CITATION: Re Nunavut Iron Ore, 2026 ONSC Number
COURT FILE NO.: CL-26-00000219
DATE: 20260611

SUPERIOR COURT OF JUSTICE – ONTARIO [Commercial List]

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 OR ARRANGEMENT OF NUNAVUT IRON ORE, INC., BAFFINLAND IRON MINES CORPORATION, AND 12334992 CANADA INC.

BEFORE: Justice Jana Steele

COUNSEL: *Derek Ricci, Natalie Renner, Dylan Young, and Robert Nicholls* for the Applicants

Marc Wasserman, Jeremy Dacks, and Michael De Lellis for the Monitor

Alan Merskey and Alec Hoy for the Ad Hoc Committee of Senior Secured Noteholders

Daniel Murdoch, Maria Konyukhova, and Brittney Ketwaroo for Oatktree Capital Management, L.P. and Hartree Partners, LP

Evan Cobb for Export Development Canada

Vern Da Re for IRH Global Trading Inc.

Ken Rosenberg for the International Union of Operating Engineers Local 793

Kaleigh Sonshine and Patrick Corney for Qikiqtaaluk Corporation & Qikiqtani Industry Limited

Christopher Besant for Qikiqtani Inuit Association and Nunavut Tunngavik Inc.

Andrew Winton and Philip Underwood for the Energy & Minerals Group LP

HEARD: June 10, 2026

ENDORSEMENT

[1] The applicants bring a motion seeking, among other things, an extension of the stay of proceedings, and authorization to borrow up to $475 million in principal under a debtor-in-possession ("DIP") credit facility from His Majesty in Right of Canada, as represented by Export Development Canada ("EDC"). The proposed DIP would be secured by a charge in favour of EDC that would rank in priority to the other creditors (but behind the Administration Charge and D&O Charge) (the "DIP Charge").

[2] The first ranking secured creditors, Oaktree Capital Management, L.P. and Hartree Partners, LP (together, the "First Secured Lenders") and an ad hoc committee of senior secured notes issued by Baffinland Iron Mines Corporation oppose the applicants' DIP motion and have brought a cross-motion. They propose an alternative DIP.

[3] The applicants' motion originally returned on June 5, 2026. At that time, terms of an adjournment on consent were reached among the various stakeholders and the Monitor. The motion was adjourned to June 10, 2026 to determine the issue on a without prejudice basis so that the company could have immediate access to funds, pending the *de novo* return of the DIP motion, scheduled for June 30, 2026 on a full record (the "June 30 Motion") (the period between now and the Court's decision on the June 30 Motion being the "Bridge Period").

[4] The agreed terms of the adjournment are set out at Appendix "C" to the Supplement to the Monitor's Second Report.

[5] EMG (defined below), a significant shareholder of the Debtors (defined below), also filed materials. Among other things, EMG wants the Debtors and the Monitor to discuss and negotiate alternative DIP facilities during the Bridge Period.

[6] All dollar amounts set out herein are in US dollars, unless stated otherwise.

[7] For the reasons set out below, the Court approves the EDC DIP (defined below) and DIP Charge. As indicated above, this approval is only for the Bridge Period. The matter will be heard *de novo* at the June 30 Motion. Further, I have imposed certain of the protections requested by the Ad Hoc DIP Group (defined below).

Background

[8] Baffinland Iron Mines Corporation ("BIM Corp"), 12334992 Canada Inc., and Baffinland Iron Mines LP ("BIM LP", and together with 12334992 Canada Inc. and BIM Corp, the "Debtors") were granted an initial order, on May 15, 2026 (the "Initial Order"), under the *Companies' Creditors Arrangement Act*, R.S.C. 1985 c. C-36 (the "CCAA"). Among other things, the Initial Order granted the Debtors protection from their creditors and appointed FTI Consulting Canada Inc. as monitor (the "Monitor").

[9] On May 25, 2026, the Initial Order was amended and restated (the "ARIO"). Among other things, the ARIO increased the amounts of the Administration Charge and the D&O Charge and extended the stay of proceedings to June 5, 2026.

[10] On June 5, 2026, I granted an order (i) extending the stay until June 10, 2026, and (ii) providing for a supplier charge (referred to in the Order as the Sealift Supplier Charge) to assist the Company with acute needs related to ordering various supplies.

[11] The Debtors are a group of affiliated entities that are engaged in the iron ore mining business at the Mary River mine (the "Mine"). The Mine is located in the Qjkiqtani Region of Nunavut on Baffin Island, Canada. The location of the Mine is very remote – about 1,000 kilometers northwest of Iqaluit, Nunavut's capital.

[12] BIM LP, through its general partner BIM Corp (collectively, "Baffinland") carries out the Mine's day-to-day operations. Baffinland is Nunavut's largest private sector employer; It employs about 1,200 people. Employees fly in and out of Baffin Island on three-week rotations.

[13] Approximately 70% of the Debtors' workforce belongs to the International Union of Operating Engineers Local 793 (the "Union").

[14] The mining operations are primarily carried out on two main locations on Baffin Island: the Mine site, and a port at Milne Inlet. Ore that is extracted from the Mine is crushed, then transported by truck to the Milne Inlet Port, which is currently the sole export point for the Debtors' iron ore. The Mine and Milne Inlet Port are connected by a gravel road.

[15] The Debtors are parties to offtake agreements with IRH Global Trading Ltd. ("IRH"), which purchases all iron ore stockpiled at the Milne Inlet Port. The current offtake arrangements expire in and around October 2026.

[16] Because of the weather, shipping of the iron ore from the Milne Inlet Port is limited to the open-water season – generally from around mid-July to mid-October (the "Shipping Window"). The limitation on shipping affects the Debtors' ability to purchase supplies outside of the Shipping Window. Accordingly, the Debtors are entering their most cash-intensive period of their annual operating cycle. During the narrow Shipping Window, the Debtors must purchase the majority of the materials, supplies, and equipment they will need for the upcoming year's operations. Among other things, the Debtors buy their entire annual fuel supply[1] during this time.

[17] The evidence of Celeste van Tonder[2], the President and Chief Financial Officer ("CFO") of Nunavut Iron Ore, Inc., the CFO of 122334992 Canada Inc., and the CFO of BIM Corp., is that there will be two sealifts this season delivering supplies to the Mine during the Shipping Window. The first is scheduled to depart on July 8, 2026, and the second will depart in August. Sealift procurement requires lead time. Currently, the first sealift is only about 20% full.

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[1] The Mine's operations are dependent on arctic diesel and jet fuel.

[2] Ms. van Tonder has also been a director of 123 Canada and BIM Corp since August 29, 2024.

[18] The Debtors' secured creditors are (i) the First Secured Lenders, Oaktree Capital Management, L.P. and Hartree Partners, LP, with a claim of about $183 million; (ii) the holders (the "Senior Secured Noteholders") of $575 million in principal amount of 8.750% senior secured notes issued by Baffinland (the "Senior Secured Notes"); and (iii) EDC in the approximate principal amount of $75 million.

[19] EDC is a Crown corporation established pursuant to the *Export Development Act* (Canada) (the "EDA"), whose sole shareholder is the Government of Canada. Section 18 of the EDA provides that: "[EDC] is for all purposes an agent of her Majesty in right of Canada."

[20] The Energy & Minerals Group LP, along with EMG Fund IV Management, LP and EMG Fund V Management, LP (collectively, "EMG") act as registered investment advisors on behalf of certain funds and co-investment vehicles for which they are designated as manager. EMG has invested over $1.5 billion in the Debtors.

[21] Pursuant to an Intercreditor Agreement dated as of June 27, 2018: (i) the First Secured Lenders hold first-ranking security over all the Debtors' assets; and (ii) the Senior Secured Noteholders and EDC hold *pari passu* security over the Shared Collateral (defined in the Intercreditor Agreement).

[22] On or about May 15, 2026, the Monitor and the Debtors commenced a DIP solicitation process[3] in order for the Debtors to secure financing as they enter into the Shipping Window period. The DIP Solicitation Process and the selection of the DIP financing agreement is described in the Monitor's Second Report. Among other things, the Monitor communicated to the participants in the DIP process on or about May 28, 2026, that potential DIP lenders were required to provide their "best and final" DIP proposal by 2:00 pm on May 30, 2026.

[23] The Debtors received three DIP proposals on May 30, 2026: one from EDC (the "EDC Proposal"); one from a syndicate that includes the First Secured Lenders and an ad hoc group of the Senior Secured Noteholders[4] (the "Ad Hoc DIP Group Proposal"); and one from IRH (the "IRH Proposal").

[24] The Monitor was of the view that both the EDC and Ad Hoc DIP Group Proposals were viable.

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[3] Prior to the CCAA filing, the Debtors, with the assistance of the Monitor (in its then capacity as financial advisor) started a pre-filing DIP solicitation process. FTI, on behalf of the Debtors, began to solicit DIP financing proposals. The details of the pre-filing DIP solicitation process are set out in the Monitor's Second Report.

[4] The ad hoc committee (the "Ad Hoc Committee") is comprised of Senior Secured Noteholders representing over 70% of the Senior Secured Notes.

[25] The EDC DIP loan is in a principal amount of $400 million (increasing to $475 million where the Debtors' offtake arrangements require replacement or renewal). The DIP loan in the Ad Hoc DIP Group Proposal is for $300 million.

[26] The Monitor was of the view that the IRH Proposal "did not contain sufficient certainty of funding in the context of these complex CCAA Proceedings," and accordingly, the Monitor did not support the selection of the IRH bid.

[27] Following the solicitation process, which was run on a very compressed time frame, the Operating Committee,[5] in consultation with the Monitor, selected EDC's proposal to provide the DIP financing.

Analysis

Which of the two "viable" DIP proposals should be approved pending the June 30 Motion?

[28] The Debtors' need for immediate DIP financing is clear. The cash flow forecast for the 13-week period ending August 28, 2026 estimates a net cash outflow of about $217 million for the 13-week period, with about $103 million needed in the next four weeks.

[29] The Monitor's counsel advised the Court that as of June 12, 2026, the Debtors will have only about $1 million cash. They are in desperate need of cash. Ms. van Tonder's evidence is that the Debtors have already lost a number of employees since these proceedings commenced. Among other things, employees have expressed concern about being flown up to the Mine and then stranded there if the company runs out of money.

[30] No one disputes that the Debtors need funds and need funds now. The issue is which lender gets to be the DIP lender and have the DIP Charge. At this interim motion, the issue is which of the two DIP loans that were identified as "viable" should be approved pending the hearing *de novo* on June 30.

[31] The Debtors ask the Court to approve the EDC Proposal. The First Secured Lenders and the ad hoc group of the Senior Secured Noteholders (collectively, the "Ad Hoc DIP Group") ask the Court to approve their proposed DIP.

[32] Both the EDC Proposal and the Ad Hoc DIP Group proposal provide for $110 million of financing during the interim Bridge Period.

[33] In either case, the issue of whether EDC or the Ad Hoc DIP Group will ultimately provide the DIP loan to the Debtors will be determined *de novo* at the June 30, 2026 attendance. The Court

[5] The decision-making authority of the Debtors has been delegated to an operating committee whose members are appointed by the ultimate shareholders of the Debtors.

is being asked to determine the funding issue on an urgent basis, and without the benefit of a full record, to ensure that the Debtors have immediate access to funding.

[34] Section 11.2(1) of the CCAA authorizes the court to approve DIP financing. It provides:

> On application by a debtor company and on notice to the secured creditors who are likely to be affected by the security or charge, a court may make an order declaring that all or part of the company's property is subject to a security or charge – in an amount that the court considers appropriate – in favour of a person specified in the order who agrees to lend to the company an amount approved by the court as being required by the company, having regard to its cash-flow statement. The security or charge may not secure an obligation that exists before the order is made.

[35] All the secured creditors who are likely to be affected by the security or charge are on notice, as required by s. 11.2(1).

[36] In considering an order under section 11.2(1) of the CCAA, s. 11.2(4) of the CCAA sets out factors that the court is to consider, among other things:

a. The period during which the company is expected to be subject to proceedings under this Act;

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 monitors report.

[37] The list of factors set out in s. 11.2(4) of the CCAA is not exhaustive: *Canwest Publishing Inc.*, 2010 ONSC 222, 63 C.B.R. (5th) 115, at para. 42, *9354-9186 Quebec Inc. v. Callidus Capital Corp.*, 2020 SCC 10, [2020] 1 S.C.R. 521, at para. 97. In *Callidus*, the Supreme Court of Canada further instructed that the 11.2(4) factors "need not be mechanically applied or individually reviewed" by the Court, and that not every factor will be significant in every case.

[38] The Ad Hoc DIP Group submits that although both DIPs provide the $110 million that the Debtors require during the Bridge Period at comparable cost, only their bid maintains the status quo. They argue that the Ad Hoc DIP Group Proposal should be approved because it meets the

statutory requirements, provides the necessary liquidity and certainty to the Debtors and preserves the status quo until the June 30 Motion can be heard and decided on a complete record. In addition, the Ad Hoc DIP Group submits that an order that does the least to disrupt the existing priorities of all stakeholders should be preferred in a circumstance such as this where the Ad Hoc DIP Group was served on very short notice[6] with the Debtors' motion for DIP financing.

[39] As noted by the Debtors, there is no status quo that can be maintained. The Debtors have filed under the CCAA. They have effectively run out of money. Regardless of which DIP is approved the priority position of at least one secured creditor will be affected.

[40] Ms. van Tonder's evidence is that the media coverage of the CCAA proceeding has contributed to low employee confidence in their business and has undermined their ability to communicate to employees that the Mine continues to operate on a "business as usual" basis. Similarly, Ms. van Tonder emphasizes the importance of maintaining the confidence of the local community, including the Qikiqtani Inuit Association, given that the Debtors' operations have a disproportionate impact on the Baffin Island and Nunavut economy.

[41] Submissions were made from other economic and community stakeholders in support of the EDC DIP, including the Union, Qikiqtanluk Coproration and Qikiqtani Industry Ltd., and the Qikiqtalluk Corporation & Quikiqtani Industry Limited.

[42] The Monitor supports the Debtors' motion to approve the EDC Proposal. The Court is being asked to make an interim decision on a tight time frame, given, among other things, the urgent cash needs of the Debtors because of the short seasonal Shipping Window. As noted by the British Columbia Supreme Court in *Great Basin Gold Ltd. (Re)*, 2012 BCSC 1459, 94 C.B.R. (5th) 228, at para. 182, applications for DIP financing are frequently brought on an urgent basis and "[t]he court will, of necessity, seek the input of the monitor, who will have the necessary background and hopefully, knowledge and insight on these important issues." In *Great Basin* Fitzpatrick J. noted that the court must be vigilant against deciding these issues where there is "manufactured" urgency. That is not the case here. As noted by the Debtors, this is not an artificial cash crunch they have manufactured. Instead, it is a reality of the ordinary cyclical nature of a business operating on an island in the Arctic Circle. The evidence is clear that the Debtors urgently need significant funding now. No one disputes this.

[43] While I am aware that CCAA courts have cautioned that "the Court should be cautious in exercising its inherent jurisdiction to order priority for a DIP Charge over the objection of a secured creditor," the Court in CCAA proceedings has jurisdiction to do so: *Temple City Housing Inc.*, 2007 ABQB 786, 42 C.B.R. (5th) 274, at para. 14, leave to appeal refused, 2008 ABCA 1, 422

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[6] The Ad Hoc DIP Group were served just after midnight on June 4, 2026 for the Debtors' motion scheduled for June 5, 2026. As set out above, consent terms of an adjournment to June 10, 2026 were reached on June 5, 2026.

A.R. 4. In the instant case both proposed DIP facilities are from secured lenders, both objecting to the others' proposed DIP.

[44] The prejudice, if any, in the instant case is minimal because the DIP financing matter will be heard *de novo*, on a full record, in less than three weeks. Further, as discussed below, I have granted certain protections that were requested by the Ad Hoc DIP Group. As noted by the Ad Hoc DIP Group, both DIP facilities provide for an initial advance of up to $110 million during the interim period, both DIP facilities remain available for subsequent approval at the June 30 Motion, regardless of which is selected for the Bridge Period, and both DIP facilities can be repaid with no additional fees (only accrued interest) if the other facility is ultimately selected as the successful DIP at the June 30 Motion.

[45] Through no fault of theirs, and while they are prepared to fund as quickly as possible having already designated Barclays as the "Fronting Lender", there are steps that must be taken before the Ad Hoc DIP Group would be in a position to advance the funds to the Debtors. First, the "Know Your Client" requirements would have to be satisfied. Second, the parties would have to "dot the I's and cross the T's" on the Ad Hoc DIP Group agreement. Because the Debtors had accepted EDC's DIP proposal, the Debtors have already completed these steps with respect to the EDC DIP.

[46] In the circumstances, I am prepared to accept the Monitor's recommendation and authorize the EDC DIP for the Bridge Period. In doing so, I am not making a determination on, among other things, the appropriateness of the size of the proposed loans, and what facility is more appropriate for the entirety of the CCAA proceedings, or the efficacy of the DIP solicitation process. The matter will be heard *de novo* on a full record in less than three weeks. At this time, there needs to be a DIP in place, so the Debtors have funding, and their suppliers and employees have some comfort. As was stated numerous times at the hearing by multiple stakeholders, the Debtors need stability right now.

[47] I am mindful, however, of the protections proposed by the Ad Hoc DIP Group in the event that their proposal was successful at the interim motion. The Ad Hoc DIP Group requested the Court include similar protections for them if I approved the EDC DIP. I am of the view that both "viable" DIP Proposals should be kept on a level playing field to the extent possible, pending the ultimate decision on the merits. I have accepted most of the protections suggested by the Ad Hoc DIP Group.

[48] The following protections shall apply during the Bridge Period:

(a) Consent Rights

The following matters shall require the prior written consent of the Ad Hoc DIP Group during the Bridge Period:

1. Appointment of Chief Restructuring Officer or Expansion of Monitor Powers. The appointment of any chief restructuring officer or any expansion of the powers of the Monitor beyond those set out in the Initial Order.

2. DIP Facility Draws Above Interim Bridge Amount. Any draws on the EDC DIP in excess of $110 million.

3. Waivers of DIP Facility Limits. Any waivers of imposed limits under the EDC DIP in respect of the Steensby Expansion project or mineral exploration expenses.

(b) Consultation Rights

The Company, the Monitor, and their respective advisors shall consult with the Ad Hoc DIP Group in respect of the following matters, where applicable during the Bridge Period:

1. Investment Banker Selection for Sales and Investment Solicitation Process (the "SISP"). The Company shall consult with the Ad Hoc DIP Group on investment banker candidates to conduct the SISP prior to interviewing any such candidates, shall permit the Ad Hoc DIP Group to attend interviews with candidates and provide feedback, and shall consult with the Ad Hoc DIP Group on the engagement terms of the selected investment banker prior to finalization.

2. Development of the SISP. The Company shall consult with the Ad Hoc DIP Group on the development of the SISP.

3. Budgets and Cash Flow Forecasts. The Company and the Monitor shall consult with the Ad Hoc DIP Group on any proposed budgets and cash flow forecasts (and any amendments thereto) prior to the finalization or Court approval of any such budgets or forecasts.

4. Specified Capital Expenditures and Commitments. The Company and the Monitor shall consult with the Ad Hoc DIP Group prior to: (i) any discretionary capital expenditures toward the Steensby Expansion project or non-discretionary capital expenditures toward the Steensby Expansion project above $20 million; (ii) any discretionary exploration expenditures or non-discretionary exploration expenditures above $10 million; (iii) any payments to related parties or insiders; or (iv) any binding sealift procurement commitment related to the Steensby Expansion, or otherwise outside of normal course operations.

(c) Information Rights

The Ad Hoc DIP Group shall be entitled to the following information and reporting rights throughout the Bridge Period:

1. Information Equivalent to DIP Lenders. The Ad Hoc DIP Group shall receive the same level of written information and financial reporting received by EDC as DIP Lender, including variance reporting.

2. Regular Update Calls. Management and Company advisors shall host regular weekly update calls with the Ad Hoc DIP Group addressing the business, the restructuring proceedings, and the SISP (once implemented).

3. Payment of Advisor Fees. The reasonable fees and disbursements of the Ad Hoc DIP Group's professional advisors shall be paid by the Company and included as a line item in the approved cash flow forecast.

[49] The Ad Hoc DIP Group had requested a "no exclusivity" clause, which would permit the Debtors to solicit or accept alternative proposals for final or interim financing. I am not prepared to effectively re-open the DIP solicitation process at this stage. The June 30 Motion will address, among other things, the DIP solicitation process. However, I direct the Debtors and the Monitor to work with the Ad Hoc DIP Group to "cross the I's and dot the T's" on the May 30, 2026 DIP Proposal provided by the Ad Hoc DIP Group. Further, I direct the Debtors and the Monitor to take the necessary steps and provide the necessary information to the Ad Hoc DIP Group (or as they direct to their Fronting Lender) so that the "Know Your Client" requirements can be satisfied prior to the return.

[50] In my view, the above protections are appropriate in order to ensure a level playing field when the matter returns on June 30.

Should the Stay be extended?

[51] The current stay expires on June 10, 2026. The Debtors seek an extension of the stay to August 28, 2026. No one opposed the requested stay extension.

[52] At the hearing I indicated that I would grant the stay extension, with reasons to follow. I signed the Order following the appearance.

[53] The Court has the jurisdiction to extend the stay under s. 11.02(2) of the CCAA, which permits the court to extend the stay for "any period it considers necessary," provided that circumstances exist that make the order appropriate, and the debtors have acted, and are acting, in good faith and with due diligence. I am satisfied that both factors have been met. The stay extension is necessary and appropriate to provide the Debtors with breathing room. Among other things, the Debtors need to stabilize operations during the short shipping season, continue engaging with stakeholders, and develop and launch a SISP in a structured and orderly manner. I further note that a stay extension was a condition precedent to funding under each of the DIP proposals received by the Debtor. The Monitor supports the proposed extension. The Debtors are acting in good faith and with due diligence.

Sealing Order

[54] The Debtors had requested a sealing order over certain information. However, they asked that this relief be adjourned to the next appearance to provide the Debtors with an opportunity to consider the breadth of the sealing order that is necessary in the circumstances. The sealing order issue is adjourned to the June 30 Motion.

Payment to certain critical suppliers with the Monitor's approval

[55] The Debtors request a provision in the Order that entitles, but does not require, the Debtors to pay, with the Monitor's consent, amounts owing for goods or services supplied to the Debtors prior to the date of the Initial Order if such payment is necessary or desirable to avoid disruption to the Debtors' business operations during these proceedings. No one opposed this relief sought by the Debtors.

[56] The Court has jurisdiction to grant this relief under s. 11 of the CCAA. As noted by the Debtors, the Court has previously granted similar orders in CCAA proceedings: See, for example, *Springer Aerospace Holdings Limited*, 2022 ONSC 6581, at paras. 25-27. In making such orders, Courts have considered numerous factors, including:

a. Whether the goods and services concerned are integral to the business;

b. The debtor's need for the uninterrupted supply of the goods or services;

c. The monitor's support and willingness to work with the debtor to ensure that payments to suppliers in respect of pre-filing liabilities are appropriate; and

d. The effect on the debtor's ongoing operations and ability to restructure if they were unable to make pre-filing payments to their suppliers:

Springer, at para. 25.

[57] I am satisfied that these criteria have been met. Ms. van Tonder's evidence is that because of the unique nature of the Debtors' business, the Debtors have no readily available means to replace certain third-party suppliers and service providers. The continued cooperation of these suppliers is essential to maintaining the Debtors' operations. The Order will provide that any such payments may only be made with the Monitor's consent and only to those suppliers or service providers that the Debtors and the Monitor agree are critical to the Debtors' business operations.

Justice Jana Steele

Date: June 11, 2026