



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

(STAY EXTENSION #3)

Name of Applicants: The Petitioners

On Notice to: The Service List, a copy of which is attached hereto as Schedule "A"

TAKE NOTICE that an application will be made by the Applicants to the Honourable Mr. Justice Milman at the courthouse at 800 Smith Street, Vancouver, British Columbia, on January 17, 2020 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 hereto as Schedule "B".

PART II – FACTUAL BASIS

Background

1. On September 13, 2019, the Honourable Mr. Justice Milman made the following orders pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA"):

(a) the Initial Order granting, among other things, a stay of proceedings until October 11, 2019;

and

- (b) an order authorizing and directing the Petitioners to carry out a 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”).
2. On October 10, 2019, the Honourable Mr. Justice Milman made an order that, among other things: extended the Stay Period (as defined in the Initial Order) to November 29, 2019.
 3. On November 28, 2019, the Honourable Mr. Justice Milman granted an order further extending the Stay Period to January 31, 2020.
 4. On December 19, 2018, the Honourable Mr. Justice Milman granted an order that, among other things: (i) accepted for filing a plan of arrangement or comprise pursuant to Part I of the CCAA (the “Plan”) as proposed by Extract Advisors LLC (“Extract”) for the purposes of completing the resulting sale of the Energold Units pursuant to the SSP Order, in addition to the sale of certain residual assets of Energold, in an expeditious manner; (ii) setting January 13, 2020 for a meeting of creditors to approve of the Plan (the “Creditors’ Meeting”) and confirming the procedures for such Creditors’ Meeting; (iii) confirming that, for the purposes of the Plan, there shall be one class of creditors; and (iv) tentatively setting January 17, 2020 as the date for a court application for an order to sanction the Plan.

Update on Petitioners’ Activities

5. Since November 28, 2019, the Petitioners have taken additional steps to further advance the restructuring under this CCAA proceeding. These steps include, among other things:
 - (a) continuing to work with Extract and its legal counsel (in consultation with the Monitor) to formulate the proposed Plan, coordinate its implementation, and seek its approval at the Creditors’ Meeting;
 - (b) continuing to facilitate Bertram Drilling Corp.’s efforts to collect its remaining outstanding accounts receivable;
 - (c) continuing to communicate with various lenders, employees and other stakeholders regarding the status of these CCAA proceedings;

- (d) negotiating with Century Services Corp. receipt of the final proceeds of sale regarding the court-approved auction of substantially all of the assets and property of Bertram Drilling Corp.;
- (e) commencing the sale of certain publicly-listed shares in the capital of IMPACT Silver Corp. held by Energold;
- (f) continuing to communicate with various lenders, employees and other stakeholders regarding the status of these CCAA proceedings;
- (g) cooperating and working with the Monitor to facilitate its monitoring of the business and operations of the Petitioners;
- (h) working to continue the operations of the Petitioners' business in the ordinary course, including communicating with suppliers and service providers; and
- (i) seeking to reduce expenses where possible, including terminating and disclaiming redundant contracts.

Extension of Stay Period

- 6. The Petitioners seek an extension of the stay of proceedings under the Initial Order to April 3, 2020 to provide sufficient time to, among other things: (a) collect on various remaining accounts receivable of Bertram Drilling Corp.; and (b) conclude the sale transactions resulting from the SSP, and the sale of certain residual assets of Energold, in each case in accordance with the proposed Plan.
- 7. The Petitioners will have sufficient liquidity to meet their obligations during the proposed extension, as evidenced by the Cash Flow Statement prepared in consultation with the Monitor.
- 8. The Petitioners have been, and are, acting in good faith and with due diligence throughout these CCAA proceedings.

PART III – LEGAL BASIS

- 1. The Petitioners rely on:
 - (a) the CCAA, Sections 11.02 (2), 11.02 (3) and 36;
 - (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, among other things: (a) collect on various remaining accounts receivable of Bertram Drilling Corp.; and (b) conclude the sale transactions resulting from the SSP, and the sale of certain residual assets of Energold, in each case in accordance with the proposed Plan.

PART IV – MATERIALS TO BE RELIED ON

- 1. Affidavit #3 of Matthew Freeman, sworn on January 13, 2020;
- 2. the Order made by this Honourable Court on November 28, 2019, extending the Stay Period to January 31, 2019;
- 3. the Fourth Report of the Monitor (to be filed); 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 10 minutes.

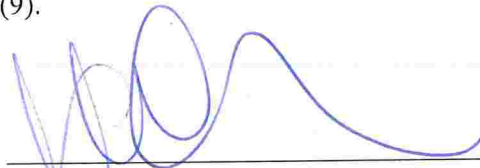
- This matter is within the jurisdiction of a master.

- 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: January 13, 2020



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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PETITIONERS

SERVICE LIST

[as at December 19, 2019]

<p>Borden Ladner Gervais LLP 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 cconto@blg.com</p> <p>Counsel for the Petitioners</p>	<p>FTI Consulting Canada Inc. 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 mike.clark@fticonsulting.com robert.kleebaum@fticonsulting.com craig.munro@fticonsulting.com</p> <p>Monitor</p>
<p>Cassels Brock & Blackwell LLP 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@cassels.com mbuttery@cassels.com sdanielisz@cassels.com</p> <p>Counsel for the Monitor</p>	<p>Gowling WLG 550 Burrard Street Suite 2300-Bentall 5 Vancouver, BC V6C 2B5 Tel: (604) 683-3558</p> <p>Attn: Jonathan B. Ross and Jeffrey Bradshaw</p> <p>Email: jonathan.ross@gowlingwlg.com jeffrey.bradshaw@gowlingwlg.com michele.hay@gowlingwlg.com</p> <p>Counsel for Export Development Canada</p>

<p>Clark Wilson LLP 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 dhamann-trou@cwilson.com</p> <p>Counsel for Extract Advisors LLC as administrative agent to the secured Noteholders</p>	<p>McCarthy Tétrault LLP 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>Counsel for Royal Bank of Canada</p>
<p>Stikeman Elliott LLP 5300 Commerce Court West 199 Bay Street Toronto, ON M5L 1B9 Tel: (416) 869-5500</p> <p>Attn: Marie Garneau</p> <p>Email: mgarneau@stikeman.com</p> <p>Counsel for Energold DIP Lender, LLC</p>	<p>Ernst & Young Inc. 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>Financial Advisor for the Petitioners</p>
<p>Portage Point Partners LLC 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>Chief Restructuring Officer</p>	<p>Extract Advisors LLC Suite 423, 379 West Broadway New York, NY 10012</p> <p>Attn: Darin Milmeister and Ethan Park</p> <p>Email: darin@extractcapital.com ethan@extractcapital.com</p> <p>Administrative agent to the secured Noteholders</p>
<p>Downtown Capital Partners, LLC Suite 1110, 360 Hamilton Avenue White Plains, NY 10601</p> <p>Attn: Gary Katz</p> <p>Email: gkatz@downtownlp.com</p>	<p>Energold Drilling Corp.</p> <p>Attn: Matt Freeman Director of Finance</p> <p>Email: matthew@energold.com</p>

Schedule "B"

DRAFT ORDER

Please see attached.

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PETITIONERS

ORDER MADE AFTER APPLICATION

(STAY EXTENSION #3)

BEFORE THE HONOURABLE)
MR. JUSTICE MILMAN) January 17, 2020
)

ON THE APPLICATION of the Petitioners coming on for hearing at Vancouver, British Columbia, on the 17th day of January, 2020; 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 April 3, 2020.

3. 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	Energold Drilling Corp. and the other Petitioners
Mary Buttery, Q.C.	The Monitor, FTI Consulting Canada Inc.
Christopher Ramsay	Extract Advisors, LLC, as agent to the Noteholders

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