

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 *CANADA BUSINESS CORPORATIONS ACT*,
R.S.C. 1985 c. C-44, as amended

AND

IN THE MATTER OF NORTH AMERICAN TUNGSTEN CORPORATION LTD.

PETITIONER

NOTICE OF APPLICATION

Name of applicant: Alvarez & Marsal Canada Inc. (the “**Monitor**”) in its capacity as Court-appointed Monitor of North American Tungsten Corporation Ltd. (“**NATC**” or the “**Petitioner**”)

To: The Service List

TAKE NOTICE that an application will be made by the Applicant to the Honourable Madame Justice Iyer at the courthouse at 800 Smithe Street, Vancouver, B.C. on March 30, 2020 at 9:00 a.m. for the orders set out in Part 1 below.

Part 1: ORDERS SOUGHT

1. An order substantially in the form attached hereto as Schedule “A”:

- (a) extending the Stay Period, as defined in the Amended and Restated Initial Order made July 9, 2015 (the “**ARIO**”) to April 30, 2021;
- (b) directing Her Majesty in Right of Canada as represented by the Department of Crown-Indigenous Relations and Northern Affairs (“**DCIRNA**”) to fund the Company’s expenditures as set out the Twelfth Cash Flow Statement, as that term is defined in the Monitor’s Twenty First Report to the Court dated March 16, 2020 (the “**Twenty First Report**”);
- (c) directing the Monitor to notify DCIRNA of budget adjustments if the Monitor anticipates any material increase in the cumulative amount to be spent by the Petitioner during the Budget Period, including without limitation with respect to

the operating costs and environmental costs of the Petitioner and the fees and disbursements of the Petitioner, the Monitor and their respective counsel incurred during the Budget Period (a “**Budget Adjustment**”). The Monitor shall notify DCIRNA of such Budget Adjustment and DCIRNA shall notify the Monitor within three business days of such notice whether DCIRNA consents to an amendment to the Updated Budget to include the Budget Adjustment; and

- (d) approving the activities of the Monitor as described in the Twenty First Report with respect to those parties to whom notice of these proceedings has been given in accordance with the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the “**CCAA**”).

Part 2: FACTUAL BASIS

BACKGROUND

1. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the ARIO.
2. On June 9, 2015, Mr. Justice Butler granted the Initial Order providing for a stay of proceedings to July 8, 2015.
3. On July 9, 2015, Mr. Justice Butler granted the ARIO, pursuant to which (among other things) the Stay Period was extended to 11:59 p.m. on July 17, 2015. The Stay Period has since been extended on a number of occasions, most recently to April 30, 2020, pursuant to the December 5, 2018 order of Mr. Justice Grauer.
4. At the date of the Initial Order, NATC was in the business of mine development and tungsten concentrate production. Its key mining assets included one producing mine located in the Northwest Territories (“**Cantung**”) and one development property located on the border of the Yukon and the Northwest Territories (“**Mactung**”).
5. On October 26, 2015, the Company discontinued production at Cantung and transitioned the mine to care and maintenance. The care and maintenance plan was designed to, among other things, enable the Company to remain in compliance with Cantung’s water

licence issued by the Mackenzie Valley Land and Water Board (“**MVLWB**”) and various environmental regulations, preserve the value of the Cantung mine site and mitigate reclamation liabilities associated with the mine. Since November 2015, funding for the care and maintenance program has been provided by DCIRNA (formerly known as the Department of Indian Affairs and Northern Development or DIAND).

6. On November 16, 2015, the Court granted an order which, among other things, granted the Monitor exclusive authority to act in respect of NATC’s property and business.
7. On November 17, 2015, the Court granted an order approving the sale of the Company’s Mactung property to the Government of the Northwest Territories (the “**GNWT**”), in part by way of offset of a portion of the secured debt owing to GNWT by NATC. The transaction to sell Mactung to GNWT closed on December 10, 2015.
8. In May 2017, NATC entered into a contract with Tetra Tech Canada Inc. (“**Tetra Tech**”) to perform environmental and geotechnical investigations of the Cantung mine site (the “**Phase III ESA**”) to assist with long-term planning for potential remediation. The field work to support the Phase III ESA, including sampling and drill programs, was undertaken during the summer and fall of 2018 and 2019. The analysis of the results continues to be performed and will continue until Tetra Tech submits various technical reports summarizing the results of its work, which is expected to be completed by around the end of July 2020.
9. On May 24, 2019, the Monitor entered into a memorandum of understanding with DCIRNA and the GNWT (together, the “**Governments**”) whereby the Governments retained and appointed the Monitor to jointly market for sale the Cantung mine and Mactung deposit (together, the “**Assets**”).
10. Subsequently, on July 16, 2019, Mr. Justice Grauer granted an order (the “**Competitive Selection Process Order**”) approving a competitive selection process (the “**Competitive Selection Process**”) having the purpose of transferring the Assets to the private sector to ensure timely development of the Mactung deposit towards a producing mine and to evaluate the options for production at the Cantung mine and management of environmental liabilities.

OPERATIONS AND RESTRUCTURING ACTIVITIES

11. Since July 9, 2019 (the date of the Monitor’s Twentieth Report to the Court), the Monitor’s primary activities have included:
- (a) managing the care and maintenance activities at the Company’s Cantung mine site;
 - (b) attending to environmental and regulatory matters including regular reporting to and discussions with the MVLWB and Environment and Climate Change Canada (“ECCC”);
 - (c) attending to various applications and extensions of land use permits as well as updating management plans and holding discussions with DCIRNA and the various regulatory bodies regarding same;
 - (d) communicating with key stakeholders including DCIRNA and representatives of relevant Indigenous groups and related communities;
 - (e) continuing discussions with interested parties and the relevant Indigenous groups and related communities to advance the Competitive Selection Process;
 - (f) advancing the application to ECCC for recognized closed mine status; and
 - (g) attending to general site and administrative activities such as road and equipment maintenance, environmental sampling, payroll administration and other related matters.
12. A detailed summary of the Company’s operations and restructuring activities, geotechnical and environmental investigations, regulatory activities and engagement with Indigenous groups since July 9, 2019 is set out in Section 4 in the Twenty First Report.

COMPETITIVE SELECTION PROCESS

13. The Monitor has advanced the Competitive Selection Process since the granting of the Competitive Selection Process Order.
14. As contemplated by the Competitive Selection Process, the Monitor prepared and administered an RFQ process to select a group of “Shortlisted Proponents” who have been invited to participate in the Request for Proposals (“RFP”) stage of the process.

15. The Monitor is working with the Governments and Tetra Tech as well as continuing to engage with the relevant Indigenous groups on the implementation of the RFP. It is anticipated that the Monitor will issue the RFP before the end of summer 2020.
16. A detailed summary of the Company's activities with respect to the Competitive Selection Process is set out in Section 5 of the Twenty First Report.

EXTENSION OF THE STAY PERIOD AND NEXT STEPS

17. The Monitor, on behalf of the Company, seeks to extend the Stay Period until 11:59 p.m. on April 30, 2021. The Monitor recommends that the court grant the application, including for the following reasons:
 - (a) the extension provides for the ongoing care and maintenance of the Cantung mine site to preserve the asset and will allow for continuing compliance with the Company's environmental obligations and the terms of the Company's water licence;
 - (b) DCIRNA has committed to fund care and maintenance expenses of the Company through to the proposed extension date, and the Twelfth Cash Flow Statement indicates that the Company will have sufficient liquidity during that period;
 - (c) the Monitor does not believe that there will be any material prejudice to any of NATC's creditors, employees, suppliers or other stakeholders, including relevant Indigenous groups, as a result of an extension of the Stay Period; and
 - (d) the Company's prospects of affecting a viable restructuring and/or transaction involving the Cantung mine would be enhanced by an extension of the Stay Period.

Part 3: LEGAL BASIS

1. The Monitor relies on ss. 11 and 11.02, of the CCAA and the inherent jurisdiction and statutory discretion of this Honourable Court.
2. The extension of the Stay Period will enable the Company to continue the care and maintenance program for the Cantung mine as well as to continue the environmental assessment work undertaken by Tetra Tech in order to manage the environmental liabilities at the Cantung mine.

3. DCIRNA is the primary stakeholder in the Company because it is ultimately responsible for the environmental liabilities at the Cantung mine. The extension of the Stay Period and the implementation of the Competitive Selection Process enhances the Company's prospects of affecting a viable restructuring and/or transaction involving the Cantung mine.
4. DCIRNA is supportive of the Monitor's application to extend the stay period and has agreed to fund the ongoing activities of the Petitioner as provided for in the Twelfth Cash Flow Statement.
5. The Petitioner has been, and is, acting in good faith and with due diligence.

Part 4: MATERIAL TO BE RELIED ON

1. Monitor's Twenty First Report to the Court dated March 16, 2020;
2. Monitor's Twentieth Report to the Court dated July 9, 2019; and
3. Such further and other materials as counsel may advise and as this Court deems admissible.

The applicant estimates that the application will take 15 minutes.

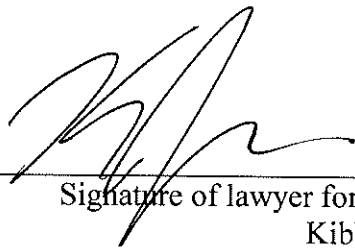
This matter is not within the jurisdiction of a master. Mr. Justice Grauer was previously seized of these proceedings prior to his elevation to the Court of Appeal.

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: March 17, 2020



 Signature of lawyer for filing party
 Kibben Jackson

To be completed by the court only:

Order made

in the terms requested in paragraphs of Part 1 of this Notice of Application

with the following variations and additional terms:

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.....

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Date:

.....
Signature of Judge Master

The Solicitors for the Monitor are Fasken Martineau DuMoulin LLP, whose office address and address for delivery is 550 Burrard Street, Suite 2900, Vancouver, BC V6C 0A3 Telephone: +1 604 631 3131 Facsimile: +1 604 631 3232. (Reference: Kibben Jackson/285937.00007)

APPENDIX

THIS APPLICATION INVOLVES THE FOLLOWING:

- 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

SCHEDULE "A"

No. S-154746
Vancouver Registry

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ORDER MADE AFTER APPLICATION

BEFORE THE HONOURABLE)
)
MADAME JUSTICE IYER) March 30, 2020
)

THE APPLICATION of Alvarez & Marsal Canada Inc. in its capacity as court-appointed monitor of the Petitioner (the "**Monitor**") coming on for hearing at Vancouver, British Columbia on this day, and ON HEARING <@>, counsel for the Monitor, and those other counsel listed on Schedule "A" hereto; AND UPON READING the material filed, including the Monitor's Twenty First Report to the Court dated March 16, 2020 (the "**Twenty First Report**");

THIS COURT ORDERS AND DECLARES THAT:

Extension of Relief


1. The relief granted in the Initial Order made herein on June 9, 2015, as amended and restated by the Amended and Restated Initial order made herein on July 9, 2015, and as extended by Orders of this Court made herein on July 17, October 14, November 16,

2015, February 26, 2016, September 12, 2016, September 11, 2017 and December 5, 2018 is hereby continued and extended to 11:59 p.m. on April 30, 2021.

2. Her Majesty in Right of Canada as represented by the Department of Crown-Indigenous Relations and Northern Affairs (“**DCIRNA**”) shall fund the Petitioner’s expenditures as set out in the Cash Flow Statement attached as Appendix “**B**” to the Monitor’s Twenty First Report (the “**Updated Budget**”) for the period May 1, 2020 to April 30, 2021 (the “**Budget Period**”), including any Budget Adjustment (as defined herein) consented to by DCIRNA.
3. If the Monitor anticipates any material increase in the cumulative amount to be spent by the Petitioner during the Budget Period, including without limitation with respect to the operating costs and environmental costs of the Petitioner and the fees and disbursements of the Petitioner, the Monitor and their respective counsel incurred during the Budget Period (a “**Budget Adjustment**”), the Monitor shall notify DCIRNA of such Budget Adjustment and DCIRNA shall notify the Monitor within three business days of such notice whether DCIRNA consents to an amendment to the Updated Budget to include the Budget Adjustment.
4. The activities of the Monitor as described in the Twenty First Report are hereby approved with respect to those parties to whom notice of these proceedings has been given in accordance with the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36.

5. The need for endorsement of this Order by counsel appearing on this application, other than counsel for the Monitor, 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 
Lawyer for the Monitor, Alvarez & Marsal Canada Inc.

BY THE COURT

REGISTRAR

Schedule "A"
(List of Counsel)

COUNSEL	APPEARING FOR: