



No. S238572
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

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 COMPROMISE AND ARRANGEMENT OF
MYRA FALLS MINE LTD.

PETITIONER

NOTICE OF APPLICATION

Name of Applicant: Myra Falls Mine Ltd. (the "Applicant")

TO: THE SERVICE LIST

TAKE NOTICE that an application will be made by the Applicant, Myra Falls Mine Ltd., before Justice Fitzpatrick at the Courthouse at 800 Smithe Street, Vancouver, British Columbia, on Friday, June 28, 2024 at 2:00 p.m. (as arranged through Trial Scheduling) for an Order set out in Part 1 below.

The applicant estimates that the application will take one hour (as arranged through Trial Scheduling)

This matter is before Justice Fitzpatrick.

PART 1: ORDER(S) SOUGHT

1. The Applicant, Myra Falls Mine Ltd. (the "**Applicant**") seeks Orders under the *Companies' Creditors Arrangement Act* (Canada) (the "**CCAA**") substantially in the form attached hereto as Schedule "A" and Schedule "B" granting, *inter alia*, the following relief:

- (a) confirming that the time for service of the Notice of Application and supporting materials is abridged such that the Notice of Application is properly returnable on June 28, 2024 and service thereof is dispensed with;

- (b) extending the Stay Period (as such term is defined in paragraph 15 of the Amended and Restated Initial Order (the "**ARIO**")) up to and including October 31, 2024, or such other date as this Court may deem appropriate;
- (c) authorizing the Applicant to borrow up to an aggregate amount of \$34 million pursuant to the terms of the DIP Term Sheet as amended by a second amendment to the DIP Term Sheet, (the "**Amended DIP Term Sheet**"), and granting an increase in the amount of the Interim Lender's Charge to \$34 million (plus accrued and unpaid interest, fees and expenses);
- (d) approving a key employee retention plan to secure the continued services of certain critical employees of the Applicant (the "**KERP**");
- (e) sealing the Confidential Affidavit of Hein Frey affirmed on June 17, 2024 (the "**Confidential Affidavit**"), which contains confidential employee information in connection with the KERP; and
- (f) such further and other relief as counsel for the Applicant may request and this Honourable Court may deem just.

PART 2: FACTUAL BASIS

A. Capitalized Terms

1. Capitalized terms used but not otherwise defined in this Application have the meanings ascribed to them in the Affidavit #4 of Hein Frey affirmed June 17, 2024 (the "**Frey Affidavit #4**") and the ARIO.

B. Overview

2. In support of this application, the Applicant relies upon and restates the factual basis set out in Part 2 of the Petition filed in these proceedings on December 18, 2023 and Part 2 of the Notice of Application filed in these proceedings on December 21, 2023 and February 22, 2024.

3. Additional facts in support of this application are set out in the Affidavit #1 of Hein Frey affirmed December 17, 2023, the Affidavit #2 of Hein Frey affirmed December 21, 2023, the Affidavit #3 of Hein Frey affirmed February 21, 2024, the Frey Affidavit #4, and the Confidential Affidavit.

4. On December 18, 2023, this Court granted the Initial Order with respect to the Applicant pursuant to the CCAA, granting, among other things:

- (a) the Stay Period in favour of the Applicant, until and including December 28, 2023;
- (b) the Administration Charge up to the maximum of \$350,000;
- (c) the Directors' Charge up to the maximum of \$650,000;
- (d) the Applicant's ability to borrow up to a maximum of \$4,000,000 under a debtor-in-possession credit facility (the "**DIP Facility**") pursuant to a DIP Term Sheet (the "**DIP Term Sheet**"), among the Applicant, as borrower and Trafigura US Inc., as interim lender (the "**Interim Lender**") and corresponding Interim Lender's Charge; and
- (e) that FTI Consulting Canada Inc. be appointed as Court-appointed monitor of the Applicant (in such capacity, the "**Monitor**"); and
- (f) authority for the Applicant to pay the Initial Hardship Payment.

5. On December 28, 2023, this Court granted the ARIO, which, among other things:

- (a) extended the Stay Period up to and including February 29, 2024;
- (b) authorized the Applicant to borrow up to \$21,000,000 from the Interim Lender, under the DIP Facility together with a corresponding increase in the amount of the Interim Lender's Charge;
- (c) increased the amount of the Administration Charge to \$800,000;
- (d) increased the amount of the Directors' Charge to \$1,200,000;
- (e) granted the Interim Lender's Charge, the Administration Charge and the Directors' Charge priority ahead of secured creditors pursuant to ss. 11.2(2), 11.51(2) and 11.52(2) of the CCAA; and
- (f) authorized the Applicant to, in its discretion, make a Supplemental Hardship Payment to terminated or temporarily laid off employees.

6. On February 27, 2024, this Court granted an Order (the "**SISP Order**"), which, among other things:

- (a) extended the Stay Period until June 30, 2024;
- (b) approved a sale and investment solicitation process for offers or proposals to purchase, or invest in, all or substantially all of the Property and business of the Applicant (the "**SISP**");
- (c) approved the engagement letter dated as of February 2, 2024 between the Applicant and FTI Capital Advisors-Canada ULC (the "**Financial Advisor**"); and
- (d) granted the Financial Advisor the benefit of the Administration Charge.

7. On March 7, 2024, this Court granted an order (the "**Approval and Vesting Order**") which, among other things, approved the sale of the Applicant's interest in the Epiroc Lease (as defined in the Approval and Vesting Order) to Breakwater-Resources Ltd., pursuant to a sale and assignment agreement dated and effective as of February 28, 2024.

C. Stay Extension

8. The current Stay Period expires on June 30, 2024. The Applicant seeks an extension of the Stay Period up to and including October 31, 2024.

9. Since the Applicant last appeared before this Court, the Applicant has:

- (a) carried out the SISP to the end of "Phase 1" and terminated the SISP as a result of there being no qualified bids, as described in greater detail in the Frey Affidavit #4;
- (b) continued to perform care and maintenance activities, with the strategic objective of ensuring the site can be restarted with minimal delays and rework;
- (c) initiated a scrap metal recovery program and safely disposed of hazardous substances;
- (d) maintained communication and engagement with relevant government agencies and other stakeholder;

- (e) implemented several cost-saving measures, including reducing power usage, downsizing the light vehicle fleet, implementing Company-owned transport in place of contracted bus service, and substituting a first aid contractor with in-house trained personnel alongside site-owned emergency transport vehicles;
- (f) held meetings on at least eight separate occasions with representatives of Wei Wai Kum First Nation and We Wai Kai First Nation to advance discussions on potential modifications to the existing impact and benefit agreement, and the Discovery Terminal Lease;
- (g) communicated with representatives of the Union to schedule a meeting involving representatives of the Company, Monitor and Union. The meeting is scheduled to take place on July 4, 2024;
- (h) developed the proposed KERP;
- (i) continued to manage inquiries from certain creditors regarding pre-filing payables, including certain stakeholders who have sought to register liens or commenced proceedings against the Company in breach of the CCAA stay;
- (j) continued to engaged with certain equipment lessors who have been seeking release of equipment collateral, and obtained equipment valuations for certain pieces of equipment;
- (k) developed an inventory of equipment that is not required by the Company while the Mine is in care and maintenance, including reviewing its equipment lease portfolio, with a view to exploring potential disposition options of that equipment pursuant to a new disposition process (the "**Equipment Sale Process**");
- (l) worked with the Monitor to develop the structure for an Equipment Sale Process;
- (m) met with the Monitor to discuss various operational matters, including discussions around equipment valuations, as specifically related to certain equipment lessors, and identification of key employees whose services, skills and knowledge are critical for the Company's care and maintenance operations, its restructuring efforts and should a rapid restart of the operations be required;

- (n) began its review of material contracts to identify contracts that require modifications or terminations;
- (o) worked with representatives of the Canada Revenue Agency (“**CRA**”) in connection with an audit that CRA is performing in connection with the Company’s input tax credits;
- (p) with assistance of the Monitor, prepared updated cash flow forecast (the “**Updated Cash Flow Forecast**”);
- (q) worked to resolve certain amounts outstanding pursuant to concentrate shipments that occurred around December, 2023; and
- (r) begun exploratory discussions with a contract operator with interest in potentially operating the Mine in the short to medium term.

10. The proposed extension of the Stay Period will allow the Applicant the time necessary to continue with their restructuring efforts in the absence of a going concern sale. If the proposed increase to the DIP Facility and the DIP Lender’s Charge are approved, the Applicant expects to have sufficient cash to operate in the ordinary course through the proposed Stay Period.

11. The Applicant has acted and will continue to act in good faith and with due diligence during these proceedings.

D. Interim Financing

12. On December 17, 2023, the Applicant entered into the DIP Term Sheet with the Interim Lender. The Initial Order approved the DIP Term Sheet, with a borrowing limit of up to \$4,000,000. The Initial Order also granted the Interim Lender’s Charge to secure the obligations of the Applicant to the Interim Lender under the DIP Term Sheet to a maximum amount of \$4,000,000 (plus accrued and unpaid interest, fees and expenses).

13. The ARIO was granted on December 28, 2023, which, *inter alia*, approved an increased to the borrowing limit under the DIP Term Sheet up to the principal amount of \$21,000,000, and granted an increase to the Interim Lender’s Charge accordingly.

14. The Applicant now seeks authority to enter into the Amended DIP Term Sheet, which increases the borrowing limit under the DIP Facility to the principal amount of \$34 million, and

an accompanying increase to the DIP Lender's Charge so that it is commensurate with such increase under the Dip Term Sheet. The Applicant intends to utilize the funds from the Amended DIP Term Sheet in accordance with the Updated Cash Flow Forecast, a copy of which is attached to the Monitor's Third Report.

15. The Company will continue to require interim financing to fund its operations during the proposed extension of the Stay Period. Access to this additional interim financing is necessary to MFM's ongoing working capital requirements and the cost of these proceedings.

E. Key Employee Retention Plan

16. With the assistance of its legal advisors and the Monitor, the Applicant has developed the KERP to secure the services of certain employees whose skills and knowledge are required during the continued restructuring of the Applicant.

17. The Applicant currently employs approximately 20 salaried and 27 hourly employees. Of these employees, the Applicant identified 17 employees (collectively, the "**Key Employees**") whose services, skills and knowledge are critical for the Applicant's care and maintenance operations, its restructuring efforts and should a rapid restart of the operations be required. The KERP is designed to incentivize the Key Employees to remain with the Applicant during the Applicant's restructuring process.

18. The Key Employees possess in-depth knowledge of proposed future projects and strategic development of the Mine, which MFM believes must be retained to preserve MFM, or an eventual purchaser's ability to re-open the Mine. Additionally, certain Key Employees are critical for ensuring environmental and safety compliance at the Mine.

19. Since the commencement of the proceedings, including following the outcome of the SISF, management at the company has observed a decline in employee morale and satisfaction. Absent the KERP, the Key Employees may seek alternative employment, which would materially impact the Applicant's restructuring efforts or imperil the safety of the care and maintenance operations. The Key Employees are familiar with the Applicant's business and operations and their experience and expertise may be difficult to replace. Additionally, any attempts to replace the Key Employees would likely be costly and time-consuming, which would detract from the Applicant's ability to manage its restructuring.

20. The amounts proposed to be paid to the Key Employees are based on the amounts that the Key Employees would have been entitled to receive had the contractual annual performance incentive for salaried employees payable at the end of the 2023 production year been paid.

21. The total maximum amount payable under the KERP is \$300,000.

22. Pursuant to the KERP, Key Employees would be entitled to be paid 50% of their individual KERP amount on the first payroll following June 28, 2024, with the remaining 50% payable on the first payroll following December 31, 2024. Each payment would be conditional on the Key Employee being employed at the date of the payment. Key Employees will not earn or accrue any partial KERP entitlement if they resign or are terminated for cause prior to June 28, 2024, or December 31, 2024, as the case may be.

23. The Interim Lender is supportive of the KERP as is the Monitor.

F. Sealing Order

24. The Confidential Affidavit contains an unredacted version of the KERP Memorandum, which contains certain confidential and personally identifiable information concerning the Key Employees, including their names, positions, salary, and their corresponding allocation in respect of their entitlement pursuant to the KERP. The information found in the Confidential Affidavit is not of a nature that would normally be made public by the Company in the ordinary course of business.

25. Disclosure of the information contained in the Confidential Affidavit could be prejudicial to the Company and the Key Employees by significantly impacting the privacy interest of the Key Employees and raising potential animosity concerns among employees who are not subject to the KERP.

PART 3: LEGAL BASIS

32. The Applicant relies on:

- (a) the CCAA;
- (b) the *Supreme Court Civil Rules*, B.C. Re. 168/2009, as amended;
- (c) the inherent and equitable jurisdiction of this Honourable Court; and

- (d) such further and other legal basis as counsel may advise and this Honourable Court may allow.

The Stay of Proceedings Should be Extended

33. The current Stay Period expires on June 30, 2024. The Applicants seek an extension of the Stay Period until October 31, 2024.

34. Pursuant to section 11.02(2) of the CCAA, the Court may grant an extension of a stay of proceedings if the Court is satisfied that (a) the applicant has acted, and is acting, in good faith and with due diligence; and (b) that circumstances exist that make the order appropriate.

CCAA, s. 11.02(2).

35. Both the examination of whether a debtor has acted in good faith, and the appropriateness of a request for an order extending a stay of proceedings, must be viewed within the lens of the remedial objectives of the CCAA and in turn the purpose of a stay of proceedings.

Yukon Zinc Corporation (Re), 2015 BCSC 1219 (CanLII), paras 24-25 and 36-38;
Century Services Inc. v Canada (Attorney General), 2010 SCC 60 (CanLII), [2010] 3 SCR 379 [**Century Services**], para 70.

36. The purpose of a stay of proceedings under the CCAA is well established: it is designed to give companies under CCAA protection the “breathing room” required to restructure with a view to maximizing recoveries, whether the restructuring takes place as a going concern or as an orderly liquidation or wind-down.

Target Canada Co. (Re), 2015 ONSC 303 (CanLII), at para 8;
Century Services, at para 14;
Imperial Tobacco Canada Limited, et al, Re, 2019 ONSC 1684, para 9;
Industrial Properties Regina Limited v Copper Sands Land Corp., 2018 SKCA 36, paras 19 and 21.

37. Extending the Stay Period in this case is reasonable and appropriate. The evidence is clear that the Applicant, under the supervision of the Monitor, has acted in good faith and with due diligence in the period that has elapsed since the above noted orders were granted.

38. An extension of the Stay Period will provide the Applicant with continued breathing space to restructure its operation and business with the assistance of the Monitor and determine a strategy to maximize value for the benefit of its stakeholders through the CCAA proceedings.

39. The Monitor supports the proposed extension to the Stay Period.

40. For the reasons set out above, the Applicant submits that the Stay Period should be extended until October 31, 2024.

The Interim Financing and Increase to the DIP Lender's Charge Should be Approved

41. The Applicant is seeking to increase the borrowing limit under the DIP Facility up to the principal amount of \$34 million, together with a corresponding increase of the DIP Lender's Charge.

42. Section 11.2 of the CCAA gives the Court explicit authority to grant the DIP Lender's Charge. In turn, sub-section 11.2(4) of the CCAA provides that in determining whether to grant the DIP Lender's Charge, the Court should consider, among other things, the following factors:

- (a) The period during which the company is expected to be subject to proceedings under the CCAA;
- (b) How the company's business and financial affairs are to be managed during the proceedings;
- (c) Whether the company's management has the confidence of its major creditors;
- (d) Whether the loan would enhance the prospects of a viable compromise or arrangement being made in respect of the company;
- (e) The nature and value of the company's property;
- (f) Whether any creditor would be materially prejudiced as a result of the security or charge; and

- (g) The monitor's findings in its report, if any.

CCAA, ss. 11.2, 11.2(4).

43. The Applicant's current operations do not generate sufficient funds to cover the Applicant's day-to-day expenses including professional fees that are set to accrue during these CCAA proceedings, and therefore the increase in the availability under the DIP Facility is required to allow the Applicant to service its post-filing expenses.

44. An increase in the DIP Facility will allow the Applicant to, among other things, continue its restructuring efforts, and, in the interim, maintain the value of its property, assets and undertakings for the benefit of its stakeholders.

45. Based on the cash flow forecast provided by the Applicants, and prepared with the assistance of the Monitor, the Applicants will require up to \$34million to meet its ongoing liabilities.

46. The Applicants seek an increase to the interim financing of up to \$34 million in order to facilitate an efficient and orderly restructuring. The Applicant believes this amount should be sufficient to allow it to carry out its restructuring efforts during the proposed Stay Period. Additionally, the DIP Facility increased is further supported by the Monitor.

47. Accordingly, the Applicant submits that an increase in the DIP Facility up to \$34 million is reasonable and appropriate in the circumstances.

The KERP Should be Approved

48. KERPs have been approved in numerous insolvency proceedings, particularly where the retention of certain employees was deemed critical to a successful restructuring.

Timminco Ltd. (Re), 2012 ONSC 506 at para. 72

49. Pursuant to section 11 of the CCAA, this Court has authority to approve the KERP. The assessment of whether it is appropriate to do so is a fact-based analysis, but includes the following factors to consider:

- (a) Is the employee important to the restructuring process?

- (b) Does the employee have specialized knowledge that cannot be easily replaced?
- (c) Will the employee consider other employment options if the KERP is not approved?
- (d) Was the KERP developed through a consultative process involving the Monitor and other professionals? And
- (e) Does the Monitor support the KERP and the charge?

Walter Energy Canada Holdings Inc. (Re), 2016 BCSC 107 at
paras. 59-61

50. As detailed in the Hein Affidavit #4, the Applicant has certain key employees who perform roles that are critical to the Applicant's business and operations. The terms of the KERP are detailed in **Exhibit "A"** to the Hein Affidavit #4.

51. All the Key Employees are critical to the restructuring in these CCAA proceedings as they are experienced employees with specialized skills relevant to the Applicant's business and operations. As noted above, the KERP has been designed to incentivize the Key Employees to remain in their employment during the course of these proceedings.

The Sealing Order Should be Approved

52. The Applicant seeks a Sealing Order directing that the Confidential Affidavit be placed under seal, with such affidavit to remain under seal pending further Order of the Court.

53. In the leading case of *Sierra Club of Canada v. Canada (Minister of Finance)*, the Supreme Court of Canada held that a sealing order may be granted where (a) such an order is necessary to prevent a serious risk to an important interest, including a commercial interest, in the context of litigation because reasonably alternative measures will not prevent the risk; and (b) the salutary effects of the confidentiality order, including the effects on the right of civil litigants to a fair trial, outweigh its deleterious effects, including the effects on the right to free expression, which includes the public interest in open and accessible court proceedings.

Sierra Club of Canada v. Canada (Minister of Finance), 2002 SCC 41 at para.
53 [Sierra Club].

54. The Supreme Court of Canada, in *Sherman Estate* breaks down the two-part test from *Sierra Club* into three parts to help clarify the prerequisites "without altering its essence". As clarified, the applicant must establish that:

- (a) Court openness poses a serious risk to an important public interest;
- (b) The order sought is necessary to prevent this serious risk to the identified interest because reasonably alternative measures will not prevent this risk; and
- (c) As a matter of proportionality, the benefits of the order outweigh its negative effects.

Sherman Estate v. Donovan, 2021 SCC 25, at para 38. [**"Sherman Estate"**]

55. The Ontario Superior Court of Justice, in *Just Energy Group Inc. et al.*, has held that "publicly disclosing employee compensation violates the privacy interest of those employees" and creates risks for employee retention in the specific proceeding, and CCAA proceedings more generally. The Ontario Court went on to find that, in sealing this information, "the limitation imposed on the open courts principal is minimal".

Just Energy Group Inc. et al., 2021 ONSC 7630 at para 29

56. The Confidential Affidavit contains an unredacted version of the KERP Memorandum, which contains certain confidential and personally identifiable information concerning the Key Employees, including their names, positions, salary, and their corresponding allocation in respect of their entitlement pursuant to the KERP. The Applicant submits that the Confidential Affidavit contains sensitive information, the disclosure of which would significantly impinge upon the privacy interests of the Key Employees. No other party has a reasonable expectation of accessing such confidential information.

57. The Applicant submits that maintaining the confidentiality of the Key Employees' personal information and compensation is an important public interest, and that the sealing order is proportionate since the benefits in protecting privacy interests of non-party employees outweigh the very limited impact on the open courts principle arising from this information being sealed.

58. The Applicant submits that the sealing of the Confidential Affidavit is appropriate in the circumstances. The Applicant also notes that a redacted version of the KERP, which does not

disclose sensitive information of the Key Employees, but which contains a copy of the memorandum summarizing the materials terms of the KERP, will be attached as **Exhibit "A"** to the Hein Affidavit #4.

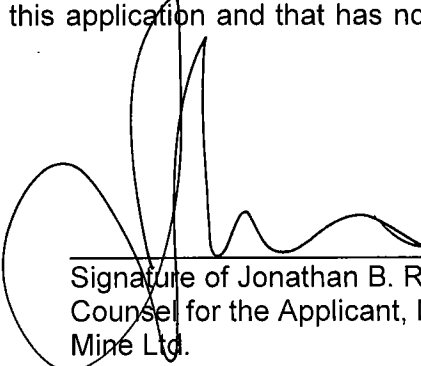
PART 4: MATERIAL TO BE RELIED ON

1. Affidavit #1 of Hein Frey, affirmed December 17, 2023
2. Affidavit #2 of Hein Frey, affirmed December 21, 2023
3. Affidavit #3 of Hein Frey, affirmed February 21, 2024
4. Affidavit #1 of Michèle Hay, sworn February 22, 2024
5. Affidavit #4 of Hein Frey affirmed June 17, 2024
6. Confidential Affidavit of Hein Frey affirmed June 17, 2024
7. Pre-Filing Report of the Proposed Monitor, dated December 17, 2023
8. First Report of the Monitor, dated December 21, 2023
9. Second Report of the Monitor, dated February 23, 2024; and
10. Third Report of the Monitor, dated June [17], 2024.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this notice of application, you must, within 5 business days after service of this notice of application or, if this application is brought under Rule 9-7, within 8 business days after service of this notice of application,

- (a) file an application response in Form 33,
- (b) file the original of every affidavit, and of every other document, that
 - (i) you intend to refer to at the hearing of this application, and
 - (ii) has not already been filed in the proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other party one copy of the following:
 - (i) a copy of the filed application response;
 - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person.

Date: June 17, 2024



Signature of Jonathan B. Ross
Counsel for the Applicant, Myra Falls
Mine Ltd.

To be completed by the Court only:	
Order made	
<input type="checkbox"/>	in the terms requested in paragraphs _____ of Part 1 of this notice of application
<input type="checkbox"/>	with the following variations and additional terms: _____ _____ _____
Date: _____	Signature of <input type="checkbox"/> Judge <input type="checkbox"/> Associate Judge

APPENDIX

[The following information is provided for data collection purposes only and is of no legal effect.]

THIS APPLICATION INVOLVES THE FOLLOWING:

[Check the box(es) below for the application type(s) included in this application.]

- discovery: comply with demand for documents
- discovery: production of additional documents
- other matters concerning document discovery
- extend oral discovery
- other matter concerning oral discovery
- amend pleadings
- add/change parties
- summary judgment
- summary trial
- service
- mediation
- adjournments
- proceedings at trial
- case plan orders: amend
- case plan orders: other
- experts
- other

SCHEDULE "A"

No. S-238572
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

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 COMPROMISE AND ARRANGEMENT OF
MYRA FALLS MINE LTD.

PETITIONER

ORDER MADE AFTER APPLICATION

BEFORE THE HONOURABLE)
JUSTICE FITZPATRICK) 28/06/2024
)

THE APPLICATION of the Petitioner, coming on for hearing before me at the courthouse at 800 Smithe Street, Vancouver, British Columbia, on the 28th day of June, 2024; AND ON HEARING Jonathan B. Ross, counsel for the Petitioner and those other counsel listed on **Schedule "A"** hereto; AND UPON READING the materials filed, including the Affidavit #4 of Hein Frey, affirmed June 17, 2024 (the "**Frey Affidavit #4**"), the Confidential Affidavit of Hein Frey, affirmed on June 17, 2024 (the "**Confidential Affidavit**") and the Third Report of FTI Consulting Canada Inc. (in its capacity as court-appointed monitor of the Petitioner, the "**Monitor**") dated June [●], 2024; AND pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985 c. C-36 as amended (the "**CCAA**"), the *British Columbia Supreme Court Civil Rules*, BC Reg 168/2009 and the inherent jurisdiction of this Honourable Court;

THIS COURT ORDERS AND DECLARES THAT:

SERVICE AND DEFINITIONS

1. The time for service of the Notice of Application dated June 17, 2024 and supporting materials is hereby abridged such that the Notice of Application is properly returnable today and service thereof is hereby dispensed with.

2. Capitalized terms used in this Order and not otherwise defined herein shall have the meaning given to them in the amended and restated initial order granted in these proceedings by the Honourable Justice Fitzpatrick dated December 28, 2023 (the "ARIO").

STAY EXTENSION

3. The Stay Period is hereby continued and extended to and including October 31, 2024.

DIP AMENDMENT AND INCREASE IN INTERIM LENDER'S CHARGE

4. The second amendment to the DIP Term Sheet dated June [●], 2024 (the "**Second DIP Amendment**") between the Petitioner and the Interim Lender, attached as **Exhibit "B"** to the Frey Affidavit # 4 is hereby authorized and approved, and the Petitioner is hereby authorized and empowered to borrow up to an additional \$13 million for an aggregate principal amount of \$34 million pursuant to the DIP Term Sheet (as amended by the first amendment to the DIP Term Sheet dated February 16, 2024 and the Second DIP Amendment (the "**Amended DIP Term Sheet**")).

5. The Interim Lender shall be entitled to the benefit of the Interim Lender's Charge provided for in the ARIO to secure amounts advanced under the Amended DIP Term Sheet. The Interim Lender's Charge shall be increased to the maximum amount of \$34 million (plus accrued and unpaid interest, fees and expenses).

6. The Interim Lender's Charge, as amended herein, shall continue to have the priority set out in paragraphs 40 and 42 of the ARIO.

APPROVAL OF THE KERP

7. The Key Employee Retention Plan (the "**KERP**") attached as **Schedule "B"** to this Order is hereby approved and the Petitioner is authorized and directed to make payment to the Key Employees (as such term is defined in the Frey Affidavit #4) in accordance with the terms thereof.

GENERAL

8. The Petitioner, the Monitor, or the Interim Lender, may from time to time apply for such further or other directions as may be necessary or desirable to give effect to this Order, including, without limitation, the discharge of their respective powers and duties under this Order, or any matter in connection therewith.

9. Endorsement of this Order by counsel appearing on this application other than counsel for the Petitioner is hereby dispensed with.

10. This Order and all of its provisions are effective as of 12:01 a.m. local Vancouver time on the date this Order is made.

THIS COURT REQUESTS the aid and recognition of other Canadian and foreign Courts, tribunal, regulatory or administrative bodies, including any Court or administrative tribunal of any federal or State Court or administrative body in the United States of America, to act in aid of and to be complementary to this Court in carrying out the terms of this Order where required. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Petitioner and 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 Petitioner and the Monitor and their respective agents in carrying out the terms of this Order.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

Signature of Jonathan B. Ross
Lawyer for the Petitioner

BY THE COURT

REGISTRAR

Schedule "A"

LIST OF COUNSEL

COUNSEL NAME	PARTY REPRESENTED
Claire Hildebrand Peter Rubin	Monitor – FTI Consulting Canada Inc.

Schedule "B"

KEY EMPLOYEE RETENTION PLAN

SCHEDULE "A"

No. S-238572
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

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 COMPROMISE AND
ARRANGEMENT OF MYRA FALLS MINE LTD.

PETITIONER

ORDER

GOWLING WLG (CANADA) LLP

Barristers & Solicitors
Bentall 5, Suite 2300,
550 Burrard Street
Vancouver, BC V6C 2B5

Attention: Jonathan B. Ross

Tel: 604.683.6498 Fax: 604.683.3558

File No. A172589

MD/SPK

Items to be sealed

Document Name:	Date filed: (Date on Court Stamp)	Number of copies filed, including any extra copies for the judge.	Duration of sealing order: (to specific date or until further order)	Sought	Granted	
					YES	NO
1) <i>Entire File</i>	<i>Various</i>			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2) <u>Specific Documents</u> Affidavit #5 of Hein Frey affirmed June 17, 2024	To be filed	1 original to be filed (no copies)	Until further Court Order	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3) <u>Clerk's Notes</u>				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4) <u>Order</u>				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5) <u>Reasons for Judgment</u>				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

1. Endorsement of this Order by counsel appearing on this application, other than counsel for the Petitioner, is hereby dispensed with.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

Signature of Jonathan B. Ross
Counsel for the Petitioner

BY THE COURT

REGISTRAR

SCHEDULE "B"

No. S238572
Vancouver Registry

THE SUPREME COURT OF BRITISH COLUMBIA

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

- AND -

IN THE MATTER OF THE PLAN OF COMPROMISE AND
ARRANGEMENT OF MYRA FALLS MINE LTD.

SEALING ORDER

GOWLING WLG (CANADA) LLP
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Attention: Jonathan B. Ross

Tel. No. 604.683.6498
Fax No. 604.683.3558

File No. A172589

JBR/msh

No. S-238572
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IN THE SUPREME COURT OF BRITISH COLUMBIA

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 COMPROMISE AND
ARRANGEMENT OF MYRA FALLS MINE LTD.

PETITIONER

NOTICE OF APPLICATION

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SPK/JRB/MD