carry on the business of the Applicant ("**Business**");
  - c. take all steps and actions the Monitor, on behalf of the Applicant, considers necessary or desirable in these proceedings including, without limitation:
    - i. entering into any agreements, including, but not limited to, the [Litigation Services Agreement](#) [Fee Retainer](#);
    - ii. incurring obligations in the ordinary course of business;
    - iii. retaining or terminating employees;
    - iv. ceasing to carry on all or any part of the Business;
    - v. marketing any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Monitor, in its discretion, may deem appropriate;

- vi. selling, conveying, transferring, leasing or assigning the Property or any part or parts thereof out of the ordinary course of business of the Applicant, including running a sales solicitation process without the approval of this Court, in respect of any one transaction not exceeding \$500,000 or \$1,000,000 in the aggregate and with the approval of this Court in respect of any other transaction;
- vii. applying for any Vesting Order or other Orders necessary to convey the Property or any part of parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- viii. engage and instruct employees, consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons ("**Assistants**") from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the powers and duties conferred by this Order;
- ix. oversee and direct the preparation of cash flow statements and to assist in the dissemination of financial and other information in these proceedings;
- x. receive, collect and take possession of all monies and accounts now owed or hereafter owing to the Applicant, including proceeds payable pursuant to sales of Property;
- xi. execute, assign, issue and endorse documents of whatever nature in respect of any of the Property or Business of the Applicant, whether in the Monitor's name or in the name and on behalf the Applicant;
- xii. initiate, prosecute, defend and continue the prosecution of any and all proceedings now pending or hereafter instituted on behalf of the Applicant and to settle or compromise any such proceedings or claims. For greater certainty, such authority shall include the ability to represent the Applicant in any negotiations or mediation with respect to such claims of the Applicant, and the ability to retain counsel. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceedings;
- xiii. exercise any rights which the Applicant may have at law or in equity;
- xiv. provide instruction and direction to the Assistants;
- xv. engage, deal, communicate, negotiate and settle with any creditor or other stakeholder of the Applicant (including any governmental authority);
- xvi. make any distribution or payments required under any Order in these proceedings; and
- xvii. exercise any other incidental rights or powers which the Applicant may have, including rights or powers available to the Applicant under the terms of the Initial Order, the ARIO and the CCAA as applicable, all as deemed reasonable and appropriate by the Monitor.

4. No provision in this Order is intended to appoint the Monitor as an officer, director or employee of any of the Applicant. Additionally, nothing in this Order shall constitute or be deemed to constitute the Monitor as a receiver, assignee, liquidator, or receiver and manager of any of the Applicant and that any distribution made to creditors of the Applicant will be deemed to have been made by the Applicant.
5. ~~In respect of The provisions of this Order precludes this Court from awarding legal costs as against the Monitor, associated with any action initiated and prosecuted proceeding continued or commenced by the Monitor on behalf of the Applicant, and in respect of the event that such costs are awarded against the Monitor, the Monitor shall have a claim for indemnity against the Property to satisfy any alleged claims against Suncor or its affiliates (herein the "Suncor Action") pursuant to the authority vested in its such costs award and such indemnity claim shall be secured by the terms and conditions of this Order:~~
  - a. the Litigation Services Agreement is hereby approved, and the Monitor may proceed to have same executed on behalf of the Applicant, subject to any non-material amendments that the Monitor, in consultation with the Applicant and the Syndicate, determines appropriate and as may be agreed to by Litigation Counsel.
- 5.6. the stay of proceedings Administration Charge (as set forth in paragraphs 15 and 16 of out within the ARIO), and as may be amended, is lifted and shall not apply to Suncor in respect of the Suncor Action, and nothing in this by this Order, the Initial Order, or the ARIO shall be construed as affecting, limiting, or prejudicing:-
  - i. Suncor's ability to exercise all rights and remedies it would otherwise be entitled to exercise in the Suncor Action as though the Applicant were not subject to a stay of proceedings, including its rights to advance or rely upon any defence or counterclaim that it may be able to assert in the Suncor Action in accordance with the Alberta Rules of Court and applicable law; or
  - ii. Suncor's ability to seek costs and disbursements against the Applicant's estate in the Suncor Action; and
- b. paragraph 29 of the ARIO shall continue to apply to the Monitor in respect of its prosecution of the Suncor Action on behalf of the Applicant.
- 6.7. The Applicant and its respective advisors and its current and former officers, directors, employees, agents and representatives shall co-operate with the Monitor in the exercise of its powers pursuant to this Order or any other Order of this Court in this CCAA Proceeding, and shall provide the Monitor and the Applicant with such assistance as the Monitor or the Applicant may request from time to time to enable the Monitor to carry out and discharge its powers as set out in this Order or any other Order of this Court in this CCAA Proceeding.
- 7.8. The Monitor is not and shall not, for any purposes, be deemed to be a director, officer, employee, receiver, receiver-manager, or liquidator of the Applicant.
- 8.9. The Monitor is not and shall not for the purposes of the *Income Tax Act* (Canada) be deemed to be a legal representative or person to whom s. 150(3) of that Act applies.
- 9.10. The Monitor shall not take possession of the Property and shall not, by fulfilling its obligations hereunder, or by inadvertence in relation to the due exercise of powers or performance of duties under this Order, be deemed to have taken or maintain possession or control of the Business or Property, or any part thereof.

~~10-11.~~ Pursuant to section 23(1)(d)(ii) of the CCAA, the period for the Monitor to file ongoing reports on the Applicant's business and financial affairs shall be extended to annually with the next report to be filed with the Court no later than June 30, 2027.

~~11-12.~~ In addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or willful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

~~12.~~ The ~~Litigation Fee Retainer~~ is hereby approved and the Monitor may proceed to have the same executed by the Applicant is, subject to any non-material amendments that the Monitor determines appropriate.

13. Pursuant to the terms of the ~~Litigation Fee Retainer~~, counsel acting pursuant to the ~~Litigation Fee Retainer~~ ("**Litigation Counsel**") shall be paid their reasonable fees and disbursements pursuant to the terms of the ~~Litigation Fee Retainer~~. The Applicant is hereby authorized and directed to pay the accounts of Litigation Counsel at such times as stipulated on a monthly basis unless otherwise agreed by the parties, or unless otherwise set out in the Litigation Services Agreement. Fee Retainer.

#### Service and Effective Time

14. 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.

15. 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.

16. 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.

#### General

17. The Applicant and the Monitor are each authorized and empowered to apply to any court, tribunal or regulatory or administrative body, wherever located, for recognition of this Order and for assistance in carrying out the terms of this Order.

18. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Applicant, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding or to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order.

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Justice of the Court of King's Bench of Alberta