



No. S1910194  
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

AND

IN THE MATTER OF ENERGO GOLD DRILLING CORP., CROS-MAN DIRECT  
UNDERGROUND LTD., EGD SERVICES LTD., BERTRAM DRILLING CORP., AND  
OMNITERRA INTERNATIONAL DRILLING INC.

PETITIONERS

NOTICE OF APPLICATION

**Name of Applicants:** The Petitioners

**On Notice to:** The Service List, a copy of which is attached hereto as **Schedule "A"**  
Wellsite Masters Ltd.

TAKE NOTICE that an application will be made by the Applicants to the Honourable Mr. Justice Milman at the courthouse at 800 Smithe Street, Vancouver, British Columbia, on October 10, 2019 at 9:00 a.m., for an Order as set out in Part I below.

**PART I – ORDERS SOUGHT**

1. An Order substantially in the form attached as **Schedule "B"** confirming and extending the relief granted under the order made September 13, 2019 (the "**Initial Order**") to November 29, 2019, ordering and directing Wellsite Masters Ltd. to comply with the terms of the Initial Order, and correcting four (4) internal paragraph references in the Initial Order.

**PART II – FACTUAL BASIS**

*Extension of Stay Period*

1. Defined terms used in this Application and not otherwise defined have the meaning set out in Affidavit #3 of Mark Berger sworn on October 3, 2019.

2. On September 13, 2019, the Honourable Mr. Justice Milman granted the Initial Order pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") granting, among other things, a stay of proceedings in favour of the Petitioners until the initial Return Date of October 11, 2019.
3. On September 13, 2019, the Honourable Mr. Justice Milman also granted orders:
  - (a) authorizing and directing Energold Drilling Corp., in its capacity as the sole shareholder of Bertram Drilling Corp. ("**Bertram Drilling**") to enter into an asset disposition agreement with Century Services Corp. for the sale of certain assets of Bertram Drilling and to conclude the transactions contemplated by that Agreement (the "**Auction Order**"); and
  - (b) authorizing and directing the Petitioners to carry out the sale solicitation process (the "**SSP**") to solicit offers to purchase all or any part of the property, assets and undertakings of the Petitioners (the "**SSP Order**").
4. Since September 13, 2019, the Petitioners have taken significant steps to advance the restructuring under this CCAA proceeding. These steps include, among other things:
  - (a) communicating with various lenders, employees, and other stakeholders regarding the status of these CCAA proceedings;
  - (b) cooperating and working with the Monitor to facilitate its monitoring of the business and operations of the Petitioners;
  - (c) working to continue the operations of the Petitioners' business in the ordinary course, including communications with suppliers and service providers;
  - (d) implementing measures to improve the efficiency and cost-effectiveness of the Petitioners' operations, including reducing staffing levels and leased space;
  - (e) taking steps to prepare the assets of Bertram Drilling for auction pursuant to the Auction Order;

- (f) working with the Interim Lender, the Monitor, the Financial Advisor, and other stakeholders to satisfy the conditions precedent for accessing funding under the Mexican Tranche under the interim financing facility; and
  - (g) working with the Monitor and the Financial Advisor, and other stakeholders to advance the SSP, including settling the forms of agreements.
- 5. The Petitioners anticipate that the auction for the Bertram Drilling assets pursuant to the Auction Order will be held on October 30, 2019, and that the Petitioners will receive the proceeds by the first week of November 2019.
- 6. The Petitioners have also been working diligently with the Monitor, the Financial Advisor, and other stakeholders to advance the SSP according to the terms and schedule of events set out in the SSP Order.
- 7. The SSP marketing materials, including the form of Confidentiality Agreement and Purchase Agreements, have been delivered to potential bidders. A number of potential bidders have access to an electronic data room, and the Financial Advisor is working to solicit offers from those parties.
- 8. Under the SSP, a number of key deadlines remain including:
  - (a) October 11, 2019 – deadline for receiving non-binding offers from potential bidders;
  - (b) October 28, 2019 – deadline for qualified purchasers to conclude and deliver definitive documents;
  - (c) October 31, 2019 – an auction (if appropriate);
  - (d) on or before November 7, 2019 – Court hearing for approval of the transaction(s) contemplated by the successful bid(s); and
  - (e) on or before November 30, 2019 – closing of the transaction(s).
- 9. The Petitioners seek an extension of the relief under the Initial Order, including the Return Date and the Stay Period to Friday, November 29, 2019 in order to, among other things, allow time to complete the auction contemplated by the Auction Order and to advance the SSP, with a view to concluding a transaction.

10. The Petitioners submit that the extension of the stay of proceedings to facilitate the SSP and the conclusion of the auction is in the best interests of the Petitioners and their stakeholders.
11. The Petitioners will have sufficient liquidity to meet their obligations during the proposed extension period, and will file a further affidavit in advance of this hearing with the cash flow statement, prepared in consultation with the Monitor.
12. The Petitioners have been, and are, acting in good faith and with due diligence throughout these CCAA proceedings.

*Wellsite Masters Ltd.*

13. In the ordinary course, Wellsite Masters Ltd. ("**Wellsite**") provides data services to Bertram Drilling that are integral to the operations of Bertram Drilling. Wellsite's services track and monitor Bertram Drilling's projects and result in data that is essential for Bertram Drilling to complete its invoicing to clients for the services provided.
14. As of the date of the Initial Order, Wellsite is owed approximately \$75,000 for services it provided to Bertram Drilling prior to the Initial Order. The last service period on the invoices ended September 9, 2019. Wellsite has refused to provide the data concerning Bertram Drilling's projects until Bertram Drilling pays these pre-filing amounts in full.
15. Bertram Drilling has ceased operations, and the remaining employees are focused on invoicing and collecting accounts receivable. Without Wellsite's data, however, Bertram Drilling is unable to complete its invoicing and collection of amounts.
16. The data that Wellsite has withheld is of tremendous value to Bertram Drilling. The CRO expects that Bertram Drilling will be able to generate significant revenue if it can successfully invoice its clients.
17. The owner of Wellsite has been provided with a copy of the Initial Order and has been advised of the relevant provisions in the Initial Order regarding the interruption of services. Wellsite, however, has failed, refused, or neglected to provide Bertram Drilling with its data that Bertram Drilling requires to complete its invoicing.

### *Internal Paragraph References in the Initial Order*

18. Within paragraphs 2, 5, 23, and subparagraph 30(b) of the Initial Order, there are four internal paragraph references that are incorrect and that need to be rectified. Those references are:
- (a) in paragraph 2, the reference to “paragraph 14” should be a reference to “paragraph 15”;
  - (b) in paragraph 5, the reference to “paragraph 43” should be a reference to “paragraph 44”;
  - (c) in paragraph 23, the reference to “paragraph 48” should be a reference to “paragraph 49”; and
  - (d) in subparagraph 30(b), the reference to “paragraph 10” should be a reference to “paragraph 11”.

### **PART III – LEGAL BASIS**

1. The Petitioners rely on:
- (a) the CCAA, Sections 11.02 (2) and 11.02 (3);
  - (b) *Supreme Court Civil Rules*, in particular Rules 8-1 and 13-1;
  - (c) The inherent and equitable jurisdiction of this Honourable Court; and,
  - (d) Such further and other legal bases and authorities as counsel may advise and this Honourable Court may permit.

#### **Extending the Stay of Proceedings**

2. Subsection 11.02(2) of the CCAA provides that the Petitioners may apply for an extension of the Stay Period for an additional period that the Court considers necessary on any terms that the Court may impose. The Petitioners must satisfy the court that: (a) circumstances exist that make the order appropriate; and (b) they have acted, and are acting, in good faith and with due diligence.

*CCAA*, s. 11.02

3. In determining whether the appropriate circumstances exist to extend the Stay Period, the question before the Court is whether the order sought will usefully advance the remedial purpose of the CCAA.

*North American Tungsten Corp. (Re)*, 2015 BCSC 1376, at para. 25, citing *Century Services Inc. v. Canada (Attorney General)*, 2010 SCC 60, at para. 70.

4. The Petitioners submit the extension of the relief granted by the Initial Order, including the Stay Period, is appropriate and necessary so that the Petitioners can complete the auction approved by the Auction Order and to complete the SSP pursuant to the SSP Order.
5. The Petitioners have been working in good faith and with due diligence in these proceedings.

**Enforcement of Initial Order on Wellsite**

6. The Petitioners also seek an order directing Wellsite to comply with the Initial Order, including the continuation of services as may be required by Bertram Drilling Corp.
7. Every order made by this Court in the exercise of its jurisdiction under the CCAA has full force and effect in all the other provinces in Canada.

CCAA, s. 16

8. Pursuant to paragraph 19 of the Initial Order, Wellsite is obligated to continue supplying services to Bertram Drilling. Paragraph 19 of the Initial Order provides, in relevant part:

**Continuation of Services**

19. During the Stay Period, all Persons having oral or written agreements with any Petitioner or Affected Subsidiary, or mandates under an enactment for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation, services, utility or other services to the Business or any Petitioner or Affected Subsidiary, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with, or terminating the supply of such goods or services as may be required by any Petitioner or Affected Subsidiary...

9. Wellsite is subject to the Continuation of Services provision of the Initial Order. Wellsite is a Person as defined in the Initial Order and has an agreement with a Petitioner in these proceedings, Bertram Drilling, to supply services to it. The Initial Order therefore operates to restrain Wellsite from discontinuing, altering, interfering with, or terminating the supply of such services to Bertram Drilling during the Stay Period. Despite this, Wellsite has failed, refused, or neglected to continue its services to Bertram Drilling and, by such conduct, has violated its obligations under the express terms of the Initial Order.
10. Until further order by this Court, Wellsite cannot resile from the Initial Order or any order made by this Court in these proceedings.

11. Further, the continuation of Wellsite's services will have a significant material benefit to the restructuring. As noted above, the data that Wellsite has either failed, refused, or neglected to provide is integral to Bertram Drilling's ability to realize on its outstanding accounts. Wellsite's compliance with the Initial Order will have the practical effect of unlocking a significant source of revenue and thereby increasing the value of the Petitioners' assets to the benefit of all stakeholders.

**PART IV – MATERIALS TO BE RELIED**

1. Affidavit #3 of Mark Berger, sworn on October 3, 2019;
2. The Order made September 13, 2019 in respect of the Century Services Corp. auction;
3. The Order made September 13, 2019 in respect of the Sale and Solicitation Process; and
4. Such further and other materials as counsel may advise and this Honourable Court may allow.

The Applicant estimates that the application will take 30 minutes.


- This matter is within the jurisdiction of a master.
- This matter is not within the jurisdiction of a master. Mr. Justice Milman is seized of these proceedings, and the date and time of this application has been confirmed with Court Scheduling.

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: October 3, 2019

  
\_\_\_\_\_  
Signature of Lisa Hiebert/Ryan Laity  
 applicant  lawyer for applicants

*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:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

Signature of  Judge  Master



## 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 matters 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"**

**SERVICE LIST**

Please see attached.

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AND OMNITERRA INTERNATIONAL DRILLING INC.

PETITIONERS

**SERVICE LIST**

[as at September 25, 2019]

<p><b>Borden Ladner Gervais LLP</b> 1200 Waterfront Centre 200 Burrard Street Vancouver, BC V7X 1T2 Tel: (604) 687-5744</p> <p>Attn: Lisa C. Hiebert and Ryan Laity</p> <p>Email: lhiebert@blg.com rlaity@blg.com</p> <p><b>Counsel for the Petitioners</b></p>	<p><b>FTI Consulting Canada Inc.</b> 555 Burrard Street Vancouver, BC V7X 1M8 Tel: (604) 484-9525</p> <p>Attn: Tom Powell and Toni Vanderlaan</p> <p>Email: toni.vanderlaan@fticonsulting.com tom.powell@fticonsulting.com robert.kleebaum@fticonsulting.com craig.munro@fticonsulting.com</p> <p><b>Monitor</b></p>
<p><b>Cassels Brock &amp; Blackwell LLP</b> Suite 2200 HSBC Building 885 West Georgia Street Vancouver, BC V6C 3E8 Tel: (604) 691-6100</p> <p>Attn: H. Lance Williams and Mary I.A. Buttery, Q.C.</p> <p>Email: lwilliams@casselsbrock.com mbuttery@casselsbrock.com sdanielisz@casselsbrock.com</p> <p><b>Counsel for the Monitor</b></p>	<p><b>Gowling WLG</b> 550 Burrard Street Suite 2300-Bentall 5 Vancouver, BC V6C 2B5 Tel: (604) 683-3558</p> <p>Attn: Jonathan B. Ross</p> <p>Email: jonathan.ross@gowlingwlg.com</p> <p><b>Counsel for Export Development Canada</b></p>

<p><b>Clark Wilson LLP</b> 900 – 885 West Georgia Street Vancouver, BC V6C 3H1 Tel: (604) 643-3176</p> <p>Attn: Christopher Ramsay and Katie Mak</p> <p>Email: cramsay@cwilson.com kmak@cwilson.com</p> <p><b><i>Counsel for Extract Advisors LLC as administrative agent to the secured Noteholders</i></b></p>	<p><b>McCarthy Tétrault LLP</b> 421 7th Avenue SW Suite 4000 Calgary, AB T2P 4K9 Tel: (403) 260-3500</p> <p>Attn: Pantelis Kyriakakis</p> <p>Email: pkyriakakis@mccarthy.ca</p> <p><b><i>Counsel for Royal Bank of Canada</i></b></p>
<p><b>Stikeman Elliott LLP</b> 5300 Commerce Court West 199 Bay Street Toronto, ON M5L 1B9 Tel: (416) 869-5500</p> <p>Attn: Ashley Taylor and Marie Garneau</p> <p>Email: ataylor@stikeman.com mgarneau@stikeman.com</p> <p><b><i>Counsel for Energold DIP Lender, LLC</i></b></p>	<p><b>Ernst &amp; Young Inc.</b> Pacific Centre, 700 West Georgia Street Vancouver, BC V7Y 1C7 Tel: (604) 891-8200</p> <p>Attn: Mike Bell and Rob Withers</p> <p>Email: mike.bell@ca.ey.com robert.withers@ca.ey.com</p> <p><b><i>Financial Advisor for the Petitioners</i></b></p>
<p><b>Portage Point Partners LLC</b> 300 North LaSale, Suite 4925 Chicago, IL 60654</p> <p>Attn: Mark Berger and Ryan Williams</p> <p>Email: mberger@pppllc.com rwilliams@pppllc.com</p> <p><b><i>Chief Restructuring Officer</i></b></p>	<p><b>Extract Advisors LLC</b> Suite 423, 379 West Broadway New York, NY 10012</p> <p>Attn: Darin Milmeister</p> <p>Email: darin@extractcapital.com</p> <p><b><i>Administrative agent to the secured Noteholders</i></b></p>
<p><b>Downtown Capital Partners, LLC</b> Suite 1110, 360 Hamilton Avenue White Plains, NY 10601</p> <p>Attn: Gary Katz</p> <p>Email: gkatz@downtownlp.com</p>	

**Schedule "B"**

**DRAFT ORDER**

Please see attached.

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OMNITERRA INTERNATIONAL DRILLING INC.

PETITIONERS

ORDER MADE AFTER APPLICATION

BEFORE THE HONOURABLE )  
MR. JUSTICE MILMAN ) October 10, 2019  
)

ON THE APPLICATION of the Petitioners coming on for hearing at Vancouver, British Columbia, on the 10<sup>th</sup> day of October, 2019; AND ON HEARING Lisa Hiebert, counsel for the Petitioners and those other counsel listed on **Schedule "A"** hereto; AND UPON READING the material filed; AND PURSUANT TO the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 as amended (the "CCAA"), the British Columbia Supreme Court Rules and the inherent jurisdiction of this Honourable Court;

THIS COURT ORDERS AND DECLARES THAT:

1. The time for service of the Notice of Application and supporting materials be and is hereby abridged such that this application is properly returnable today and service thereof upon any interested party other than the parties on the service list maintained by the Monitor in this proceeding is hereby dispensed with.
2. The relief provided for in the Initial Order made in these proceedings on September 13, 2019 be and is hereby confirmed, and the Stay Period (as defined in the Initial Order) and all other relief is hereby extended to November 29, 2019.
3. The Initial Order be and is amended as follows:

- (a) in paragraph 2 of the Initial Order, the reference to “paragraph 14” is removed and replaced with “paragraph 15”;
  - (b) in paragraph 5 of the Initial Order, the reference to “paragraph 43” is removed and replaced with “paragraph 44”;
  - (c) in paragraph 23 of the Initial Order, the reference to “paragraph 48” is removed and replaced with “paragraph 49”; and
  - (d) in subparagraph 30(b) of the Initial Order, the reference to “paragraph 10” is removed and replaced with “paragraph 11”.
4. Wellsite Masters Ltd. is a Person under the Initial Order who has an agreement for services with the Petitioners for the supply of services to Bertram Drilling Corp. Wellsite Masters Ltd. is hereby ordered and directed to comply with the terms of the Initial Order, including, without limitation, refraining from discontinuing, altering, interfering with, or terminating the supply of such services as may be required by Bertram Drilling Corp.
5. Endorsement of this Order by counsel appearing on this application, other than counsel for the Petitioners, 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 Lisa Hiebert  
 Party  Lawyer for the Petitioners

BY THE COURT

\_\_\_\_\_  
REGISTRAR

Schedule "A"

List of Counsel

Name of Counsel	Party Represented
Lisa Hiebert Ryan Laity	Energold Corp. and the other Petitioners
Mary Buttery, Q.C. Lance Williams	The Monitor, FTI Consulting Canada Inc.
Chris Ramsay	Extract Advisors, LLC, as agent to the Noteholders Local agent to Stikeman Elliott LLP, counsel to the DIP Lender
Jonathan Ross	Export Development Canada



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PETITIONERS

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ORDER MADE AFTER APPLICATION

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