

COURT FILE NUMBER 25-3009380 / B301 009380

COURT COURT OF KING'S BENCH OF ALBERTA  
IN BANKRUPTCY AND INSOLVENCY

JUDICIAL CENTRE CALGARY

IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*,  
RSC 1985, C B-3 AS AMENDED

AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE  
A PROPOSAL OF ATHABASCA MINERALS INC., AMI SILICA INC.,  
AMI AGGREGATES INC., AMI ROCKCHAIN INC., TERRASHIFT  
ENGINEERING LTD., 2132561 ALBERTA LTD., and 2140534  
ALBERTA LTD.

APPLICANTS **JMAC ENERGY SERVICES INC.**

RESPONDENTS **ATHABASCA MINERALS INC., AMI SILICA INC., AMI  
AGGREGATES INC., AMI ROCKCHAIN INC., TERRASHIFT  
ENGINEERING LTD., 2132561 ALBERTA LTD., and 2140534  
ALBERTA LTD.**

DOCUMENT **APPLICATION**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT  
Field LLP  
400 – 444 – 7 Avenue SW  
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File No. 77794-5

**NOTICE TO THE RESPONDENTS**

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

You have the right to state your side of this matter before the master/judge.

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

Date: March 8, 2024  
Time: 10:00 a.m.– Commercial List (Via WebEx)  
Where: Edmonton Courts Centre, Edmonton, AB  
Before Whom: The Honourable Justice J. S. Little

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

**Remedy claimed or sought:**

1. The Applicant, JMAC Energy Services Inc. ("**JMAC**"), respectfully seeks an Order for the following relief:
  - (a) Abridging the time for service of this Application and the supporting materials, as necessary, and deeming service thereof to be good and sufficient.
  - (b) Setting aside or alternatively, stay the sale to Badger Mining Corporation ("**Badger**");
  - (c) Recognizing and giving effect to JMAC's ROFR in the event the United States Federal Court determines that Athabasca Minerals Inc. improperly failed to honour that right; and
  - (d) Lifting the Stay of proceedings against Athabasca imposed by S. 69(1) of the Bankruptcy and Insolvency Act, R.S.C. 1985, c B-3 and allowing JMAC to proceed with the action filed by JMAC in the United States District Court, District of North Dakota identified by Civil Action No. 1:24-cv-037; and
2. Such further and other relief as counsel may seek and this Honourable Court deem just.

**Grounds of the Application:**

3. JMAC's is a party to an Operating Agreement with respect to AMI Silica, LLC ("**AMIS**"), a US company jointly owned by JMAC and Athabasca Minerals Inc. Pursuant to the Operating Agreement, JMAC's enjoys the ROFR with respect to Athabasca's interest in AMIS. That ROFR applies in both a transfer or assignment of Athabasca's units in AMIS or a sale or assignment of shares of Athabasca as parent company of AMIS.
4. Pursuant to the Sales and Investment Solicitation Process ("**SISP**") and the Order granted December 12, 2023 approving the SISP, JMAC's position with respect to its ROFR was expressly preserved. At no time has JMAC waived its ROFR rights. In this process, Athabasca solicited and obtained an offer from Badger which it was prepared to accept at a value of \$13.1 million. This triggered JMAC's ROFR rights. However, JMAC was not provided an opportunity to accept a transaction of that amount. Rather, JMAC was required to participate in an auction process.

5. As a result of the foregoing, JMAC initiated proceedings in the United States Federal Court for a declaration and other relief with respect to JMAC's ROFR rights (the "**US Proceedings**"). The US Proceedings are ongoing.
6. The closing of the intended sale of Athabasca's shares to Badger will thwart the US Proceedings and render them nugatory. It will further nullify JMAC's ROFR rights which were expressly preserved by the Court.
7. JMAC is prepared to agree to interim relief which would see Athabasca's creditors able to establish their claims and potentially be paid by if the US Proceedings are not completed expeditiously.
8. Such further and other grounds as counsel may advise.

**Material or evidence to be relied on:**

9. Order granted December 12, 2023, by the Honourable Justice ACJ B. Nixon;
10. Affidavit of Todd Erickson sworn December 8, 2023;
11. Affidavit of Todd Erickson sworn February 29, 2024; and
12. Such further and other material as counsel may advise and this Honourable Court may permit.

**Applicable Rules:**

13. Such rules as counsel may advise.

**Applicable Acts and Regulations:**

14. *Bankruptcy and Insolvency Act*, R.S.A. 1985, C B-3 as amended;
15. *Business Corporations Act* (Alberta), RSA 2000, c B-9;
16. The inherent jurisdiction of this Honourable Court; and
17. Such further and other Acts and regulations as counsel may advise.

**Any irregularity complained of or objection relied on:**

18. N/A

**How the application is proposed to be heard or considered:**

19. Remotely in Commercial Chambers via Webex.

**WARNING**

If you do not come to Court either in person or by your lawyer, the Court may give the Applicant 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 the 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.