



NO. S-1510120
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, AS AMENDED

AND

IN THE MATTER OF THE PLAN OF COMPROMISE OR ARRANGEMENT OF NEW WALTER ENERGY
CANADA HOLDINGS, INC., NEW WALTER CANADIAN COAL CORP., NEW BRULE COAL CORP.,
NEW WILLOW CREEK COAL CORP., NEW WOLVERINE COAL CORP. AND CAMBRIAN
ENERGYBUILD HOLDINGS ULC

PETITIONERS

NOTICE OF APPLICATION

Name of applicants: New Walter Energy Canada Holdings, Inc., New Walter Canadian Coal Corp., New Brule Coal Corp., New Willow Creek Coal Corp., New Wolverine Coal Corp., and Cambrian Energybuild Holdings ULC (the "**New Walter Canada Group**")

To: Service List attached hereto as **Schedule "A"**

TAKE NOTICE that an application will be made by the applicants to the Honourable Madam Justice Fitzpatrick at the courthouse at ~~Begbie Square, 651 Carnarvon Street, New Westminster BC V3M 1C9~~ on May 1, 2019 at 9:30 a.m. for the order set out in Part 1 below. *800 Smith St, Vancouver BC V6Z 2E1*

Part 1: ORDERS SOUGHT

1. An Order substantially in the form attached hereto as **Schedule "B"**:
 - (a) extending the stay of proceedings in respect of the New Walter Canada Group to July 31, 2019.

Part 2: FACTUAL BASIS

1. Reference is made to the facts set out in the Twenty-sixth Affidavit of William E. Aziz (the "**Twenty-sixth Aziz Affidavit**").
2. Any capitalized term used but not defined below shall have the meaning given to it in the Twenty-sixth Aziz Affidavit.
3. On December 7, 2015, this Honourable Court granted an initial order (as amended and restated from time to time, the "**Initial Order**") in favour of the Old Walter Canada Group pursuant to the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended (the "**CCAA**").

4. The Initial Order granted a stay of proceedings until January 6, 2016 or such later date as this Honourable Court may order (the “**Stay Period**”).
5. The terms of the Initial Order, including the Stay Period, were subsequently extended by further orders of the Court to May 6, 2019.
6. The New Walter Canada Group is requesting an extension of the Stay Period until and including July 31, 2019 to permit (i) distributions to creditors; (ii) winding up Walter UK, which consists of Energybuild Group Limited (“**EBG**”), Energybuild Holdings Limited (“**EBH**”), and Energybuild Opencast Limited (“**EBO**”); and (iii) completing the James Claim litigation.
7. On April 24, 2019, the Monitor certified that all conditions for implementing the Amended Plan had been satisfied or waived, and the Amended Plan was implemented on that date.
8. Distributions to creditors commenced after the Amended Plan was implemented.
9. The New Walter Canada Group must wind up Walter UK in accordance with the terms of the Settlement Term Sheet among the New Walter Canada Group, Warrior and the 1974 Plan dated October 10, 2017.
10. The New Walter Canada Group has completed the preliminary steps for liquidating Walter UK.
11. The voluntary strike off application for EBO has been filed and, absent any objections, EBO will be dissolved around the end of April 2019.
12. The New Walter Canada Group will complete a further write down of the intercompany debt shortly, following which the liquidation process for EBG and EBH will be commenced.
13. The James Claim is the only remaining unresolved claim in this proceeding.
14. A hearing on the James Claim will be scheduled for June 2019, subject to the Court’s availability, and the New Walter Canada Group and Mr. James are working on completing all pre-hearing steps.
15. Based on the current cash flow projections, it is expected that the New Walter Canada Group will have sufficient operating cash to continue operations during the proposed extended Stay Period.
16. The New Walter Canada Group has been proceeding in good faith and with due diligence in these proceedings.
17. The Monitor supports the extension of the Stay Period and will file a report attaching cash flow forecasts that demonstrate, subject to the assumptions more fully set out in the report, that the New Walter Canada Group has sufficient liquidity to continue its operations as currently conducted through to the end of the proposed extended Stay Period.
18. It is in the best interests of the New Walter Canada Group and all its stakeholders that the Stay Period be extended to July 31, 2019 to permit completing distributions to creditors, winding up Walter UK, and completing the James Claim litigation.

Part 3: LEGAL BASIS

The Requested Stay Extension Should be Granted

19. Section 11.02(2) of the CCAA gives this Court express jurisdiction to extend the Stay Period.

20. Under s. 11.02(3), on an application seeking a stay extension, the Court will consider whether (i) the applicant has acted, and is acting, in good faith and with due diligence; and (ii) if circumstances exist that make the order appropriate.
21. The New Walter Canada Group has been acting in good faith and with due diligence in these proceedings.
22. It is appropriate to grant the requested stay extension because it will permit distributions to creditors in accordance with the Amended Plan, winding up Walter UK, and completing the James Claim litigation.
23. Therefore, the requested stay extension should be granted.

Other Grounds

24. *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended;
25. *Supreme Court Civil Rules*, BC Reg 168/2009, including Rules 8-1 and 13-1; and
26. The inherent and equitable jurisdiction of this Honourable Court and such further and other legal bases and authorities as counsel may advise and this Honourable Court may permit.

Part 4: MATERIAL TO BE RELIED ON

1. The Twenty-sixth Aziz Affidavit;
2. Monitor's 22nd Report, to be filed;
3. Pleadings and other materials filed herein; and
4. Such further and other materials as counsel may advise and this Honourable Court may permit.

The applicant(s) estimate(s) that the application will take 1 hour.

This matter is within the jurisdiction of a master.

X This matter is not within the jurisdiction of a master. The Honourable Madam Justice Fitzpatrick is seized of these proceedings and the hearing of this application has been arranged with Trial 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 of services 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).

Dated: April 25, 2019

Lawyers for the Petitioners
Osler, Hoskin & Harcourt LLP
(Marc Wasserman & Mary Paterson)

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

SCHEDULE "A"

(see attached)

SERVICE LIST
(as of Apr 25, 2019)

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SCHEDULE "B"
(see attached)

NO. S-1510120

VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
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ENERGY CANADA HOLDINGS, INC., NEW WALTER CANADIAN COAL CORP., NEW BRULE COAL
CORP., NEW WILLOW CREEK COAL CORP., NEW WOLVERINE COAL CORP. AND CAMBRIAN
ENERGYBUILD HOLDINGS ULC

PETITIONERS

**ORDER MADE AFTER APPLICATION
(Stay Extension)**

BEFORE THE HONOURABLE)
MADAM JUSTICE FITZPATRICK) WEDNESDAY, THE 1ST DAY OF
MAY, 2019

ON THE APPLICATION of the Petitioners coming on for hearing at New Westminster, British Columbia, on the 1st day of May, 2019; AND ON HEARING ●, counsel for the Petitioners, ●, counsel for KPMG Inc. and those other counsel listed on **Schedule "A"** hereto; AND UPON READING the material filed, including the 26th Affidavit of William E. Aziz sworn April 25, 2019 (the "**Twenty-sixth Aziz Affidavit**"), and the 22nd Report of KPMG Inc. in its capacity as Monitor dated April ●, 2019;

THIS COURT ORDERS AND DECLARES THAT:

SERVICE AND DEFINITIONS

1. The time for service of the notice of application for this order is hereby abridged and deemed good and sufficient and this application is properly returnable today.
2. All capitalized terms not otherwise defined in this Order shall have the meanings ascribed to them in the Initial Order in these proceedings dated December 7, 2015 (the "**Initial Order**").

STAY EXTENSION

3. The Stay Period, as defined in paragraph 18 of the Initial Order, is hereby further extended up to and including July 31, 2019.

GENERAL

5. Endorsement of this Order by counsel appearing, other than counsel for the Petitioners, is hereby dispensed with.

THIS COURT REQUESTS the aid and recognition of other Canadian and foreign Courts, tribunals, regulatory or administrative bodies, including any Court or administrative tribunal of any Federal or State Court or administrative body in the United States of America, to act in aid of and to be complementary to this Court in carrying out the terms of this Order where required. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Petitioners and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Petitioners and the Monitor and their respective agents in carrying out the terms of this Order.

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:

●
Counsel for the Petitioners

BY THE COURT

REGISTRAR

NO. S-1510120
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA
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ARRANGEMENT OF NEW WALTER ENERGY CANADA
HOLDINGS, INC., NEW WALTER CANADIAN COAL CORP.,
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PETITIONERS

ORDER MADE AFTER APPLICATION
(Stay Extension)

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Client Matter No. 1164807

NO. S-1510120
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*,
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ARRANGEMENT OF NEW WALTER ENERGY CANADA
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CORP., NEW WOLVERINE COAL CORP. AND CAMBRIAN
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PETITIONERS

**NOTICE OF APPLICATION
(Stay Extension)**

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