

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**

**(Approval of Auction Agreement, DIP Increase and Stay Extension)**

BEFORE THE HONOURABLE )  
JUSTICE FITZPATRICK ) January 29, 2025  
)

ON THE APPLICATION OF the Petitioner, coming on for hearing before me at the courthouse at 800 Smithe Street, Vancouver, British Columbia, on the 29<sup>th</sup> day of January, 2025; AND ON HEARING Jonathan B. Ross, counsel for the Petitioner and those other counsel listed on **Schedule "A"** hereto, and no one else appearing although duly served, AND UPON READING the materials filed, including the Affidavit #8 of Hein Frey, affirmed January 21, 2025 (the "**Frey Affidavit #8**"), and the Sixth Report of FTI Consulting Canada Inc. (in its capacity as court-appointed monitor of the Petitioner, the "**Monitor**") dated January 24, 2025; 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*, 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 for this order and the supporting materials is hereby abridged such that the Notice of Application is properly returnable today and the need for any further 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") or the Frey Affidavit #8.

## **STAY EXTENSION**

3. The Stay Period is hereby continued and extended to and including April 4, 2025.

## **AMENDMENT TO DIP TERM SHEET AND INCREASE IN INTERIM LENDER'S CHARGE**

4. The Petitioner is hereby authorized and empowered to borrow up to an additional \$3 million for an aggregate principal amount of \$37 million pursuant to the DIP Term Sheet (as amended, including pursuant to the Fourth 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 \$37 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.

## **AUCTION AGREEMENT**

7. In this order, the following terms shall bear the meanings given to them below:
  - (a) "**Claims**" means any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or

monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise;

- (b) "**Encumbrances**" means any encumbrances or charges created by any orders of this Court, and any and all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act*, R.S.B.C. 1996, c. 359 (the "**PPSA**"), or any other personal property registry system; and
- (c) capitalized terms used in the "Approval of Auction Agreement" and "Vesting of Assets" sections of this order that are not defined elsewhere in this order have the meanings ascribed to them in the auction and liquidation services agreement (the "**Auction Agreement**") between the Petitioner and Maynards Industries II Canada Ltd. ("**Maynards**"), a copy of which is attached as Exhibit A to Frey Affidavit #8.

#### **APPROVAL OF AUCTION AGREEMENT**

8. The sale of the Assets contemplated by the Auction Agreement is hereby approved, and the Auction Agreement is commercially reasonable. The execution of the Auction Agreement by the Petitioner, and the engagement of Maynards as contemplated in the Auction Agreement, is hereby authorized and approved, and the Petitioner and Maynards are hereby authorized and directed to execute and deliver such additional, related and ancillary documents and assurances governing, or giving effect to, the transactions contemplated in the Auction Agreement as the Petitioner and Maynards deem reasonably necessary or advisable to conclude the transactions contemplated by the Auction Agreement.

9. Any requirement of the Petitioner or Maynards to issue notices under section 59 of the PPSA is hereby dispensed with.

#### **VESTING OF ASSETS**

10. Upon the payment of the purchase price for any Assets in accordance with the Auction Agreement, all of the Petitioner's rights, title and interest in and to such Assets shall vest absolutely and exclusively in the person or persons acquiring the Assets (each, a "**Purchaser**"),

free and clear of and from any and all Claims including, without limiting the generality of the foregoing, all Encumbrances, and, for greater certainty, this Court orders that all the Claims and Encumbrances affecting or relating to the Assets so sold are expunged and discharged as against such Assets upon payment of the purchase price for such Assets to Maynards.

11. Upon Maynards receiving the purchase price for any Assets, the Net Sale Proceeds that are to be paid by Maynards to the Petitioner in accordance with the Auction Agreement, shall immediately be impressed with a charge in favour of the Petitioner and shall be held by Maynards in trust for the benefit of the Petitioner until such time as the Net Sale Proceeds are received by the Petitioner. While held by Maynards, the Net Sale Proceeds shall be held in a separate trust account for the benefit of the Petitioner.

12. From and after the completion of the sale of the Assets (including the payment of the Net Sale Proceeds by Maynards to the Petitioner), the Petitioner is authorized to discharge from the British Columbia Personal Property Registry any claim registered against any of the Assets being auctioned by Maynards, to the extent the security interest is registered against the interest of the Petitioner or against any serial number of the Assets.

13. No authorization, approval or other action by, and no notice to or filing with, any governmental authority or regulatory body exercising jurisdiction over the Assets is required for the due execution, delivery and performance by the Petitioner of the Auction Agreement.

14. The Petitioner shall not be required to hold the Net Sale Proceeds in trust for the benefit of any Person but rather shall be entitled to use the funds comprising the Net Sale Proceeds in the ordinary course of its operations, subject to the ARIO and the other orders made in these proceedings.

15. Upon the completion of the transactions contemplated by this order and the Auction Agreement, the Petitioner and all persons who claim by, through or under the Petitioner in respect of the Assets, and all persons or entities having any Claims of any kind whatsoever in respect of the Assets shall stand absolutely and forever barred, estopped, foreclosed from and permanently enjoined from pursuing, asserting, or claiming any right, title, interest or other Claims whatsoever in respect of or to the Assets and to the extent that any such persons or entities remain in possession or control of any of the Assets, certificates, instruments, or other

indicia or title representing or evidencing any right, title or interest in and to the Assets, they shall forthwith deliver possession thereof to the Purchasers (or their nominee) or to Maynards.

16. The Purchasers shall, by virtue of the completion of the transactions contemplated by this order and the Auction Agreement, have no liability of any kind whatsoever in respect of any Claims against the Petitioner.

17. The Purchasers (or their nominee) shall be entitled to hold and enjoy the Assets for their own use and benefit without any interference of or by the Petitioner or any person claiming by through or against the Petitioner.

#### **GENERAL**

18. Notwithstanding:

- (a) these proceedings;
- (b) any applications for a bankruptcy order in respect of the Petitioner now or hereafter made pursuant to the *Bankruptcy and Insolvency Act* and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made by or in respect of the Petitioner,

the vesting of the Assets in the Purchasers pursuant to this order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Petitioner and shall not be void or voidable by creditors of the Petitioner, nor shall it constitute or be deemed to be a transfer at undervalue, fraudulent preference, assignment, fraudulent conveyance or other reviewable transaction under the *Bankruptcy and Insolvency Act* or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

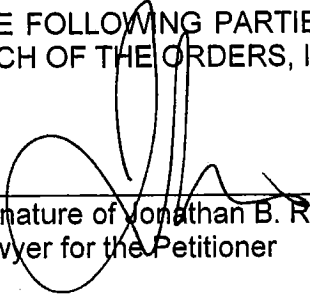
19. The Monitor, the Petitioner, Maynards or any other party shall have liberty to apply for such further or other directions or relief as may be necessary or desirable to give effect to this order.

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

21. 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
Manuel Dominguez & Virginie Gauthier	Petitioner
Peter Rubin	Monitor
Andrew K. Glen	Ministry of Attorney General
Dawid Cieloszczyk	UNIFOR Local 3019
Jordan Schultz	Thyssen Mining Construction of Canada Ltd.
Yarden Gershony	Langley Freight Lines ('90) Ltd.

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**ORDER**  
(APPROVAL OF AUCTION AGREEMENT, DIP INCREASE  
AND STAY EXTENSION)

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File No. A172589

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