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July 27 2020
Justice Horner

COURT FILE NUMBER
COURT
JUDICIAL CENTRE OF

2001-07984
COURT OF QUEEN'S BENCH OF ALBERTA
CALGARY

APPLICANTS:

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 NORTHERN SILICA CORPORATION,
HEEMSKIRK MINING PTY. LTD., CUSTOM BULK
SERVICES INC., HEEMSKIRK CANADA LIMITED,
HEEMSKIRK CANADA HOLDINGS LIMITED, and HCA
MOUNTAIN MINERALS (MOBERLY) LIMITED

APPLICANTS
RESPONDENTS

QMETCO LIMITED and TAURUS RESOURCES NO. 2 B.V.
NORTHERN SILICA CORPORATION, HEEMSKIRK
MINING PTY. LTD., CUSTOM BULK SERVICES INC.,
HEEMSKIRK CANADA LIMITED, HEEMSKIRK CANADA
HOLDINGS LIMITED, and HCA MOUNTAIN MINERALS
(MOBERLY) LIMITED

DOCUMENT

**APPLICATION (SISP, STALKING HORSE AGREEMENT,
SALES AGENT CHARGE)**

ADDRESS FOR SERVICE AND
CONTACT INFORMATION OF
PARTY FILING THIS DOCUMENT

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File No. 273913

NOTICE TO THE RESPONDENT

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the Court.

To do so, you must be in Court when the application is heard as shown below:

Date: July 27, 2020
Time: 3:30 p.m.
Where: Calgary Courts Centre – Via Webex. Videoconference details are enclosed as **Appendix “A”** to this Application
Before: The Honourable Justice K.M. Horner– Commercial List

Go to the end of this document to see what you can do and when you must do it.

Orders Sought:

1. The Respondents, Northern Silica Corporation (“**NSC**”), Custom Bulk Services Inc. (“**Custom Bulk**”), Heemskirk Canada Limited (“**Heemskirk Canada**”), Heemskirk Canada Holdings Limited (“**Heemskirk Holdings**”), HCA Mountain Minerals (Moberly) Limited (“**Moberly**”) and Heemskirk Mining Pty. Ltd., (“**Heemskirk Australia**”) (collectively referred to herein as the “**NSC Companies**”) seek relief pursuant to the *Companies’ Creditors Arrangement Act*, RSC 1985, c C-36, as amended (the “**CCAA**”) as follows.
2. An order (the “**Amending Order**”) amending the amended and restated initial order granted on July 10, 2020 (the “**Initial Order**”) substantially in the form attached as **Schedule “A”** hereto, *inter alia*:
 - (a) extending the Stay Period (as defined in the Initial Order) up to and including October 9, 2020, subject to further Order of this Court;
 - (b) approving the sales agent engagement letter (the “**Sales Agent Engagement Letter**”) entered into by NSC and Whitehorn Merchant Capital Inc. (the “**Sales Agent**”) attached as Exhibit “C” to the Affidavit of Jerrad Blanchard, sworn July 21, 2020 (the “**Blanchard Affidavit**”);
 - (c) granting a sales agent (the “**Sales Agent Charge**”) up to a maximum amount of \$150,000, as a first ranking charge over the Property, subject only to the Administration Charge, the Directors’ Charge (each term as defined in the Initial Order) and the existing security granted by Custom Bulk in favour of ATB Financial (the “**ATB Security**”); and
 - (d) such further relief as this Court deems just.
3. An order (the “**SISP Order**”) substantially in the form attached as **Schedule “B”** hereto, *inter alia*:
 - (a) approving the sale and investment solicitation process (“**SISP**”) substantially in the form attached as Exhibit “D” to the Blanchard Affidavit; and
 - (b) approving as a stalking horse bid the asset purchase agreement dated July 21, 2020 (the “**APA**”) between Custom Bulk, Heemskirk Canada, Heemskirk Holdings, and HCA

Moberly as sellers (the “**Sellers**”) and Vitreo Minerals Ltd., as stalking horse bidder (in such capacity, the “**Stalking Horse Bidder**”), and the Monitor, substantially in the form attached as Exhibit “E” to the Blanchard Affidavit.

Basis for this Claim:

Background to CCAA Proceeding

4. On July 3, 2020, the Applicants, QMetco Limited (“**QMetco**”) and Taurus Resources No. 2 B.V. (“**Taurus**” and together with QMetco, the “**Secured Lenders**”) applied for and were granted an initial order in respect of the NSC Companies that commenced this CCAA proceeding.
5. The Secured Lenders granted secured loans to HCA Moberly, which have been guaranteed by the other NSC Companies except for Custom Bulk. In addition to being a senior secured creditor of the NSC Companies (except for Custom Bulk), Taurus is also the majority shareholder of NSC, the ultimate parent company of the NSC Companies.
6. On July 10, 2020, the NSC Companies applied for and were granted the Initial Order, amending and restating the initial order granted on July 3, 2020.

Business of the NSC Companies

7. The NSC Companies are all privately held corporations. The NSC Companies’ corporate, financial and accounting records are currently located in Calgary, Alberta. The majority of executive management and administrative support is provided from the NSC Companies’ head office in Calgary and is expected to be provided remotely from Calgary upon the expiration of the NSC Companies’ Calgary office lease.
8. The NSC Companies operate an integrated silica mining and transport business. The silica mining component of the business takes place at mining facilities near Golden, British Columbia (the “**Moberly Plant**”). The transport component of the business takes place at a transloading facility in Penhold, Alberta (the “**Penhold Facility**”).
9. The Moberly Plant mines and processes silica sand from a high-grade silica deposit and is capable of producing frac sand and other products predominantly used in the oil and gas industry.
10. While operating, silica processed at the Moberly Plant was moved to the Penhold Facility for sales to the frac sand market in Alberta.
11. The Penhold Facility is a necessary and integral part of the business of the NSC Companies because it is strategically placed to receive silica from the Moberly Plant via truck, to store the silica and then to transport the silica to wider markets via rail. Without the Penhold Facility, the Moberly Plant would have no rail access to transport its product.

Financial Difficulties

12. Frac sand price and demand have decreased since early 2019, causing destabilization for several frac sand producers. In addition to these market-wide issues, operations at the Moberly Plant have

proven to be uneconomic at this time, including due to logistical issues caused by the inability to transport materials by rail to the Penhold Facility due to a Canadian Pacific Rail derailment and damage to the rail switch needed to access the Moberly Plant.

13. As a result of these issues, operations at the Moberly Plant were shut down in late February of 2020. The NSC Companies also transitioned their operations at the Penhold Facility to transload frac sand from third parties to current clients.
14. A sale or material investment is necessary when considering the liquidity position and economic outlook facing the NSC Companies. There is no viable alternative to a sale transaction.

The Stalking Horse APA

15. The key terms of the APA are summarized at paragraph 15 of the Blanchard Affidavit, and among others, includes:
 - (a) the Purchase Price is comprised of US\$25,000,000 of the principal owing under the Taurus Facility (which will be converted to Canadian dollars using the Exchange Rate as at the Business Day prior to the Closing Date), C\$4,350,000 of the principal owing under the QMetco Facility, and (ii) the amount of the DIP Obligations as at the Closing Date (all capitalized terms as defined in the APA);
 - (b) the Purchase Price is payable as a credit bid to be satisfied by the Stalking Horse Bidder as set out in section 3.2 of the APA;
 - (c) in the event that the APA constitutes a Successful Bid (as defined in the SISP), the Stalking Horse Bidder will purchase substantially all of the assets, properties, and rights of the Sellers, together with certain assumed obligations; and
 - (d) in the event the APA does not constitute a Successful Bid (as defined in the SISP), for any reason other than a breach of the APA by the Stalking Horse Bidder, the Sellers are required to pay the Stalking Horse Bidder a break fee in the amount of \$1,250,000, and reimburse the Stalking Horse Bidder for its actual fees, expenses and disbursements relating to the preparation and execution of the APA up to a maximum amount of \$150,000.
16. The APA is supported by the Secured Lenders. The Stalking Horse Bidder is an affiliate of the Secured Lenders, who are significant secured creditors of the Sellers. In addition to being a secured creditor, Taurus is also the majority shareholder of NSC.
17. The Monitor has advised that it supports this Court's approval of the APA as an integral component of the SISP and is of the view that the amount of the break fee as a percentage of the purchase price is within the customary range for break fees in similar transactions.

The SISP

18. Since this CCAA proceeding was commenced by the Secured Lenders, the NSC Companies have been working with the Monitor to finalize and seek approval of the SISP in order to maximize the value of the NSC Companies' business and property for the benefit of stakeholders.

19. The SISP contemplates the APA as a stalking horse bid for the assets, properties, and rights of the Sellers against which offers obtained from the SISP will be compared and considered.
20. The SISP provides for a fair and reasonable process to identify potentially superior offers to that provided for in the APA and will be conducted in a transparent manner.
21. The SISP is supported by the Secured Lenders.
22. The Monitor has advised that it supports this Court's approval of the SISP.

Sales Agent Engagement and Sales Agent Charge

23. The Sales Agent has agreed to provide services for the implementation of the SISP in accordance with the terms of the Sales Agent Engagement Letter.
24. The Sales Agent Engagement Letter provides that the Sales Agent will develop an enhanced understanding of the Sellers' specialized business and conduct its own internal and external research to develop a marketing strategy, all in order to conduct the SISP.
25. The SISP contemplates that the Sales Agent will carry out the SISP under the supervision of the Monitor.
26. The Sales Agent holds significant expertise in providing sale of business transaction solutions in Western Canada. The Sales Agent primarily assists private businesses such as the NSC Companies in transaction processes and business valuation.
27. The NSC Companies require the expertise, knowledge, and participation of the Sales Agent as they implement the SISP for the benefit of their stakeholders.
28. The Sales Agent Charge is reasonable and necessary for the participation of the Sales Agent in the SISP and the approval of the Sales Agent Charge is a requirement of the Sales Agent Engagement Letter.
29. The Secured Lenders support the approval of the Sales Agent Engagement Letter and related Sales Agent Charge.
30. The Monitor has advised that it supports this Court's approval of the Sales Agent Engagement Letter and the Sales Agent Charge.

Stay Extension

31. The Stay Period (as defined in the Initial Order) is set to expire on August 7, 2020. The NSC Companies seek an extension of the Stay Period up to and including October 9, 2020.
32. Since the Initial Order was granted, the NSC Companies have acted in good faith and with due diligence to:
 - (a) continue care and maintenance of the business;

- (b) engage with the Sales Agent to prepare a confidential information memorandum;
 - (c) disclaim the railroad car lease between Custom Bulk and TrinityRail Canada Inc. dated effective June 14, 2018;
 - (d) engage with the Secured Lenders, with the assistance of their legal counsel and the Monitor, to negotiate and finalize the terms of the APA and the proposed SISP;
 - (e) respond to inquiries from various parties who have expressed an interest in participating in the SISP; and
 - (f) communicate with employees and creditors with respect to their restructuring plans.
33. The Phase 2 Bid Deadline in the SISP is September 24, 2020. The NSC Companies require an extension of the Stay Period up to and including October 9, 2020, in order to allow them to work with the Monitor and Sales Agent to carry out and complete the SISP, which will allow the NSC Companies to maximize the value of the assets of the business.
34. The Monitor has reviewed the cash flow forecasts prepared by the NSC Companies, which cash flows demonstrate that the NSC Companies will have sufficient liquidity to fund their operations and restructuring during the proposed extension of the Stay Period.
35. The proposed extension of the Stay Period is in the best interests of the NSC Companies, and no creditor will be prejudiced by such extension.
36. It is just, convenient, necessary, and in the best interest of the NSC Companies and their stakeholders that the NSC Companies be granted an extension of the Stay Period as they implement the SISP and advance their restructuring efforts.

Affidavit or Other Evidence to be used in support of this application:

- 37. The Affidavit of Jerrad Blanchard, sworn on July 21, 2020.
- 38. The Affidavit of Service of David Tsumagari, filed.
- 39. The Pre-Filing Report of the Monitor.
- 40. The First Report of the Monitor.
- 41. The Second Report of the Monitor.
- 42. Such further and other materials as counsel may advise and this Honourable Court may permit.

Applicable Acts and Regulations:

- 43. *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended.
- 44. *Judicature Act*, RSA 2000, c J-2.

45. *Rules of Court*, Alta Reg 124/2010.
46. Such further and other acts and regulations as counsel may advise and this Honourable Court may permit.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the Applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this Application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of this form. If you intend to rely on an affidavit or other evidence when the Application is heard or considered, you must reply by giving reasonable notice of the material to the Applicant.

**Appendix “A” – Webex Videoconference Information
(See Attached)**

Virtual Courtroom 05 has been assigned for the following matter:

Date: Jul 27, 2020 03:30 PM

Style of Cause: COMPANIES CREDITORS ARRANGEMENT ACT v. NORTHERN SILICA CORPORATION - 2001 07984

Presiding Justice: NIXON (D.B.), J

Virtual Courtroom Link:

<https://albertacourts.webex.com/meet/virtual.courtroom05>

Instructions for Connecting to the Meeting

1. Click on the link above or open up Chrome or Firefox and cut and paste it into your browser address bar.
2. If you do not have the Cisco Webex application already installed on your device, the site will have a button to install it. Follow installation instructions. Enter your full name and email address when prompted
3. Click on the **Open Cisco Webex Meeting**.
4. You will see a preview screen. Click on **Join Meeting**.

Key considerations for those attending:

1. Please connect to the courtroom **15 minutes prior** to the start of the hearing.
2. Please ensure that your microphone is muted and remains muted for the duration of the proceeding, unless you are speaking. Ensure that you state your name each time you speak.
3. If bandwidth becomes an issue, some participants may be asked to turn off their video and participate by audio only.
- 4. Note: Recording or rebroadcasting of the video is prohibited.**
- 5. Note: It is highly recommended you use headphones with a microphone or a headset when using Webex. This prevents feedback.**

**Schedule "A" to Application
(See Attached)**

Clerk's Stamp:

COURT FILE NUMBER 2001-07984

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE OF CALGARY

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, RSC 1985, c C-36, as amended

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF NORTHERN SILICA CORPORATION, HEEMSKIRK MINING PTY. LTD., CUSTOM BULK SERVICES INC., HEEMSKIRK CANADA LIMITED, HEEMSKIRK CANADA HOLDINGS LIMITED and HCA MOUNTAIN MINERALS (MOBERLY) LIMITED

APPLICANTS QMETCO LIMITED and TAURUS RESOURCES NO. 2 B.V.

RESPONDENTS NORTHERN SILICA CORPORATION, HEEMSKIRK MINING PTY. LTD., CUSTOM BULK SERVICES INC., HEEMSKIRK CANADA LIMITED, HEEMSKIRK CANADA HOLDINGS LIMITED and HCA MOUNTAIN MINERALS (MOBERLY) LIMITED

DOCUMENT **ORDER (SALES AGENT APPROVAL AND CHARGE)**

CONTACT
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DOCUMENT:

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Kourtney Rylands

Phone: 403-355-3326

Email: kourtney.rylands@mcmillan.ca

File No. 273913

DATE ON WHICH ORDER WAS PRONOUNCED: July 27, 2020

NAME OF JUDGE WHO MADE THIS ORDER:

The Honourable Justice K.M Horner

LOCATION OF HEARING:

Calgary Courts Centre

UPON the application of Northern Silica Corporation (“**NSC**”), Heemskirk Mining Pty. Ltd., Custom Bulk Services Inc. (“**Custom Bulk**”), Heemskirk Canada Limited, Heemskirk Canada Holdings Limited and HCA Mountain Minerals (Moberly) Limited (collectively, the “**Debtors**”), **AND UPON** having read the Application, the Affidavit of Jerrad Blanchard sworn July 21, 2020 (the “**Blanchard Affidavit**”), filed, the Affidavit of Martin Boland, sworn June 26, 2020, filed (the “**Boland Affidavit**”), and the Affidavit of Service, filed; **AND UPON** reading the first report of the Monitor, Alvarez & Marsal Canada Inc. (in such capacity, the “**Monitor**”) dated July 3, 2020, and the second report of the Monitor dated July 21, 2020; **AND UPON** being advised that the secured creditors who are likely to be affected by the charges created herein have been provided notice of this application and either do not oppose or alternatively consent to the within Order; **AND UPON** hearing counsel for the Debtors, counsel for the Monitor, counsel for QMetco Limited, Taurus Resources No. 2 B.V. and Vitreo Minerals Ltd., and other counsel present; **AND UPON** reading the amended and restated initial order granted by the Honourable Justice B.E. Romaine on July 10, 2020 (the “**ARIO**”); **IT IS HEREBY ORDERED AND DECLARED THAT:**

SERVICE

1. The time for service of the notice of application for this order (the “**Order**”) is hereby abridged and deemed good and sufficient and this application is properly returnable today.

EXTENSION OF THE STAY OF PROCEEDINGS

2. The Stay Period (as defined in the ARIO) shall be and is hereby extended to and including October 9, 2020 and all other terms of the ARIO shall remain in full force and effect, except as otherwise varied by this Order.

SALES ENGAGEMENT LETTER AND SALES AGENT CHARGE

3. The agreement between NSC and Whitehorn Merchant Capital Inc. (the “**Sales Agent**”) in the form attached as Exhibit “C” to the Blanchard Affidavit (the “**Sales Engagement Letter**”) is hereby approved.

4. The Sales Agent shall be entitled to the benefit of and is hereby granted a charge (the “**Sales Agent Charge**”) on the Property (as defined in the ARIO) as security for its fees and disbursements incurred under the terms of the Sales Engagement Letter.
5. The Sales Agent Charge shall have the priority set out in paragraphs 37, 38, and 40 of the ARIO, as varied by this Order.
6. Paragraphs 37 to 43 of the ARIO shall be varied as follows:
 37. The priorities of the Directors’ Charge, the Administration Charge, the Sales Agent Charge, and the Interim Lender’s Charge, as among them, shall be as follows:

First – Administration Charge (to the maximum amount of \$200,000);

Second – Directors’ Charge (to the maximum amount of \$150,000);

Third – Sales Agent Charge (to maximum amount of \$150,000); and

Fourth – Interim Lender’s Charge (to the maximum amount of \$3,500,000).
 38. The Administration Charge, the Directors’ Charge, the Sales Agent Charge, and the Interim Lender’s Charge shall rank subordinate to ATB’s existing security interest in the Property of Custom Bulk.
 39. The filing, registration or perfection of the Directors’ Charge, the Administration Charge, the Sales Agent Charge, or the Interim Lender’s Charge (collectively, the “**Charges**”) shall not be required, and the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.
 40. Each of the Directors’ Charge, the Administration Charge, the Sales Agent Charge, and the Interim Lender’s Charge shall constitute a charge on the Property and subject always to section 34(11) of the CCAA such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, and claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”) in favour of any Person, except as set out in paragraph 38 above.

41. Except as otherwise expressly provided for herein, or as may be approved by this Court, the Debtors shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with the Directors' Charge, Administration Charge, the Sales Agent Charge, or the Interim Lender's Charge, unless the Debtors also obtain the prior written consent of the Monitor, the Interim Lender, the Sales Agent, and the beneficiaries of the Directors' Charge and the Administration Charge (the "**Chargees**") or further order of this Court.
42. The Directors' Charge, the Administration Charge, the Sales Agent Charge, the Sales Engagement Letter, the Credit Agreement, the Definitive Documents, and the Interim Lender's Charge shall not be rendered invalid or unenforceable and the rights and remedies of the Chargees and the Interim Lender thereunder shall not otherwise be limited or impaired in any way by:
- (a) the pendency of these proceedings and the declarations of insolvency made in this Order;
 - (b) any application(s) for bankruptcy order(s) issued pursuant to the *Bankruptcy and Insolvency Act* of Canada (the "**BIA**"), or any bankruptcy order made pursuant to such applications;
 - (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA;
 - (d) the provisions of any federal or provincial statutes; or
 - (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease, or other agreement (collectively, an "**Agreement**") that binds the Debtors and notwithstanding any provision to the contrary in any Agreement:
 - (i) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of any documents in respect thereof, including the Credit Agreement or the Definitive Documents, shall create or be deemed to constitute a breach of any provision contained in the amended and restated unanimous shareholder agreement of NSC effective as of May 18, 2017 or any other Agreement to which any of the Debtors is a party;

- (ii) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges, the Debtors entering into the Credit Agreement or the execution, delivery or performance of the Definitive Documents; and
- (iii) the payments made by the Debtors pursuant to this Order, including the Credit Agreement or the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct or other challengeable or voidable transactions under any applicable law.

43. Any interested Person may apply to this Court on notice to any other party likely to be affected for an order to allocate the Administration Charge, the Interim Lender's Charge, the Sales Agent Charge, and the Directors' Charge amongst the various assets comprising the Property.

SERVICE AND NOTICE

7. Service of this Order shall be deemed good and sufficient by:

- (a) serving the same on the persons listed on the service list created in these proceedings; and
- (b) posting a copy of this Order on the Monitor's website at www.alvarezandmarsal.com/northernsilica

and service on any other person is hereby dispensed with.

8. Subject to Rules 11.25 and 11.26 this Order shall constitute an order for substituted service pursuant to Rule 11.28 of the *Alberta Rules of Court*.

Justice of the Court of Queen's Bench of Alberta

**Schedule "B" to Application
(See Attached)**

Clerk's Stamp:

COURT FILE NUMBER 2001-07984

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE OF CALGARY

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, RSC 1985, c C-36, as amended

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF NORTHERN SILICA CORPORATION, HEEMSKIRK MINING PTY. LTD., CUSTOM BULK SERVICES INC., HEEMSKIRK CANADA LIMITED, HEEMSKIRK CANADA HOLDINGS LIMITED and HCA MOUNTAIN MINERALS (MOBERLY) LIMITED

APPLICANTS QMETCO LIMITED and TAURUS RESOURCES NO. 2 B.V.

RESPONDENTS NORTHERN SILICA CORPORATION, HEEMSKIRK MINING PTY. LTD., CUSTOM BULK SERVICES INC., HEEMSKIRK CANADA LIMITED, HEEMSKIRK CANADA HOLDINGS LIMITED and HCA MOUNTAIN MINERALS (MOBERLY) LIMITED

DOCUMENT **ORDER (SISP, STALKING HORSE AGREEMENT, SALES AGENT ENGAGEMENT)**

CONTACT
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File No. 273913

DATE ON WHICH ORDER WAS PRONOUNCED:	July 27, 2020
NAME OF JUDGE WHO MADE THIS ORDER:	The Honourable Justice K.M. Horner
LOCATION OF HEARING:	Calgary Courts Centre

UPON the application of Northern Silica Corporation (“**NSC**”), Heemskirk Mining Pty. Ltd., Custom Bulk Services Inc. (“**Custom Bulk**”), Heemskirk Canada Limited (“**Heemskirk Canada**”), Heemskirk Canada Holdings Limited (“**Heemskirk Holdings**”) and HCA Mountain Minerals (Moberly) Limited (“**HCA Moberly**”) (collectively, the “**Debtors**”), **AND UPON** having read the Application, the Affidavit of Jerrad Blanchard sworn July 21, 2020 (the “**Blanchard Affidavit**”), filed, the Affidavit of Martin Boland, sworn June 26, 2020, filed (the “**Boland Affidavit**”), and the Affidavit of Service, filed; **AND UPON** reading the first report of the Monitor, Alvarez & Marsal Canada Inc. (in such capacity, the “**Monitor**”) dated July 3, 2020, and the second report of the Monitor dated July 21, 2020; **AND UPON** hearing counsel for the Debtors, counsel for the Monitor, counsel for QMetco Limited, Taurus Resources No. 2 B.V. and Vitreo Minerals Ltd., and other counsel present; **IT IS HEREBY ORDERED AND DECLARED THAT:**

SERVICE

1. The time for service of the notice of application for this order (the “**Order**”) is hereby abridged and deemed good and sufficient and this application is properly returnable today.

SALES AND INVESTMENT SOLICITATION PROCESS, STALKING HORSE BID

2. The sale and investment solicitation process (“**SISP**”) in the form attached as Exhibit “D” to the Blanchard Affidavit is hereby approved.
3. The Debtors and the Monitor are hereby authorized and empowered to implement the SISP and to proceed, carry out, and implement any corresponding sales, marketing, or tendering processes, including any and all actions related thereto, substantially in accordance with the proposed SISP, and, furthermore, the Debtors and the Monitor are hereby authorized to enter into any resulting agreement(s) or transaction(s) (collectively, the “**Sale Agreements**”) which may arise in connection thereto, as the Debtors and the Monitor determine are necessary or advisable in connection with or in order to complete any or all of the various steps, as contemplated by the SISP.
4. The Asset Purchase Agreement dated July 21, 2020 between Custom Bulk, Heemskirk Canada, Heemskirk Holdings, and HCA Moberly, as sellers, Vitreo Minerals Ltd., as purchaser (in such

capacity, the “**Stalking Horse Bidder**”), and the Monitor, substantially in the form attached as Exhibit “E” to the Blanchard Affidavit (the “**APA**”), is hereby approved, the APA is designated as the stalking horse bid as contemplated by the SISP, and the Debtors and the Monitor are authorized and directed to entered into the APA and complete the various transactions contemplated thereby in accordance with the terms and conditions of the APA. The parties to the APA are further authorized to make non-material amendments to the APA as may be agreed to by each of the Debtors, the Stalking Horse Bidder, and the Monitor.

5. The Bid Protection Fees (as such term is defined in the APA) are hereby approved and the Debtors are authorized to incur and pay the Bid Protection Fees pursuant to and in accordance with the terms of the APA.
6. Nothing herein shall act as authorization or approval of the transfer or vesting of any or all of the Debtors’ property, assets, or undertakings under any Sale Agreements, the APA, or otherwise. Such transfer and vesting shall be dealt with and shall be subject to further Order of this Court.
7. The Debtors and the Monitor are hereby authorized and empowered to apply to this Court to amend, vary, or seek any advice, directions with regard to the SISP or with regard to the approval or vesting of any transactions, in connection with the SISP.
8. The Debtors, the Monitor, and Whitehorn Merchant Capital Inc., as sales agent, and their respective affiliates, partners, directors, employees, advisors, agents, shareholders and controlling persons shall have no liability of any nature or kind to any person in connection with or as a result of the SISP or the actions taken in respect of the SISP, except to the extent of such losses, claims, damages or liabilities resulting from the gross negligence or willful misconduct of any of the foregoing in performing their obligations under the SISP (as determined by this Court). The Stalking Horse Bidder (solely in its capacity as the Stalking Horse Bidder) and its directors, employees, advisors and agents (solely in connection with the APA and the SISP) shall have no liability with respect to any losses, claims, damages or liability of any nature or kind to any person in connection with or as a result of the APA, except to the extent of such losses, claims, damages or liabilities resulting from the gross negligence or willful misconduct of any of the foregoing in performing their obligations under the SISP (as determined by this Court).
9. Pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, SC 2000, c 5, the Debtors, the Sales Agent and the Monitor may disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property,

including the Stalking Horse Bidder, and to their advisors, but only to the extent desirable or required to carry out the SISP and to attempt to complete a transaction for some or all of the Property. Each prospective purchaser or bidder, including the Stalking Horse Bidder, and their respective advisors to whom any such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information solely to its evaluation of a transaction for some or all of the Property (as defined in the SISP), and if it does not complete such a transaction, shall return all such information to the Debtors, or in the alternative destroy all such information. The purchaser of any of the Property (as defined in the SISP) shall be entitled to continue to use the personal information provided to it, and related to such property, in a manner that is in all material respects identical to the prior use of such information by the Debtors, and shall return all other personal information to the Debtors, or ensure that all other personal information is destroyed.

GENERAL

10. Service of this Order shall be deemed good and sufficient by:
 - (a) serving the same on the persons listed on the service list created in these proceedings; and
 - (b) posting a copy of this Order on the Monitor's website at www.alvarezandmarsal.com/northernsilicaand service on any other person is hereby dispensed with.
11. Subject to Rules 11.25 and 11.26 this Order shall constitute an order for substituted service pursuant to Rule 11.28 of the *Alberta Rules of Court*.
12. The Debtors and the Monitor are at liberty and are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

Justice of the Court of Queen's Bench of Alberta

