



File 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 AND 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

TWELFTH REPORT OF THE MONITOR, KPMG INC.

August 11, 2017

TABLE OF CONTENTS

INTRODUCTION AND PURPOSE OF THE MONITOR’S SPECIAL PURPOSE REPORT 1
REPORT RESTRICTIONS AND SCOPE LIMITATIONS 2
THE AUGUST 15 APPLICATION 3
THE UNRESOLVED RESTRUCTURING CLAIMS PROCESS..... 9
FUND DISTRIBUTION STATUS UPDATE..... 11
THE MONITOR’S OBSERVATIONS AND RECOMMENDATIONS 12

INDEX TO SCHEDULES

Schedule A Claims Process Amendment Order

INTRODUCTION AND PURPOSE OF THE MONITOR'S SPECIAL PURPOSE REPORT

1. This is the twelfth report of the Monitor (the "**Twelfth Report**") and has been prepared as a special purpose report to provide this Honourable Court with information regarding the following:
 - a) The Monitor's observations and recommendations in respect of the joint application of the United Mine Workers of America 1974 Pension Plan and Trust (the "**1974 Pension Plan**") and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, Local 1-424 (the "**USW**") which is returnable August 15, 2017 (the "**August 15 Application**") seeking an order from this Honourable Court directing the Monitor to make a distribution from the Walter Canada estate to only certain of Walter Canada's creditors (the "**Proposed Limited Distribution**"), among other things;
 - b) A description of the secondary claims process proposed by Walter Canada (the "**Unresolved Restructuring Claims Process**"), the primary purpose of which is to set a final claims bar date for any and all remaining potential Claims against Walter Canada that were not barred pursuant to the Claims Process Order pronounced by this Honourable Court on August 16, 2016 (the "**Claims Process Order**") so as to define the total possible universe of Claims against Walter Canada and thereby enable discussions and planning regarding a possible global distribution to all Claimants with Allowed Claims (as subsequently discussed);
 - c) An update on the status of the Fund Distribution; and
 - d) The Monitor's concluding observations and recommendations in respect of the aforementioned matters.
2. Terms not specifically defined herein shall have the meanings as defined in the Tenth Report of the Monitor dated May 24, 2017 (the "**Tenth Report**") or the Claims Process Order. For further information in respect of the history of these CCAA Proceedings, please refer to the Tenth Report as well as the Monitor's other Previous Reports, copies of which are available on the Monitor's Website at www.kpmg.com/ca/walterenergycanada.

REPORT RESTRICTIONS AND SCOPE LIMITATIONS

3. In preparing this report and making the comments herein, the Monitor has been provided with, and has relied upon, unaudited financial information, books and records and financial information prepared by Old Walter Canada, Walter Canada and/or certain of their respective affiliates, discussions with counsel for Walter Canada, and management and the CRO (collectively, “**Management**”) and information from other public third-party sources (collectively, the “**Information**”). The Monitor has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Monitor has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards pursuant to the *Chartered Professional Accountants Canada Handbook* and, accordingly, the Monitor expresses no opinion or other form of assurance in respect of the Information. Some of the information referred to in this report consists of forecasts and projections. An examination or review of the financial forecasts and projections, as outlined in the *Chartered Professional Accountants Canada Handbook*, has not been performed.
4. Future oriented financial information referred to in this report was prepared based on Management’s estimates and assumptions. Readers are cautioned that since projections are based upon assumptions about future events and conditions that are not ascertainable, the actual results will vary from the projections, even if the assumptions materialize, and the variations could be material.
5. The information contained in this report is not intended to be relied upon by any prospective purchaser or investor in any transaction with Walter Canada.
6. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars.

THE AUGUST 15 APPLICATION

The Proposed Limited Distribution

7. The 1974 Pension Plan and the USW are, pursuant to their August 15 Application, seeking an order from this Honourable Court authorizing and directing the Monitor to make the Proposed Limited Distribution, which would result in all Claimants with Allowed Claims as at the date of the August 15 Application (that being July 31, 2017) being paid in full the amount of their Allowed Claim, with the 1974 Pension Plan subordinating its Claim only to those Claimants if its Claim is ultimately determined to be an Allowed Claim. The Claim of the 1974 Pension Plan was declared invalid pursuant to the order of this Honourable Court pronounced on May 1, 2017 and such order is under appeal by the 1974 Pension Plan. The core challenge with the relief sought in the August 15 Application is that the 1974 Pension Plan is not prepared to subordinate its Claim, should it eventually become an Allowed Claim, to Claims that are currently unresolved or any future Restructuring Claims that may become Allowed Claims pursuant to the Claims Process Order thereby potentially resulting in unequal distribution to the unsecured creditors.
8. The following table shows the Allowed Claims as at July 31, 2017 which would be paid in full pursuant to the Proposed Limited Distribution, as well as those Claims which were still in dispute as at that date:

| Quantum and Status of Claims as at July 31, 2017 | | | |
|---|------------------------|--------------------|---------------|
| (CAD \$000) | | # of Claims | Amount |
| Allowed Claims | | | |
| Employee Claims (net of the Funds Distribution) | | 291 | 11,894 |
| Other Claims | | | |
| Restructuring Claims | | 2 | 84 |
| Pre-Commencement Claims | | 14 | 585 |
| Total Allowed Claims | | 307 | 12,563 |
| Unresolved Claims | | | |
| James, Kevin | Restructuring Claim | 1 | 6,747 |
| USW | Employee Claim | 1 | 285 |
| USW | Pre-Commencement Claim | 1 | 12 |
| Warrior Met Coal LLC | Pre-Commencement Claim | 1 | 9,892 |
| Mitsui Matsushima Co. Ltd. | Restructuring Claim | 1 | 439 |
| Pelly Construction Ltd. | Pre-Commencement Claim | 1 | 1,323 |
| Total Unresolved Claims | | 6 | 18,698 |
| Total Allowed and Unresolved Claims | | 313 | 31,261 |
| Additional Potential Claims | | | |
| First Nations Claims | TBD | TBD | TBD |
| Restructuring Claims | TBD | TBD | TBD |
| Total Potential Claims excluding 1974 Pension Plan Claim | | TBD | TBD |
| 1974 Pension Plan Claim | UMWA 1974 Pension Plan | 1 | 1,220,896 |

9. As shown in the table above, the Proposed Limited Distribution would see the 291 Employee Claimants as well as 16 other Claimants with Allowed Claims being paid in full for their Allowed Claims in the total amount of approximately \$12.6 million.
10. The table also shows that there are six disputed Claims in the aggregate amount of approximately \$18.7 million which were still unresolved as at July 31, 2017 (the “**Unresolved Claims**”), and remain so as at the date of this report. Pursuant to the terms of the Proposed Limited Distribution, the Claimants with Unresolved Claims would not have their Claims paid in full (to the extent that they may become Allowed Claims once they are resolved in accordance with the Claims Process Order) along with the Claimants with Allowed Claims as at July 31, 2017 and would instead risk being paid at a significantly lower rate later if the 1974 Pension Plan’s Claim is ultimately successful, as subsequently discussed in greater detail.

11. Included in those six Unresolved Claims is a Claim in the amount of approximately \$285,000 filed by the USW on behalf of the 288 Employee Claimants who were USW members and who have Allowed Claims. While these Employee Claimants' Allowed Claims would be paid in full, the unresolved portions of their Claims would presumably not be paid in full under the Proposed Limited Distribution as they were not Allowed Claims as at July 31, 2017.
12. The Tenth Report and the Eighth Report included details regarding the six Unresolved Claims and the status of those Claims is largely unchanged from the discussion in the Tenth Report except that (1) Mitsui Matsushima Co. Ltd. lodged a Notice of Dispute with the Monitor on May 30, 2017 in which it reduced its Claim amount from USD\$600,000 (CAD\$810,000) to USD\$325,000 (CAD\$438,750) and (2) the Monitor agreed on July 10, 2017 to extend the date by which Pelly Construction Ltd. (“**Pelly**”) must complete the camp demobilization process in order to prove its Claim in full, from July 31, 2017 to August 31, 2017, pursuant to a request made by Pelly's counsel.
13. The Monitor understands from Pelly that it expects to complete the asset removal process by mid-August 2017; if it does so, its Unresolved Claim in the amount of \$1.3 million will become an Allowed Claim. However, this portion of Pelly's total Claim of \$1.5 million would presumably not be paid in the Proposed Limited Distribution as it was not an Allowed Claim as at July 31, 2017.
14. In addition to the Claims which have been filed to date, there is also the potential that additional Restructuring Claims, including Directors/Officers Claims, may be filed given that a Claims Bar Date has not been established for all such potential Claims by either the Claims Process Order or further order of this Honourable Court. To date, a Claims Bar Date has been set and expired only for the filing of any Pre-Commencement Claims (including any Directors/Officers Claim in respect of a Pre-Commencement Claim), Employee Claims, Unaffected Claims and the 1974 Pension Plan Claim, and a Restructuring Claims Bar Date has been set and expired only for those Restructuring Claims of parties to agreements which Walter Canada has disclaimed or resiliated during the CCAA Proceedings.

15. As a result of the potential Claims that are currently unknown, Walter Canada is seeking this Honourable Court's approval of the Unresolved Restructuring Claims Process that will set a final Claims Bar Date so as to define the total possible universe of Claims against Walter Canada and thereby enable discussions and planning regarding a possible global distribution to all Claimants with Allowed Claims (as subsequently discussed).
16. The primary reason that the Unresolved Claims remain unresolved is the overwhelming effect that the 1974 Pension Plan's Claim would have on the *pro rata* distribution rate should it ultimately prove its claim in the amount of approximately \$1.2 billion (as filed). In the Seventh Report, the Monitor included a preliminary estimate of realizations for Walter Canada's creditors which showed a potential distribution rate of 5.8% (before certain professional fees and other costs) if the 1974 Pension Plan's Claim is included. Considering this potential low recovery rate, counsel for Mr. Kevin James requested during March 2017 that the Monitor consent to defer final adjudication of its \$6.7 million Unresolved Claim until such date as the 1974 Pension Plan's Claim is finally determined, as that fact, and the expected alternative distribution rates (approximately 6% or else possibly 100% if the 1974 Pension Plan's appeal and Claim are ultimately unsuccessful), would direct how much resources Mr. James would expend on proving his Claim. The Monitor consented to Mr. James' requested deferral and, for the same reasons of cost versus benefit of expending resources in Court to dispute each of the Unresolved Claims, notified the other Claimants with Unresolved Claims that the determination of their Claims would be deferred until the 1974 Pension Plan's Claim is finally determined.

The Monitor's Observations and Conclusions Regarding the Proposed Limited Distribution

17. As noted above, the Proposed Limited Distribution would result in the 307 Claimants with Allowed Claims as at July 31, 2017 receiving one hundred cents on the dollar of their Allowed Claims totaling \$12.6 million in aggregate, whereas the six Claimants with Unresolved Claims which total \$18.7 million (as filed, subject to being reduced through the claim dispute process) would not receive a distribution at this time and would instead face the prospect of potentially recovering only a few cents on the dollar for whatever portion, if any, of their Claims become Allowed Claims in the event that the 1974 Pension Plan's Claim ultimately becomes an Allowed Claim at \$1.2 billion. Under the Proposed

Limited Distribution, any additional Claimants who file Claims pursuant to the Unresolved Restructuring Claims Process and whose Claims subsequently become Allowed Claims would also not participate in the Proposed Limited Distribution (given that they did not have Allowed Claims as at July 31, 2017) and would therefore also recover only pennies on the dollar for their Allowed Claims if the 1974 Pension Plan's Claim ultimately becomes an Allowed Claim. Under this same scenario, the pool of funds which would be available for distribution to Claimants with currently Unresolved Claims and any additional Claimants who file Claims pursuant to the Unresolved Restructuring Claims Process and whose Claims become Allowed Claims would have been reduced by the approximately \$12.6 million of Allowed Claims which would have been paid in full pursuant to the Proposed Limited Distribution, resulting in those Claimants receiving a lower *pro rata* distribution rate than they would if the Proposed Limited Distribution is not authorized by this Honourable Court.

18. The Monitor is of the view that it would be unfair to exclude those Claimants with Unresolved Claims from the Proposed Limited Distribution solely for the reason that the resolution of their Claims has been deferred on account of the magnitude of the Claim of one of the two stakeholders making the August 15 Application which would see those Claims being treated differently from those of Claimants with Allowed Claims as at the somewhat arbitrarily selected date set out in the August 15 Application. The Monitor is further of the view that it would be unfair to exclude from the Proposed Limited Distribution those potential Claimants not yet subject to a claims bar date (and who, therefore, may still assert and prove a Restructuring Claim or Directors/Officers Claim during the Unresolved Restructuring Claims Process) only because they did not yet have an Allowed Claim by July 31, 2017. The Monitor believes that the Proposed Limited Distribution would be inconsistent with the spirit and intention of the *CCAA* because it could result in some Claimants receiving significantly different distribution rates than other Claimants, even though all such Claimants would likely be categorized in the same class for distribution purposes. The simple solution for an early distribution to the USW and current Allowed Claims, is that the 1974 Pension Plan agree to subordinate its disputed Claim to all Allowed Claims (regardless of when such determination is made) and all other amounts or payments that may be approved by this Honourable Court.

19. In addition, there is a risk of over-distribution to the holders of Allowed Claims as at July 31, 2017 under the Proposed Limited Distribution, even if the Claim of the 1974 Pension Plan is ultimately and finally disallowed, because of the current lack of certainty as to the total universe of potential Claims including the previously discussed Unresolved Claims and the possibility that certain First Nations, Métis organizations and other parties may file new Claims prior to such Claims being barred.
20. In conclusion, the Monitor opposes the August 15 Application on the basis that the Proposed Limited Distribution does not treat all of Walter Canada's unsecured creditors the same, instead inferring a preference for those Claimants with Allowed Claims as at July 31, 2017 while potentially penalizing those Claimants with Unresolved Claims or the holders of Restructuring Claims that have not yet been crystallized or barred.

Potential Filing of a Plan of Distribution

21. The Monitor, the CRO and Walter Canada recognize that the Employee Claimants have faced a higher level of hardship on account of the continuing delay in receiving a distribution from the Walter Canada estate than most, if not all, of Walter Canada's other creditors (notwithstanding the recent Fund Distribution, which generally yielded a relatively low recovery for the recipient Claimants) and, to that end, have engaged in discussions with counsel for the 1974 Pension Plan seeking to determine an alternate means to make a distribution from the estate as soon as reasonably possible.
22. One alternative which has been discussed and proposed to counsel for the 1974 Pension Plan would be for Walter Canada to file a Plan of Distribution shortly after the expiry of the final Unresolved Restructuring Claims Bar Date contemplated in the Unresolved Restructuring Claims Process. Such a Plan would provide for the equitable treatment of all of Walter Canada's Claimants, with the exception of the Claim in respect of the Deemed Interest Amount (as defined in the Proposal) due to its unique treatment pursuant to the terms of the Proposal, and would contemplate a distribution to all of those Claimants, with appropriate holdbacks to provide for Unresolved Claims or other disputed Claims (including any which may be filed pursuant to the Unresolved Restructuring Claims Process), as quickly as possible.

23. However, for this to happen prior to the final determination of the 1974 Pension Plan's Claim, the 1974 Pension Plan would have to agree to subordinate its Claim (should it ultimately become an Allowed Claim) not only to Claimants with Allowed Claims as at July 31, 2017 but to any and all Allowed Claims, including any which may be filed and adjudicated pursuant to the Unresolved Restructuring Claims Process.
24. The Monitor is of the view that, absent the 1974 Pension Plan's agreement to subordinate to all Allowed Claims and any other agreed amounts or amounts approved by this Honourable Court, no distributions can be made from the estate until the 1974 Pension Plan's Claim is finally determined, as otherwise the *pro rata* distribution rate if the 1974 Pension Plan Claim is allowed would be so low that an interim distribution could likely be no more than approximately two cents on the dollar, subject to first determining the total universe of potential Claims against Walter Canada.

THE UNRESOLVED RESTRUCTURING CLAIMS PROCESS

25. Walter Canada is seeking this Honourable Court's approval of an order (the "**Claims Process Amendment Order**", a copy of which is attached hereto as Schedule "A") amending the Claims Process as it was set out in the Claims Process Order (as amended by the CCAA Continuity and Vesting Order) setting out the terms of the Unresolved Restructuring Claims Process.
26. The primary purpose of the Unresolved Restructuring Claims Process is to identify any potential outstanding Restructuring Claims and Directors/Officers Claims in respect of Restructuring Claims that have not been filed with the Monitor to date in the Claims Process. Therefore, the Unresolved Restructuring Claims Process would bar participation by any Claimant with an Allowed Claim, a Claim that has been barred pursuant to the terms of the Claims Process Order or that is the subject of an unresolved Notice of Dispute.

27. The Claims Process identified Restructuring Claims as those Claims against Walter Canada arising out of the restructuring, disclaimer, resiliation, termination or breach on or after the Filing Date of certain types of contracts or agreements. In the Claims Process Order (as amended), the Restructuring Claims Bar Date was defined as the later of (i) the Claims Bar Date, and (ii) 5:00 p.m. (Vancouver Time) on the day that is 20 business days after the date of the applicable Notice of Disclaimer or Resiliation or such other date as may be ordered by this Honourable Court. There are certain agreements which Walter Canada has not disclaimed or resiliated as they were to be assumed by Conuma (pursuant to the Conuma APA). To the Monitor's knowledge, those agreements have not been assumed by Conuma as at the date of this report, and therefore the Restructuring Claims Bar Date has not been set for the filing of those potential Restructuring Claims. Accordingly, without a firm deadline to file Restructuring Claims, there remains a possibility that valid Claims may still be filed.
28. The Monitor and Walter Canada believe that the Claims Process captured the vast majority of Claims but the risk remains that certain Restructuring Claims could be asserted and certain groups, particularly certain First Nations and Métis organizations which had cooperation agreements with Walter Canada, Old Walter Canada or any of their predecessors, may still file Claims. Therefore, the Unresolved Restructuring Claims Process is intended to quantify such Claims by setting a final Unresolved Restructuring Claims Bar Date, after which date any potential Claimants would be barred from filing or asserting a Claim against Walter Canada, Old Walter Canada and any of their respective past or present directors and officers.
29. The Claims Process Amendment Order would impose an Unresolved Restructuring Claims Bar Date for all Restructuring Claims to bring finality to the Claims Process, and broadens the definition of Restructuring Claims to include any claims under any agreement with any member of Walter Canada, whether or not such agreement has been disclaimed. Certain of the other key terms of the Claims Process Amendment Order are as follows:
- a) An Unresolved Restructuring Claims Bar Date of October 6, 2017, giving potential Claimants 45 days to respond to the notice;

- b) Notice provisions including the requirement that the Monitor publish a newspaper notice, within ten business days following the date on which this Honourable Court approves a form of the Claims Process Amendment Order, for one business day in each of the Globe and Mail (National Edition), the Vancouver Sun, the Tumbler Ridge News and such other publications as the Monitor deems advisable as well as the posting of that notice on the Monitor's Website;
 - c) The Monitor is to send an instruction letter to all Persons that the Monitor or Walter Canada may determine is advisable, including those First Nations and Métis organizations that had entered into cooperation agreements with Old Walter Canada, and shall post the instruction letter and the Proof of Claim form on the Monitor's Website; and
 - d) All other provisions of the Claims Process Order shall continue to apply.
30. The Unresolved Restructuring Claims Process will provide the Monitor and Walter Canada with a clearer picture of the total universe of potential Claims, which will enable Walter Canada to develop a Plan of Distribution that would include all Claimants with Allowed Claims and those with Unresolved Claims, as well as all presently unknown Claimants.

FUND DISTRIBUTION STATUS UPDATE

31. As an update to discussion in the Tenth Report, the Monitor received the Determination Letter from Service Canada during the second week of July 2017 and, after making the necessary deductions of Employment Insurance benefit overpayments pursuant to the Determination Letter in the aggregate amount of \$140,712.13, mailed out the resulting net Fund Distribution cheques to 200 of the 207 Subject Employees on July 18, 2017.
32. The Monitor held back the Fund Distribution cheques in respect of the other seven Subject Employees as they each appear to have sold their Claim to CRG Financial LLC ("CRG"), according to documents which CRG provided to the Monitor. Pending completion of a review of the assignment documents by the Monitor's counsel, the Monitor will attend to finalizing the distribution.

THE MONITOR'S OBSERVATIONS AND RECOMMENDATIONS

33. In the Monitor's opinion, Walter Canada is continuing to act in good faith and with due diligence in furthering its restructuring efforts, including in respect of the Claims Process.
34. The Monitor supports the application of Walter Canada which would lead to establishing the total universe of potential Claims against Walter Canada with a view to being able to prepare and file a Plan of Distribution so that funds can be paid to Claimants as quickly as possible following a final determination of the 1974 Pension Plan Claim or, preferably, the 1974 Pension Plan agrees to subordinate its Claim (if it were to become an Allowed Claim) such that a distribution could potentially be made sometime before the end of this year.
35. The Monitor opposes the Proposed Limited Distribution as set out in the August 15 Application, principally on the basis that it does not treat all of Walter Canada's unsecured creditors in the same manner, in that it would see only those Claimants with Allowed Claims as at July 31, 2017 being paid the full amount of their Allowed Claims while any Claimants with Unresolved Claims or new Claimants who may file and prove Claims during the Unresolved Restructuring Claims Process would likely be paid only a few cents on the dollar of their Allowed Claim amount in the event that the 1974 Pension Plan Claim ultimately becomes an Allowed Claim.
36. Based on the foregoing discussion in this report, and in particular in respect of the Unresolved Restructuring Claims Process and the importance of setting a final claims bar date for the filing of any and all potential Restructuring Claims and Directors/Officers Claims so that the total universe of Claims against Walter Canada can be determined, the Monitor recommends to this Honourable Court that it approve the Claims Process Amendment Order.

All of which is respectfully submitted this 11th day of August, 2017.

**KPMG INC., in its sole capacity as
Monitor of New Walter Energy Canada Holdings, Inc. et al**



Per: Anthony Tillman
Senior Vice President

Schedule "A"

Claims Process Amendment Order

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 AND 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

**ORDER MADE AFTER APPLICATION
(CLAIMS PROCESS AMENDMENT ORDER - UNRESOLVED RESTRUCTURING CLAIMS)**

BEFORE THE HONOURABLE)
MADAM JUSTICE FITZPATRICK) TUESDAY, THE ____TH DAY OF
AUGUST, 2017)

THE APPLICATION of the Petitioners coming on for hearing at Vancouver, British Columbia, on August 15, 2017; AND ON HEARING Mary Paterson, counsel for the Petitioners, Peter Reardon, counsel for KPMG Inc. and those other counsel listed on Schedule "A" hereto; AND UPON READING the material filed, including the 14th Affidavit of William E. Aziz sworn August 9, 2017 and the 12th Report of the Monitor dated August 9, 2017;

THIS COURT ORDERS AND DECLARES THAT:

1. The Order of this Court pronounced August 16, 2016 styled "Claims Process Order" as amended by the Order of this Court pronounced December 21, 2016 styled "CCAA Continuity and Vesting Order" (as so amended, the "**Claims Process Order**") is hereby amended and supplemented as follows (the "**Unresolved Restructuring Claims Process**"):

- (a) All capitalized terms used in this Order but not defined herein have the meanings given to such terms in the Claims Process Order.
- (b) A Proof of Claim in connection with any Restructuring Claim and Director/Officer Claim that may be asserted or made in whole or in part against any member of the Walter Canada Group, any Petitioner and any of their respective past or present directors and officers that

Draft

has not become an Allowed Claim, has not been barred pursuant to the terms of the Claims Process Order or is not the subject of an unresolved Notice of Dispute (any such claim an **"Unresolved Restructuring Claim"**) shall be filed with the Monitor in the manner set out in paragraph 43 of the Claims Process Order on or before 5:00 p.m. (Vancouver Time) on October 6, 2017 (the **"Unresolved Restructuring Claims Bar Date"**).

- (c) For greater certainty, Unresolved Restructuring Claims include any claims under any agreement with any member of the Walter Canada Group or any Petitioner, whether or not such agreement has been disclaimed, including, for greater certainty, any cooperation agreement between any First Nation or Métis organization and any member of the Walter Canada Group, any Petitioner or any of their predecessors and includes any asset purchase agreement or similar transaction agreement entered into by any member of the Walter Canada Group or any Petitioner and approved by the Court in these CCAA Proceedings, but does not include any Pre-Commencement Claim, the UMWA 1974 Plan Claim, any Unaffected Claims or any Restructuring Claim that was required to be filed prior to the date hereof.
- (d) Forthwith after the entry of this Order, and in any event within ten (10) Business Days following the date of this Order, the Monitor shall cause a newspaper notice in the form attached hereto as Schedule "B" to be published for one (1) Business Day in the Globe and Mail (National Edition), the Vancouver Sun and the Tumbler Ridge News and such other publications as the Monitor deems advisable and the Monitor shall post the newspaper notice on its website for these CCAA Proceedings.
- (e) The Monitor shall send an instruction letter in the form attached hereto as Schedule "C" and a proof of claim in the form attached hereto as Schedule "D" (**"Proof of Claim"**) to all Persons that the Monitor or any of the Petitioners has reason to believe may have an Unresolved Restructuring Claim and to any other Person as the Monitor or the Petitioners may determine is advisable, which shall include those First Nations and Métis organizations that have entered into cooperation agreements with predecessors of any of the Petitioners, and the Monitor shall post the instruction letter and the Proof of Claim form on its website for these CCAA Proceedings.
- (f) All other provisions of the Claims Process Order shall continue to apply, *mutatis mutandis*, including the provisions regarding adjudication of Claims set out in paragraphs 34 to 40 of the Claims Process Order and the timelines provided for therein.
- (g) The Monitor shall continue to have the benefit of all powers and protections set out in the Claims Process Order, including those protections set out in paragraph 10 of the Claims

Draft

Process Order, and any activities carried out by the Monitor under this Order shall be and shall be deemed to be carrying out the provisions of the Claims Process Order.

NOTICE SUFFICIENT

2. The forms of newspaper notice, instruction letter and Proof of Claim attached to this as Schedules "B", "C" and "D", respectively, are hereby approved. Despite the foregoing, the Monitor, in consultation with the Petitioners, may, from time to time, make minor changes to such forms as the Monitor, in consultation with the Petitioners, may consider necessary or desirable and may make such changes to the key dates as are permitted pursuant to the terms hereof.

3. Publication of the newspaper notice and the mailing of the instruction letter and the Proof of Claim form in accordance with paragraph 1(e) of this Order shall constitute good and sufficient service and delivery of notice of the Claims Process Order, this Order and the Unresolved Restructuring Claims Bar Date on all Persons who may be entitled to receive notice and who may wish to assert a Claim, and no other notice or service need be given or made and no other document or material need be sent to or served upon any Person in respect of the Claims Process.

FILING OF UNRESOLVED RESTRUCTURING CLAIMS AND BARRING OF CLAIMS

4. Any Person who does not file a Proof of Claim as provided for in paragraph 1(b) hereof so that such Proof of Claim is received by the Monitor on or before the Unresolved Restructuring Claims Bar Date, or such later date as the Monitor, in consultation with the Petitioners, may agree in writing or the Court may otherwise direct, shall:

- (a) be and is hereby forever barred, estopped and enjoined from asserting or enforcing any Claim against any of the Walter Canada Group entities, any of the Petitioners and any of their respective past or present directors and officers and all such Claims shall forever be extinguished;
- (b) not be permitted to vote on any Plan on account of such Claim;
- (c) not be permitted to participate in any distribution under any Plan from the proceeds of any sale of the Walter Canada Group's or the Petitioners' assets or otherwise on account of such Claim(s); and
- (d) not be entitled to receive further notice in respect of the Claims Process, these CCAA Proceedings or any Meeting Dates.

GENERAL PROVISIONS

5. The Claims Process as amended by this Order, including the Unresolved Restructuring Claims Process and the Unresolved Restructuring Claims Bar Date, is hereby approved.

Draft

6. The Claims Process, including the Claims Bar Date, any Restructuring Claims Bar Date that has occurred in the Claims Process and all other matters as set out in the Claims Process Order, including the barring of any Pre-Commencement Claims, Employee Claims and Restructuring Claims as provided for therein remain in full force and effect, and no provision of this Order shall or shall be deemed to re-open the Claims Process in any manner whatsoever.

AMENDMENT TO INITIAL ORDER – BELCOURT SAXON MATTERS

7. Paragraph 20 of the Initial Order shall be of no force or effect from and after August 4, 2017.

APPROVAL

8. Endorsement of this Order by counsel appearing on this application is hereby dispensed with.

THIS COURT REQUESTS the aid, recognition and assistance of other Canadian and foreign Courts, tribunal, 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 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:

- (a) 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;
- (b) grant representative status to any of the Petitioners and the Monitor to act on behalf of any or all of the Petitioners in any foreign proceeding; and,
- (c) assist the Petitioners, the Monitor and the respective agents of each of the forgoing in carrying out the terms of this Order.

In addition, each of the Petitioners and the Monitor shall be at liberty, and is hereby authorized and empowered, to make such further applications, motions or proceedings to or before such other courts and judicial regulatory and administrative bodies, and take such other steps, in Canada, the United States of America or elsewhere, as may be necessary or advisable to give effect to this Order and any other Order granted by this Court.

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:

Lawyers for the Petitioners

Osler, Hoskin & Harcourt LLP
(Mary Paterson)

Draft

BY THE COURT

REGISTRAR

Draft

Schedule "B"

FORM OF NEWSPAPER NOTICE

NOTICE TO THE CREDITORS OF:

| | |
|-------------------------------------|--|
| WALTER ENERGY CANADA HOLDINGS, INC. | NEW WALTER ENERGY CANADA HOLDINGS, INC |
| WALTER CANADIAN COAL PARTNERSHIP | NEW WALTER CANADIAN COAL CORP |
| WOLVERINE COAL PARTNERSHIP | NEW WOLVERINE COAL CORP |
| BRULE COAL PARTNERSHIP | NEW BRULE COAL CORP |
| WILLOW CREEK COAL PARTNERSHIP | NEW WILLOW CREEK COAL CORP |
| PINE VALLEY COAL LTD. | |

and those other entities listed as Petitioners on Schedule "A" to the Initial Order (collectively, the "Walter Canada Group")

RE: NOTICE OF THE UNRESOLVED RESTRUCTURING CLAIMS PROCESS FOR THE WALTER CANADA GROUP PURSUANT TO THE *COMPANIES' CREDITORS ARRANGEMENT ACT* ("CCAA")

This notice is being published pursuant to an order of the Supreme Court of British Columbia dated ●, 2017 which approved a claims process for the determination of certain remaining restructuring claims against the Walter Canada Group or their respective past or present directors or officers (the "**Claims Process Amendment Order**"). Any capitalized terms used but not defined herein have the meanings ascribed to them in the Claims Process Amendment Order.

A copy of the Claims Process Amendment Order and other public information concerning the CCAA proceedings can be obtained on the website of KPMG Inc., the Court-appointed Monitor of the Walter Canada Group (the "**Monitor**") at <http://www.kpmg.com/ca/walterenergycanada>. Any person who may have an Unresolved Restructuring Claim against any member of the Walter Canada Group or any of their respective past or present directors or officers should carefully review and comply with the Claims Process Amendment Order.

The Unresolved Restructuring Claims Process only applies to Unresolved Restructuring Claims. Unresolved Restructuring Claims are claims arising as a result of a restructuring, disclaimer, resiliation, termination or breach by any member of the Walter Canada Group on or after the Commencement Date of any contract, employment agreement, lease or other agreement or arrangement of any nature whatsoever, whether written or oral, and includes any cooperation agreement with any member of or predecessor of any member the Walter Canada Group, and any claim against respective past or present director or officer of a member of the Walter Canada Group that has not become an Allowed Claim, is not been barred pursuant to the terms of the Claims Process Order or is not the subject of an unresolved Notice of Dispute.

Any person having an Unresolved Restructuring Claim against any member of the Walter Canada Group or any of their respective past or present directors or officers must send a Proof of Claim to the Monitor such that the Proof of Claim **is received by the Monitor by no later than 5:00 p.m. (Vancouver Time) on October 6, 2017** (the "**Restructuring Claims Bar Date**").

For the avoidance of doubt, any claim a Claimant may have against any of the Walter Canada Group entities or their respective past or present directors or officers must be filed in accordance with the procedures set forth in the Claims Process Amendment Order.

Claimants requiring more information or who have not received a Proof of Claim form or Claims Package should contact the Monitor by phone at ● or email at ● or visit the Monitor's website at <http://www.kpmg.com/ca/walterenergycanada>.

Draft

UNLESS EXPRESSLY PROVIDED IN THE CLAIMS PROCESS AMENDMENT ORDER, HOLDERS OF CLAIMS THAT DO NOT FILE PROOFS OF CLAIM WITH THE MONITOR BY OCTOBER 6, 2017 SHALL NOT BE ENTITLED TO ANY FURTHER NOTICE OR DISTRIBUTION UNDER A PLAN, IF ANY, OR OF ANY PROCEEDS OF SALE OF ANY OF THE WALTER CANADA GROUP'S ASSETS, OR TO PARTICIPATE AS A CLAIMANT IN THE CCAA PROCEEDINGS OF THE WALTER CANADA GROUP, AND SHALL BE PROHIBITED FROM MAKING OR ENFORCING ANY CLAIM AGAINST ANY MEMBER OF THE WALTER CANADA GROUP AND/OR ANY OF THEIR DIRECTORS AND/OR OFFICERS. ADDITIONALLY, ANY CLAIMS SUCH CLAIMANT MAY HAVE AGAINST ANY MEMBER OF THE WALTER CANADA GROUP AND/OR ANY OF THEIR DIRECTORS AND/OR OFFICERS SHALL BE FOREVER BARRED AND EXTINGUISHED.

Draft

Schedule "C"

FORM OF INSTRUCTION LETTER

INSTRUCTION LETTER
FOR FILING UNRESOLVED RESTRUCTURING CLAIMS IN RESPECT OF

| | |
|-------------------------------------|--|
| WALTER ENERGY CANADA HOLDINGS, INC. | NEW WALTER ENERGY CANADA HOLDINGS, INC |
| WALTER CANADIAN COAL PARTNERSHIP | NEW WALTER CANADIAN COAL CORP |
| WOLVERINE COAL PARTNERSHIP | NEW WOLVERINE COAL CORP |
| BRULE COAL PARTNERSHIP | NEW BRULE COAL CORP |
| WILLOW CREEK COAL PARTNERSHIP | NEW WILLOW CREEK COAL CORP |
| PINE VALLEY COAL LTD. | |

and those other entities listed as Petitioners on Schedule "A" to the Initial Order (collectively, the "Walter Canada Group")

1. **Claims Procedure**

By order of the Supreme Court of British Columbia (the "Court") dated ●, 2017 (as may be amended, restated or supplemented from time to time, (the "Claims Process Amendment Order"), in the proceeding commenced by Walter Energy Canada Holdings, Inc. and the other Petitioners listed on Schedule "A" to the Initial Order under the *Companies' Creditors Arrangement Act*, R.S.C. 1985 c. C-36, as amended (the "CCAA"), KPMG Inc., in its capacity as the Court-appointed Monitor of the Walter Canada Group (the "Monitor"), has been authorised to continue a claims process with respect to claims against the Walter Canada Group entities (the "Unresolved Restructuring Claims Process"). A copy of the Claims Process Amendment Order, with all schedules, may be found on the Monitor's Website at: <http://www.kpmg.com/ca/walterenergycanada>. Capitalised terms used in this letter which are not defined in this letter shall have the meaning ascribed to them in the Claims Process Amendment Order.

This letter provides instructions for completing the Proof of Claim. A blank Proof of Claim is included with this letter.

The Claims Process only applies to Unresolved Restructuring Claims. Unresolved Restructuring Claims are claims arising as a result of a restructuring, disclaimer, resiliation, termination or breach by any member of the Walter Canada Group on or after the Commencement Date of any contract, employment agreement, lease or other agreement or arrangement of any nature whatsoever, whether written or oral, [and includes any cooperation agreement with any member of or predecessor of any member the Walter Canada Group and includes any asset purchase agreement or similar transaction agreement entered into by any member of the Walter Canada Group or any Petitioner and approved by the Court in these CCAA Proceedings], and any claim against respective past or present director or officer of a member of the Walter Canada Group that has not become an Allowed Claim, is not been barred pursuant to the terms of the Claims Process Order or is not the subject of an unresolved Notice of Dispute.

If you have any questions regarding the Claims Process, please contact the Court-appointed Monitor at the address below.

All enquiries with respect of the Claims Process should be addressed to:

KPMG Inc.
Court-appointed Monitor of New Walter Energy Canada Holdings, Inc., *et al.*
777 Dunsmuir St
Vancouver, BC V7Y 1K4

Draft

Attention: Mike Clark
Email: maclark@kpmg.ca
Phone: 604-691-3468

For the avoidance of doubt, any Unresolved Restructuring Claim you may have against the members of the Walter Canada Group and their respective past or present directors or officers must be filed in accordance with the procedures set forth herein.

Additional Proof of Claim forms can be found on the Monitor's website at <http://www.kpmg.com/ca/walterenergycanada> or obtained by contacting the Monitor at the address indicated above and providing particulars as to your name, address, facsimile number and email address. Once the Monitor has this information, you will receive, as soon as practicable, additional Proof of Claim forms.

If you are submitting your Proof of Claim electronically, please submit it in PDF form and ensure that the name of the file is **[legal name of Claimant]poc.pdf**. If you submit your claim electronically and you do **not** receive an email confirming receipt of your Proof of Claim within one (1) business day of submitting the Proof of Claim, your Proof of Claim has **not** been successfully received by the Monitor and you should submit your Proof of Claim using an alternate method.

Any person having an Unresolved Restructuring Claim against any member of the Walter Canada Group or any of their respective past or present directors or officers must send a Proof of Claim to the Monitor such that the Proof of Claim **is received by the Monitor by no later than 5:00 p.m. (Vancouver Time) on October 6, 2017** (the "Restructuring Claims Bar Date")

IF A PROOF OF CLAIM IN RESPECT OF YOUR CLAIM IS NOT RECEIVED BY THE MONITOR BY OCTOBER 6, 2017:

- A. YOUR CLAIM SHALL BE FOREVER **BARRED AND EXTINGUISHED** AND YOU WILL BE PROHIBITED FROM MAKING OR ENFORCING ANY CLAIM AGAINST ANY MEMBER OF THE WALTER CANADA GROUP AND/OR ANY OF THEIR PAST OR PRESENT DIRECTORS OR OFFICERS;
- B. YOU SHALL NOT BE PERMITTED TO VOTE ON THE PLAN OR ENTITLED TO ANY FURTHER NOTICE OR DISTRIBUTION UNDER THE PLAN, IF ANY;
- C. YOU SHALL NOT BE ENTITLED TO ANY PROCEEDS OF SALE OF ANY MEMBER OF THE WALTER CANADA GROUP'S ASSETS; AND,
- D. YOU SHALL NOT BE ENTITLED TO PARTICIPATE AS A CLAIMANT IN THE CCAA PROCEEDINGS OF ANY MEMBER OF THE WALTER CANADA GROUP.

Draft

Schedule "D"

FORM OF PROOF OF CLAIM

PROOF OF CLAIM
FOR FILING UNRESOLVED RESTRUCTURING CLAIMS IN RESPECT OF

| | |
|-------------------------------------|--|
| WALTER ENERGY CANADA HOLDINGS, INC. | NEW WALTER ENERGY CANADA HOLDINGS, INC |
| WALTER CANADIAN COAL PARTNERSHIP | NEW WALTER CANADIAN COAL CORP |
| WOLVERINE COAL PARTNERSHIP | NEW WOLVERINE COAL CORP |
| BRULE COAL PARTNERSHIP | NEW BRULE COAL CORP |
| WILLOW CREEK COAL PARTNERSHIP | NEW WILLOW CREEK COAL CORP |
| PINE VALLEY COAL LTD. | |

and those other entities listed as Petitioners on Schedule "A" to the Initial Order (collectively, the "Walter Canada Group")

Please read the enclosed Instruction Letter carefully prior to completing this Proof of Claim. Defined terms not defined within this Proof of Claim form shall have the meaning ascribed thereto in the Claims Process Amendment Order dated ●, 2017, as may be amended, restated or supplemented from time to time.

1. Particulars of Claimant

- a. Please complete the following (Full legal name should be the name of the original Claimant, regardless of whether an assignment of a Claim, or a portion thereof, has occurred prior to or following the Commencement Date) and Full Mailing Address of the Claimant (the Original Claimant, not the Assignee.)

| | |
|-----------------------------|--|
| Full Legal Name: | |
| Full Mailing Address: | |
| Telephone Number: | |
| Facsimile Number: | |
| Email Address: | |
| Attention (Contact Person): | |

- b. Has the Claim been sold, transferred or assigned by the Claimant to another party (an Assignee")

Yes:

No:

2. Particulars of Assignee (if any)

Draft

Please complete the following if all or a portion of the Claim has been assigned, insert full legal name of assignee(s) of the Claim. If there is more than one assignee, please attach a separate sheet with the required information:

| | |
|-----------------------------------|--|
| Full Legal Name of Assignee: | |
| Full Mailing Address of Assignee: | |
| Telephone Number of Assignee: | |
| Facsimile Number of Assignee: | |
| Email Address of Assignee: | |
| Attention (Contact Person): | |

Proof of Claim

I, _____, (name of individual Claimant or Representative of corporate Claimant), of _____ (City, Province or State) do hereby certify: that I [___] am a Claimant; OR

that I [_____] am a Claimant; OR

[_____] am _____ (state position or title) of _____ (name of corporate Claimant) which is a Claimant;

that I have knowledge of all the circumstances connected with the Claim referred to below;

that _____ (name of applicable Walter Canada Group entity and/or directors and/or officers) was and still is indebted to the Claimant as follows:

UNRESOLVED RESTRUCTURING CLAIM

\$ _____ (insert value of Claim arising after the Commencement Date resulting from the restructuring, disclaimer, rescission, termination or breach after the Commencement Date of any contract, employment agreement, lease or other agreement or arrangement of any nature whatsoever, whether written or oral);

that the Claimant's Claim and the Claimant's invoices, statements and/or supporting documents attached are denominated in:

[_____] Canadian Dollars

[_____] U.S. Dollars

[_____] Other _____ (stipulate other currency referenced)

A. TOTAL CLAIM(S): \$ _____

Draft

Nature of Claim:

(Check and complete appropriate category)

[] A. UNSECURED CLAIM OF\$ _____. That in respect of this debt, no assets of any of the Walter Canada Group entities are pledged as security.

[] B. SECURED CLAIM OF\$ _____. That in respect of this debt, assets of _____ (*insert name of applicable Walter Canada Group entity*) valued at \$ _____ are pledged to me as security, particulars of which are as follows.

(Give full particulars of the security, including the date on which the security was given and the value at which you assess the security, and attach a copy of the security documents.)

Particulars of Claims:

Other than as already set out herein, the particulars of the undersigned's total Unresolved Restructuring Claim are attached.

(Provide all particulars of the claims and supporting documentation, including amount, description of transaction(s) or agreement(s) giving rise to the claims, name of any guarantor which has guaranteed the claims, and amount of invoices, particulars of all credits, discounts, etc. claimed, description of the security, if any, granted by the Walter Canada Group entities to the Claimant and estimated value of such security. Where a claim is advanced against any past or present directors or officers, please provide either a reference to a statutory authority for your claim or enclose a draft Notice of Civil Claim.)

Filing of Claims:

This Proof of Claim must be received by the Monitor by no later than 5:00 p.m. (Vancouver Time) on October 6, 2017 (the "Restructuring Claims Bar Date").

Failure to file your proof of claim as directed by the Restructuring Claims Bar Date will result in your claim being forever barred and extinguished and you will be prohibited from making or enforcing a claim against any of the Walter Canada Group entities and/or any of their respective past or present directors or officers.

Draft

KPMG Inc.
Court-appointed Monitor of New Walter Energy Canada Holdings, Inc., et al.
777 Dunsmuir St
Vancouver, BC V7Y 1K4

Attention: Mike Clark
Email: maclark@kpmg.ca
Phone: 604-691-3468

DATED this _____ day of _____, 2017.

Witness: _____

Per: _____

Print name of Claimant:

If Claimant is not an individual, print name and title of authorised signatory.

Draft

- 4 -

Name:

Title:

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 AND
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

ORDER MADE AFTER APPLICATION
(Claims Process Amendment Order)

OSLER HOSKIN & HARCOURT LLP
Barristers & Solicitors
1055 West Hastings Street
Suite 1700, The Guinness Tower
Vancouver, BC V6E 2E9

Tel. No. 416.862.4924
Fax No. 416.862.6666

Client Matter No. 1164807

Draft