



FORCE FILED

No. S-226670  
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 THE *BUSINESS CORPORATIONS ACT*,  
S.B.C. 2002, C. 57, AS AMENDED AND THE *BUSINESS  
CORPORATIONS ACT*, S.N.B. 1981, C. B-9.1, AS AMENDED

AND

IN THE MATTER OF A PLAN OF COMPROMISE AND ARRANGEMENT OF TREVALI MINING  
CORPORATION AND TREVALI MINING (NEW BRUNSWICK) LTD.

PETITIONERS

**NOTICE OF APPLICATION**

**Name of applicant: Trevali Mining Corporation (the "Petitioner")**

To: THE SERVICE LIST

TAKE NOTICE that an application will be made by the Petitioner to the Honourable Madam Justice Fitzpatrick at the courthouse at 800 Smithe Street, Vancouver, British Columbia on June 2, 2023 at 10:00 a.m. for the orders set out in Part 1 below.

**Part 1: ORDERS SOUGHT**

1. The Petitioner seeks an order, substantially in the form attached as **Schedule "A"**, (a) extending the Stay Period (as defined in paragraph 15 of the Amended and Restated Initial Order of this Court pronounced on August 19, 2022) with respect to the Petitioner from June 2, 2023 until and including July 14, 2023; and (b) granting such further orders as counsel may advise and this Court may deem appropriate in the circumstances.

**Part 2: FACTUAL BASIS**

2. The Petitioner has been working diligently towards its restructuring goals since it obtained protection under the *Companies' Creditors Arrangement Act* ("**CCAA**") on August 19, 2022.

3. Among other things, the Petitioner's restructuring efforts have led to this Court's approval on December 21, 2022 of a Share and Asset Purchase Agreement dated December 15, 2022 (as amended, the "**Sale Agreement**") between the Petitioner, as vendor, and Appian Natural Resources Fund III LP and Appian Natural Resources (UST) Fund III LP as "**Purchasers**", providing for the sale of the Petitioner's 90% interest in the Rosh Pinah mine through the sale of the Petitioner's 100% interest in GLCR Limited and assignment of debt owing from certain of the Petitioner's subsidiaries (the "**Transactions**").

4. The Petitioner is continuing to work with the Purchasers to close the Transactions, and currently anticipates that the Transactions will close prior to the end of June 2023.

5. In addition to working towards the closing of the Transactions, the Petitioner has continued to advance its restructuring efforts by, among other things:

- (a) continuing operations at the Rosh Pinah mine and maintaining site integrity pending the closing of the Transactions;
- (b) continuing to work with the Monitor in reviewing and assessing claims made against the Petitioner, Trevali Mining (New Brunswick) Ltd., or their respective directors and officers as part of the claims process approved by this Court in the Claims Process Approval Order granted on March 29, 2023;
- (c) obtaining from this Court on April 24, 2023 a Distribution Order aimed at permitting, subject to available proceeds, the reduction or elimination of the principal debts owing under, as well as the interest payable on, the Petitioner's Interim Financing Facility, the Revolving Credit Facility and the Glencore Facility, (as defined in Affidavit #13 of Brendan Creaney, made April 12, 2023);
- (d) discussing and negotiating, with support from and on the advice of the Petitioner's insurance broker, the gross insurance claim proceeds payable related to the Perkoa mine flood that occurred on April 16, 2022, and reviewing and considering the judgment of the Commercial Court of Burkina Faso made in May 2023 after an application made by the court-appointed liquidator of Nantou Mining Burkina Faso S.A. ("**Nantou**"), the Petitioner's subsidiary that operated the Perkoa mine in Burkina Faso, made without notice to the Petitioner, that adjuster-recommended insurance settlement proceeds emanating from the applicable insurance arranged through an African based insurer be paid to Nantou;
- (e) recovering a portion of the insurance proceeds payable with respect to the Perkoa mine and making a payment from such proceeds on account of the Petitioner's Interim Financing Facility;
- (f) submitting a claim, on behalf of both the Petitioner as well as the Petitioner's wholly owned indirect subsidiary, Boundary Ventures Limited ("**Boundary Ventures**"), in Nantou's liquidation proceedings with respect to intercompany receivables owing to the Petitioner and Boundary Ventures;
- (g) continuing efforts to rationalize costs in light of the status of these CCAA proceedings and the anticipated closing of the Transactions including by disclaiming and vacating the Petitioner's lease for office space in Vancouver that will not be required post closing;
- (h) continuing to consider potential options with respect to the Petitioner's remaining assets including recovery of accounts receivable and settlement of disputes;
- (i) communicating regularly with the Petitioner's stakeholders, including its creditors, suppliers, lenders, employees, and governmental bodies, in particular its secured lenders, in connection with these CCAA proceedings; and
- (j) engaging frequently with the Monitor with respect to all aspects of the Petitioner's restructuring efforts.

6. The Petitioner requires a further extension of the CCAA Stay Period to allow time for the closing of the Transactions and to otherwise allow for the continuation of the collaborative and consultative efforts it has made to restructure its business.

### **Part 3: LEGAL BASIS**

7. A stay of proceedings is the “central tool” by which this Court maintains the status quo for a debtor company, allowing it the necessary time, flexibility, and “breathing room” to carry out a supervised restructuring or organized sales process while continuing its ongoing operations.

**1057863 B.C. Ltd. (Re), 2022 BCSC 876, paras. 31, 35 [1057863], citing *Timminco Limited (Re)*, 2012 ONSC 2515, para. 15.**

8. The baseline considerations and requirements for a stay extension are that a stay is “appropriate” and that the debtor company subject to the CCAA is acting in good faith and with due diligence.

**CCAA, ss. 11.02(2)-(3).**

9. The basic purpose of the CCAA must be considered when determining what relief authorized by the CCAA is “appropriate” in the circumstances:

The question is whether the order will usefully further efforts to achieve the remedial purpose of the CCAA — avoiding the social and economic losses resulting from liquidation of an insolvent company. [...] appropriateness extends not only to the purpose of the order, but also to the means it employs. Courts should be mindful that chances for successful reorganizations are enhanced where participants achieve common ground and all stakeholders are treated as advantageously and fairly as the circumstances permit.

**1057863, para. 33, citing *Century Services Inc. v. Canada (Attorney General)*, 2010 SCC 60, para. 70.**

10. In the present case, the proposed stay extension is necessary to maintain the status quo as the Petitioner pursues restructuring efforts for the benefit of its stakeholders, and is appropriate given the status of such efforts.

11. The Petitioner has been acting in good faith and with due diligence in these CCAA proceedings.

### **Part 4: MATERIAL TO BE RELIED ON**

12. The Petitioner will rely on the following materials:

- (a) Affidavit #15 of Brendan Creaney, affirmed May 30, 2023; and
- (b) Eleventh Report of FTI Consulting Canada Inc., to be filed.

13. The Petitioner will further rely upon such other material as counsel for the Petitioner may advise.


The applicant estimates that the application will take 30 minutes.

This matter is not within the jurisdiction of a master. Justice Fitzpatrick is seized of these CCAA proceedings.

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 of record 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;
  - (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7(9).

Date: May 30, 2023

  
 For Signature of Peter L. Rubin

Blake, Cassels & Graydon LLP  
 Barristers and Solicitors  
 Suite 2600, Three Bentall Centre  
 595 Burrard Street PO Box 49314  
 Vancouver, BC V7X 1L3  
 Email: peter.rubin@blakes.com  
 Telephone: 604.631.3315

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"/> Master

**APPENDIX**

**THIS APPLICATION INVOLVES THE FOLLOWING:**

- discovery: comply with demand for documents
- discovery: production of additional documents
- 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
- none of the above

SCHEDULE "A" TO NOTICE OF APPLICATION

No. S-226670  
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 THE *BUSINESS CORPORATIONS ACT*,  
S.B.C. 2002, C. 57, AS AMENDED AND THE *BUSINESS  
CORPORATIONS ACT*, S.N.B. 1981, C. B-9.1, AS AMENDED

AND

IN THE MATTER OF A PLAN OF COMPROMISE AND ARRANGEMENT OF TREVALI MINING  
CORPORATION AND TREVALI MINING (NEW BRUNSWICK) LTD.

PETITIONERS

**ORDER MADE AFTER APPLICATION**  
**(STAY EXTENSION)**

BEFORE THE HONOURABLE ) June 2, 2023  
MADAM JUSTICE FITZPATRICK )  
)

ON THE APPLICATION of Trevali Mining Corporation (the "**Petitioner**"), coming on for hearing at Vancouver, British Columbia on the 2<sup>nd</sup> day of June, 2023 ; AND ON HEARING Peter L. Rubin, counsel for the Petitioner, and those other counsel listed on **Schedule "A"** hereto; AND UPON READING the material filed, including Affidavit #15 of Brendan Creaney, made May 30, 2023, and the Eleventh Report of FTI Consulting Canada Inc. (in its capacity as court-appointed "**Monitor**" of the Petitioner) dated May [--] 2023; AND pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985 c. C-36 as amended, the *British Columbia Supreme Court Civil Rules*, and the inherent jurisdiction of this Honourable Court;

**THIS COURT ORDERS AND DECLARES that:**

***Stay Extension***

1. The Stay Period (as defined in the Amended and Restated Initial Order of this Court dated August 29, 2022) with respect to Trevali Mining Corporation is hereby extended up to and including July 14, 2023.

***General***

2. 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, Burkina Faso, and Namibia 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.

3. 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 Peter L. Rubin  
Lawyer for the Petitioner

BY THE COURT.

---

Registrar

Schedule "A"

COUNSEL NAME	PARTY REPRESENTED



No. S-226670  
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 THE *BUSINESS*  
*CORPORATIONS ACT*,  
S.B.C. 2002, C. 57, AS AMENDED AND THE  
*BUSINESS CORPORATIONS ACT*, S.N.B. 1981,  
C. B-9.1, AS AMENDED

AND

IN THE MATTER OF A PLAN OF COMPROMISE AND  
ARRANGEMENT OF TREVALI MINING  
CORPORATION AND TREVALI MINING (NEW  
BRUNSWICK) LTD.

PETITIONERS

---

**ORDER MADE AFTER APPLICATION  
(STAY EXTENSION)**

---

BLAKE, CASSELS & GRAYDON LLP  
Barristers and Solicitors  
Suite 2600, Three Bentall Centre  
595 Burrard Street, P.O. Box 49314  
Vancouver, B.C. V7X 1L3  
604.631.3300  
Attn: Peter L. Rubin  
Agent: Dye & Durham