



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

TWENTY-FOURTH REPORT OF THE MONITOR, KPMG INC.

November 14, 2019

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February 29, 2020

INTRODUCTION AND PURPOSE OF THE MONITOR'S REPORT

1. KPMG Inc. (“**KPMG**” or the “**Monitor**”) was appointed as Monitor pursuant to the order (the “**Initial Order**”) issued by this Honourable Court on December 7, 2015 in respect of the petition filed by Walter Energy Canada Holdings, Inc., Walter Canadian Coal ULC, Wolverine Coal ULC, Brule Coal ULC, Cambrian Energybuild Holdings ULC (“**Cambrian**”), Willow Creek Coal ULC, Pine Valley Coal Ltd. and 0541237 B.C. Ltd. (collectively, the “**Original Petitioners**”) under the *Companies’ Creditors Arrangement Act*, R.S.C 1985, c. C-36, as amended (the “**CCAA**”) granting, *inter alia*, a stay of proceedings (the “**Stay**”) until January 6, 2016. The proceedings brought by the Original Petitioners under the CCAA will be referred to herein as the “**CCAA Proceedings**”.
2. Pursuant to the Initial Order, the Stay and certain other relief was extended to certain of the Original Petitioners’ partnerships (collectively with the Original Petitioners, “**Old Walter Canada**”):
 - i) Walter Canadian Coal Partnership;
 - ii) Wolverine Coal Partnership;
 - iii) Brule Coal Partnership; and
 - iv) Willow Creek Coal Partnership.
3. On December 28, 2016, pursuant to orders of this Honourable Court which were granted on December 7, 2016 and December 21, 2016, as well as bankruptcy and proposal proceedings which were initiated by Old Walter Canada under the *Bankruptcy and Insolvency Act* during December 2016, the CCAA Proceedings in respect of all of the Old Walter Canada entities, except for Cambrian, were terminated and the CCAA Proceedings were continued with respect to Cambrian and the following new entities which were formed and became petitioners in the CCAA Proceedings on December 8, 2016 (the “**New Walter Entities**”) which, collectively with Cambrian, are referred to herein as “**Walter Canada**”):
 - i) New Walter Energy Canada Holdings, Inc.;
 - ii) New Walter Canadian Coal Corp.;
 - iii) New Brule Coal Corp.;

- iv) New Willow Creek Coal Corp.; and
 - v) New Wolverine Coal Corp. (“**New Wolverine**”).
4. The Monitor has issued twenty-three previous reports (and supplements to certain of those reports) since the Initial Order was granted, and those reports are referred to herein, collectively, as the “**Previous Reports**”. Terms not specifically defined herein shall have the meanings as defined in the Previous Reports or the Plan (as subsequently defined).
 5. The Monitor maintains a website at www.kpmg.com/ca/walterenergycanada on which copies of the Previous Reports (with the exception of those which are confidential pursuant to certain sealing orders granted by this Honourable Court) as well as additional information regarding these CCAA Proceedings can be found.
 6. On July 3, 2018, this Honourable Court granted an Order which sanctioned and approved Walter Canada’s Amended and Restated Plan of Compromise and Arrangement dated June 22, 2018 (the, “**Plan**”) pursuant to the provisions of the CCAA.
 7. The Monitor filed its Twenty-Third Report (the “**Twenty-Third Report**”) on August 8, 2019, in which the Monitor, among other things, provided information regarding the progress made in the adjudication of the Claim of Mr. Kevin James (the “**James Claim**”), distributions made pursuant to the Plan, the orderly wind up of Energybuild Holdings Limited (“**EBH**”), Energybuild Group Limited (“**EBG**”) and Energybuild Opencast Ltd. (collectively, the “**Remaining UK Entities**”), the results of the actual cash flow against forecast and presented an updated cash flow forecast.
 8. On August 13, 2019, this Honourable Court granted an Order which, among other things, extended the Stay to November 26, 2019.
 9. The purpose of this Twenty-Fourth Report of the Monitor is to provide this Honourable Court, and Walter Canada’s stakeholders, with information with respect to the following:
 - i) An update on a distribution made pursuant to the Plan and the timing of the distribution to the former employees of New Wolverine (the “**Employee Distribution**”);
 - ii) An update on the orderly wind up of the Remaining UK Entities;

- iii) Certain other matters, including the directors' and officers' "run-off" insurance (the "**D&O Insurance**");
- iv) Walter Canada's actual cash flow results for the 15-week period ended November 9, 2019, as compared to the forecast for the 18-week period ended November 30, 2019 (the "**Previous CCAA Cash Flow Forecast**"), which was filed separately as an amendment to the version included in the Twenty-Third Report;
- v) Walter Canada's updated cash flow forecast for the 16-week period ending February 29, 2020 (the "**Updated CCAA Cash Flow Forecast**"); and
- vi) The Monitor's observations and recommendations in respect of Walter Canada's motion returnable November 22, 2019 seeking an Order extending the Stay to February 28, 2020 (the "**Extended Stay Period**").

REPORT RESTRICTIONS AND SCOPE LIMITATIONS

10. 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**"). Except as described in this report in respect of the Previous CCAA Cash Flow Forecast and the Updated CCAA Cash Flow Forecast:
- i) 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; and
 - ii) 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.

11. 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.
12. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars.

DISTRIBUTIONS IN ACCORDANCE WITH THE PLAN

Distributions to Creditors since August 8, 2019

13. The Twenty-Second Report and Twenty-Third Report set out the distributions made pursuant to the Plan following implementation of the Plan on April 24, 2019. Since the date of the Twenty-Third Report, the Monitor has made one additional distribution pursuant to Section 2.2 of the Plan consisting of \$7.0 million to Warrior in respect of its Deemed Interest Claim.

Employee Distribution

14. As discussed in the Twenty-Third Report, Service Canada has been undertaking its review of Employment Insurance ("EI") overpayments since late April. This review is required to be completed prior to the Monitor being able to make distributions to former employees of New Wolverine pursuant to the Plan.
15. The Twenty-Third Report discussed certain concerns of counsel to the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, Local 1-424 (the "USW") regarding the timeframe limitations and the defined date of separation and the subsequent allocation of monies to the year 2014 (year of layoff) versus 2016 (year of termination) which had been raised with Service Canada. These concerns had previously been raised by the Monitor with Service Canada. Given the

concerns raised by counsel to the USW, the Service Canada review of EI overpayments had to be put on hold in order for Service Canada to seek guidance from the senior officers of Service Canada on the appropriate date of separation. As of the date of the Twenty-Third Report, the Monitor had been advised that the completion of the review of EI overpayments had been delayed pending a response from the senior officials of Service Canada and that a decision may not be forthcoming for several weeks.

16. The Monitor continued to follow-up with Service Canada regularly throughout August and September on the status of a decision in respect of the issues raised by counsel to the USW. At the end of September, the Monitor was informed by Service Canada that they had reached a decision concerning the allocation of monies to the year 2014 (year of layoff) versus 2016 (year of termination) and had agreed with counsel for USW and with the position previously raised by the Monitor that 2016 was the relevant year for the purposes of their calculation of EI overpayments. As a result of this decision, the EI overpayments must be recalculated by Service Canada, as the previous calculations were performed using 2014 as the year of separation. At that time, the Monitor was also advised that prior to the commencement of the review process for 2016, a plan would need to be developed and approved by the senior officers of Service Canada, which could take several additional weeks.
17. The Monitor continued to follow-up regularly with Service Canada throughout the month of October. At the end of October, the Monitor was informed by Service Canada that a plan had been approved by the senior officers and that the review process for 2016 had commenced. In the weeks that followed and up to the date of this report, the Monitor has taken on a more involved role assisting Service Canada, in an effort to expedite the review process. This has primarily consisted of the Monitor assisting Service Canada in their attempts to reach former employees with outdated contact information, as well as providing additional assistance on an as needed basis. As part of the ongoing communication with Service Canada, the Monitor has received frequent status updates regarding the progress of their review. Most recently, the Monitor has been advised that Service Canada is targeting to complete its review by December 2, 2019.
18. If Service Canada meets its current expected timeline, the Employee Distribution will be made during the Extended Stay Period and will be paid out of the Affected Creditors'

Distribution Cash Pool which will then be extinguished. If the distributions are not made prior to December 31, 2019, it is likely that a recalculation of the employee remittances made by the Monitor in April 2019 in order to implement the Plan will be required.

Remaining Distribution

19. Following the completion of the Employee Distribution, the distributions pursuant to the Plan will be substantially complete, with the only remaining distribution being to Warrior in respect of the Deemed Interest Claim Distribution Cash Pool (net of the interim distribution made to Warrior in August) which will be funded by any excess cash in the Administrative Costs Reserve, Insurance Reserve and the Wind-Down Reserve. As a result, subject to the timing of the Employee Distribution, it is expected that Walter Canada will bring a motion to terminate the proceedings before the expiry of the Extended Stay Period.

WIND-UP OF THE REMAINING UK ENTITIES

20. Further to the discussion in the Twenty-Third Report, Walter Canada and its advisors, with the assistance of the Monitor, have continued to work with a number of professionals in the UK (including tax, insolvency and legal advisors; collectively the “**UK Advisors**”) to implement the orderly wind-up of the Remaining UK Entities. Since the date of the Twenty-Third Report, the UK Advisors have completed the corporation tax returns for EBG and EBH for the pre-liquidation period from July 1, 2018 to June 5, 2019 (the date of the liquidation). As at the date of this report, the remaining substantive steps to be completed are as follows:
 - i) Receipt of confirmation from Her Majesty’s Revenue and Customs (“**HMRC**”) that EBG and EBH have been deregistered in respect of Value-added Tax (“**VAT**”);
 - ii) Receipt of formal tax clearance from HMRC’s Enforcement and Insolvency Team confirming that there are no outstanding liabilities in respect of VAT and Pay as You Earn; and
 - iii) Payment of surplus cash to Warrior in settlement of the debt owing to it from the Remaining UK Entities.

21. The above process is expected to be complete by the end of January 2020 but is dependent on the timing of the receipt of tax clearance from HMRC. Following the completion of the above there will be certain administrative formalities of the wind-up process and the dissolution of the Remaining UK Entities which will need to be completed.

OTHER MATTERS

22. Pursuant to the Section 5.3 of the Plan, the Monitor made a payment from the Insurance Reserve for the purchase of multi-year D&O Insurance following the negotiation and approval of the run-off policy by the CRO. The remaining balance of the Insurance Reserve will be transferred to the Deemed Interest Claim Distribution Cash Pool pursuant to Section 5.8 of the Plan.

ACTUAL RECEIPTS AND DISBURSEMENTS COMPARED TO FORECAST

23. Walter Canada's actual cash receipts and disbursements for the 15-week period ended November 9, 2019 (the "**Reporting Period**"), as compared with the Previous CCAA Cash Flow Forecast, are summarized in the table below:

Walter Canada Summary of Actual versus Forecast Cash Flow			
For the 15-Week Period from July 28, 2019 to November 9, 2019⁽¹⁾			
Prepared on a Consolidated Basis			
Unaudited (CAD \$000)	Actual	Forecast	Variance
Cash Inflow			
Other Receipts	83	86	(3)
Total Cash Inflow	83	86	(3)
Cash Outflow - Operating Disbursements			
Director's Fees	(45)	(44)	(1)
Insurance	(211)	(78)	(133)
Other	(1)	-	(1)
Total Cash Outflows - Operating Disbursements	(257)	(122)	(135)
Cash Outflow - Non-Operating Disbursements			
CRO and Restructuring Advisor Fees	(475)	(617)	142
Distribution to Warrior	(7,000)	(7,000)	-
Payment of Proven Claims	-	(9,702)	9,702
Total Cash Outflows - Non-Operating Disbursements	(7,475)	(17,319)	9,844
Net Cash Flow	(7,649)	(17,355)	9,706
Cash, beginning of period (July 28, 2019)	20,520	20,520	-
Effect of Foreign Exchange translation	-	-	-
Cash, end of period (November 9, 2019)	12,871	3,165	9,706
Notes:			
1. Readers are cautioned to read the "Report Restrictions and Scope Limitations" section of this report.			

24. During the Reporting Period, there was a \$9.7 million net favourable cash flow variance as a result of the following disbursements:
- i) An unfavorable variance of \$133,000 in insurance arose as a result of the procurement of and related payment for D&O Insurance which covers an extended period from November 26, 2019 to November 26, 2025. The Previous CCAA Cash Flow Forecast included an estimate for a one-year period;
 - ii) The \$142,000 favourable variance in CRO and Restructuring Advisor fees is a timing difference as certain professional fee invoices have yet to be received by the Monitor. As a result, this variance is expected to reverse in the subsequent period; and
 - iii) A favourable variance of \$9.7 million as a result of the delay in the Employee Distribution as discussed above.

UPDATED CCAA CASH FLOW FORECAST

25. The Updated CCAA Cash Flow Forecast has been prepared by Walter Canada, with the assistance of the Monitor, on a consolidated basis for the 16-week period ending February 29, 2020 (the "Updated Cash Flow Period") to cover the period through the requested extension of the Stay. A copy of the Updated CCAA Cash Flow Forecast is attached hereto as Schedule "A" and is summarized in the table below:

Walter Canada Summary of the Updated CCAA Cash Flow Forecast	
For the 16-Week Period from November 10, 2019 to February 29, 2020⁽¹⁾	
Prepared on a Consolidated Basis	
Unaudited (CAD \$000)	
Cash Inflow	
Other Receipts	40
Total Cash Inflow	40
Cash Outflow - Operating Disbursements	
Director's Fees	(33)
Total Cash Outflows - Operating Disbursements	(33)
Cash Outflow - Non-Operating Disbursements	
CRO and Restructuring Advisor Fees	(649)
Distribution to Warrior	(2,527)
Payment of Proven Claims	(9,702)
Total Cash Outflows - Non-Operating Disbursements	(12,878)
Net Cash Flow	(12,871)
Cash, beginning of period (November 10, 2019)	12,871
Cash, end of period (February 29, 2020)	-
Note 1: Readers are cautioned to read the "Report Restrictions and Scope Limitations" section of this report.	

26. Net cash outflows during the Updated Cash Flow Period are expected to total approximately \$12.9 million which Walter Canada will fund from its current cash resources on hand, and Walter Canada expects to have no remaining cash resources at the end of the Updated Cash Flow Period as it expects to terminate the CCAA Proceedings prior to the expiry of the Extended Stay Period.
27. The following is a summary of the components of the Updated CCAA Cash Flow Forecast:
- i) Other Receipts of \$40,000 consists of interest expected to be earned on Walter

Canada's cash holdings;

- ii) Director's fees totalling \$33,000 relate to three payments to Walter Canada's sole director and are due in advance on the first of each month;
- iii) Payments to Walter Canada's counsel, the Monitor and its counsel, and the CRO are expected to total \$649,000 during the Updated Cash Flow Period and are summarized as follows:
 - The catch up of certain invoices, including the fees of the Monitor from April to September 2019 of approximately \$180,000 and Walter Canada's counsel in respect of September 2019 fees of approximately \$20,000;
 - The services of Walter Canada's CRO throughout the Updated Cash Flow Period of approximately \$219,000; and
 - The remaining professional fees of approximately \$230,000 relating to the administration of the Employee Distribution and required reporting throughout the Updated Cash Flow Period of Walter Canada's counsel as well as the Monitor and its counsel. The forecast includes an expedited payment of certain fees incurred during the month of February under the assumption that the CCAA Proceedings are terminated at the end of the Extended Stay Period. In the event that the CCAA Proceedings are terminated sooner, the quantum and timing of certain payments may differ from forecast.
- iv) Payments of Proven Claims are expected to total approximately \$9.7 million, and will consist entirely of distributions to former employees of Walter Energy and the related payment to Service Canada, net of the EI, CPP and income tax remittances previously paid to the CRA on April 24, 2019; and
- v) Distributions to Warrior are expected to total approximately \$2.5 million in respect to its Deemed Interest Claim, which represents the payment of the remaining surplus funds pursuant to Section 5.8 of the Plan.

28. The Updated CCAA Cash Flow Forecast indicates that Walter Canada has the necessary liquidity to fund its expected cash requirements through the requested extension of the Stay.

THE MONITOR'S CONCLUDING OBSERVATIONS AND RECOMMENDATIONS

29. In the Monitor's opinion, Walter Canada is continuing to act in good faith and with due diligence in furthering its restructuring efforts, including performing the distributions pursuant to the Plan and winding-up the Remaining UK Entities.
30. Accordingly, the Monitor is of the view that it would be reasonable for this Honourable Court to grant Walter Canada's request for an Order extending the Stay to February 28, 2020 to allow the Monitor to deal with Service Canada and perform the Employee Distribution and allow Walter Canada to complete the liquidation of the Remaining UK Entities, and bring a motion to terminate these proceedings during the Extended Stay Period.

All of which is respectfully submitted this 14th day of November, 2019.

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



Per: Anamika Gadia
Senior Vice President



George Bourikas
Vice President

Schedule "A"

**Updated CCAA Cash Flow Forecast
for the 16-Week Period Ending February 29, 2020**

New Water Energy Canada Holdings, Inc. et al.

Updated CCAA Cash Flow Forecast for the 16-Week Period Ending February 29, 2020⁽¹⁾

Foreign Exchange Rate Assumptions: USD/CAD 1.30																	
Week No.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	16-Week Total
Week Ending	11/16/19	11/23/19	11/30/19	12/7/19	12/14/19	12/21/19	12/28/19	1/4/20	1/11/20	1/18/20	1/25/20	2/1/20	2/8/20	2/15/20	2/22/20	2/29/20	
OPERATING CASH FLOW																	
Operating Receipts	-	-	-	19	-	-	-	-	-	-	-	4	-	-	-	4	40
Other Receipts	-	-	-	19	-	-	-	-	-	-	-	4	-	-	-	4	40
Total Operating Receipts	-	-	-	19	-	-	-	-	-	-	-	4	-	-	-	4	40
Operating Disbursements	-	-	-	(11)	-	-	-	(11)	-	-	-	(11)	-	-	-	-	(33)
Director's Fees	-	-	-	(11)	-	-	-	(11)	-	-	-	(11)	-	-	-	-	(33)
Total Operating Disbursements	-	-	-	(11)	-	-	-	(11)	-	-	-	(11)	-	-	-	-	(33)
Non-Operating Disbursements	(200)	-	-	(108)	-	-	-	(138)	-	-	-	(128)	-	-	-	(75)	(649)
CRO and Restructuring Advisor Fees	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	(2,527)	(2,527)
Distribution to Warrior	-	-	-	-	-	(9,702)	-	-	-	-	-	-	-	-	-	-	(9,702)
Payment of Proven Claims	-	-	-	-	-	(9,702)	-	-	-	-	-	-	-	-	-	-	(9,702)
Total Non-Operating Disbursements	(200)	-	-	(108)	-	(9,702)	-	(138)	-	-	-	(128)	-	-	-	(2,602)	(12,878)
TOTAL NET CASH FLOW	(200)	-	-	(100)	-	(9,702)	-	(136)	-	-	-	(135)	-	-	-	(2,598)	(12,871)
BEGINNING CASH (FX Effected)	12,871	12,671	12,671	12,671	12,571	12,571	2,869	2,869	2,733	2,733	2,733	2,733	2,598	2,598	2,598	2,598	12,871
Net Cash Flow	(200)	-	-	(100)	-	(9,702)	-	(136)	-	-	-	(135)	-	-	-	(2,598)	(12,871)
ENDING CASH (FX Effected)	12,671	12,671	12,671	12,571	12,571	2,869	2,869	2,733	2,733	2,733	2,733	2,598	2,598	2,598	2,598	2,598	-

UNAUDITED CASH FLOW FORECAST PREPARED BY MANAGEMENT, MUST BE READ IN CONJUNCTION WITH THE NOTES AND ASSUMPTIONS

New Walter Energy Canada Holdings, Inc. et al (“Walter Canada”)

Notes to the Unaudited Updated CCAA Cash Flow Forecast for the 16-Week Period Ending February 29, 2020

Unless otherwise noted, the Updated CCAA Cash Flow Forecast is presented in Canadian Dollars using an exchange rate of US\$1.00/CDN\$1.30 for conversion of any U.S. Dollar amounts.

1. Purpose

The Updated CCAA Cash Flow Forecast has been prepared solely for the purpose of reflecting Management’s best estimate of the cash flow of Walter Canada during its CCAA proceedings, and readers are cautioned that it may not be appropriate for other purposes.

Receipts

2. Other Receipts

Amounts forecast include approximately \$40,000 of interest income which is expected to be earned on Walter Canada’s cash holdings.

Operating Disbursements

3. Director’s Fees

Fees include monthly compensation costs for Walter Canada’s sole director over the course of the forecast period.

Non-Operating Disbursements

4. CRO and Restructuring Advisor Fees

Forecast disbursements for professional fees specific to Walter Canada’s restructuring efforts, including the fees and disbursements of Walter Canada’s counsel, the Monitor and its counsel and the Chief Restructuring Officer. Anticipated activities in respect of these fees during the forecast period include further dealings with Service Canada and completing the Employee Distribution, supporting the liquidation of the Remaining UK Entities, and preparing for the termination of the Walter Canada CCAA proceedings.

5. Distribution to Warrior

Distributions to Warrior are expected to total approximately \$2.5 million in respect of its Deemed Interest Claim which consists of the payment of the remaining surplus funds of Walter Canada.

6. Payment of Proven Claims

Payment of Proven Claims are expected to total approximately \$9.7 million, consisting entirely of distributions to former employees of Walter Canada and Service Canada, net of

the Employment Insurance, Canada Pension Plan and income tax remittances paid to the CRA on April 24, 2019.