

This is the 1<sup>st</sup> Affidavit of  
William G. Harvey in this case and  
was made on December 4, 2015

NO.  
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 A PLAN OF COMPROMISE OR ARRANGEMENT OF  
WALTER ENERGY CANADA HOLDINGS, INC. AND THE OTHER  
PETITIONERS LISTED ON SCHEDULE "A"

PETITIONERS

**A F F I D A V I T**

I, **WILLIAM G. HARVEY**, Chartered Financial Analyst, of the City of Birmingham, in the State of Alabama, United States of America, MAKE OATH AND SAY AS FOLLOWS:

**I. INTRODUCTION**

1. I am the Executive Vice President and Chief Financial Officer of Walter Energy Canada Holdings, Inc. and the Chief Financial Officer and Executive Vice President of Walter Energy, Inc. and as such have personal knowledge of the facts hereinafter deposed to, except where such facts are stated to be based upon information and belief and where so stated I do verily believe the same to be true.

2. This affidavit is made in support of a petition by Walter Energy Canada Holdings, Inc. and its direct and indirect subsidiaries and affiliates listed on **Exhibit "A"** to this affidavit under the heading "Petitioners" (collectively, the "**Canadian Petitioners**") for relief under the *Companies' Creditors Arrangement Act*, 1985, c. C-36, as amended (the "**CCAA**") and for the extension of such relief to the partnerships listed on **Exhibit "A"** to this Affidavit under the heading "Partnerships" (such partnerships, collectively with the Canadian Petitioners the "**Walter Canada Group**").

3. I have spoken with certain officers, directors, employees and advisors of the Walter Canada Group and the U.S. Petitioners (defined below), and where I have relied on information from such

discussions, I believe such information to be true. All amounts are in Canadian dollars unless otherwise indicated.

4. This affidavit contains information under the following headings:

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II. OVERVIEW

5. The Walter Canada Group consists of producers and exporters of metallurgical coal for the global steel industry. The coal industry has experienced a significant and prolonged downturn. As a result, and as more fully described herein, the operations of the Walter Canada Group were idled, their mines were placed in care and maintenance and efforts were made to contain costs in hopes that the price of coal would rebound. In addition, efforts have been made to find an out-of-court resolution of the Walter Canada Group's financial difficulties. The Walter Canada Group has exhausted its efforts to reach an out-of-court solution to its financial difficulties and faces a looming liquidity crisis.

6. Walter Energy Canada is a wholly owned subsidiary of Walter Energy U.S. Walter Energy U.S. and a number of its U.S. subsidiaries filed voluntary petitions for relief pursuant to Chapter 11 of the U.S. Bankruptcy Code (the "**Chapter 11 Cases**") with the United States Bankruptcy Court in Birmingham, Alabama (the "**U.S. Court**") on July 15, 2015 (the "**U.S. Petition Date**"). As discussed in more detail below, developments in the Chapter 11 Cases have resulted in the approval of bid procedures and the approval of a stalking horse asset purchase agreement that will (if it is the successful bid) see the majority of the assets of Walter Energy U.S. and the assets of certain of its U.S. subsidiaries sold to a new company pursuant to a credit bid in favour of certain lenders to the Walter U.S. Group. The equity interests in the members of the Walter Canada Group and the assets held by the members of the Walter Canada Group are not part of the purchased assets under the credit bid. As a result of the developments in the Chapter 11 Cases and the looming liquidity crisis faced by the Walter Canada Group, it has become necessary for the Petitioners to seek relief pursuant to the CCAA for all of the members of the Walter Canada Group so that they can develop and implement an independent sales process to maximize value for their stakeholders in consultation with various governmental authorities.

7. The Walter Canada Group is facing the following challenges:

- (a) costs in excess of \$16 million per year associated with maintaining the Walter Canada Group's mining operations in an idled state, with limited offsetting revenue;
- (b) aggregate long-term liabilities in respect of the Canada Revolver (defined below) associated with undrawn letters of credit of approximately of \$22.6 million with associated annual fees and interest expenses;
- (c) claims of employees and other creditors that have or will crystallize in the near term if certain members of the Walter Canada Group do not recommence mining operations, including an employee claim estimated at approximately \$11.3 million that will allegedly become due if unionized employees at the Wolverine Mine do not return to work before April 2016;

- (d) due and accruing due B.C. mineral tax liabilities, including liabilities in respect of a payment plan entered into by Walter Energy Canada and the B.C. Ministry of Finance and potential additional liabilities relating to years that have not yet been assessed;
- (e) loss of the financial support normally provided by Walter Energy U.S. as a consequence of developments in the Chapter 11 Cases; and
- (f) pending loss of essential managerial and back office support that will occur upon the consummation of a sale of a significant portion of the assets of Walter Energy U.S. and certain of its U.S. subsidiaries.

8. The Walter Canada Group has a finite amount of liquidity available to address the foregoing challenges and, as discussed in more detail below, limited access to further sources of funding in the near term. These challenges, when combined with the projected liquidity shortfall and the current market environment for metallurgical coal and steel, make it necessary for the Walter Canada Group to take immediate steps to attempt to stabilize their affairs and seek a going concern outcome in consultation with the applicable governmental authorities while the members of the Walter Canada Group still have sufficient resources available. If a going concern solution cannot be found, the Walter Canada Group will need to implement a prudent and responsible wind down of its remaining operations.

9. I made a declaration dated July 15, 2015 in support of the first day motions in the Chapter 11 Cases, which is attached as **Exhibit "B"** to this affidavit (my "**First Day Declaration**"). My First Day Declaration provides a comprehensive overview of the Walter Group's background, its business and the events leading up to the commencement of the Chapter 11 Cases. In this affidavit, I provide a high-level overview of the Walter Group's background and relevant details regarding the Chapter 11 Cases, focusing on the operations of the Walter Canada Group.

**(A) Defined Terms**

10. This affidavit will use the following defined terms, which are consistent with my First Day Declaration. For the sake of clarity, if a defined term uses the word "**Energy**", it is a discrete corporate entity. If a defined term uses the word "**Group**", it represents a collection of corporate entities:

- (a) "**Walter Energy U.S.**" is Walter Energy, Inc., a company incorporated under the laws of Delaware and headquartered in Birmingham, Alabama, and the parent company of all the other members of the Walter Group. Walter Energy U.S. directly or indirectly has an interest in all of the members of the Walter Group.
- (b) "**Walter Group**" includes all companies, partnerships or other corporate structures directly or indirectly affiliated with Walter Energy U.S.

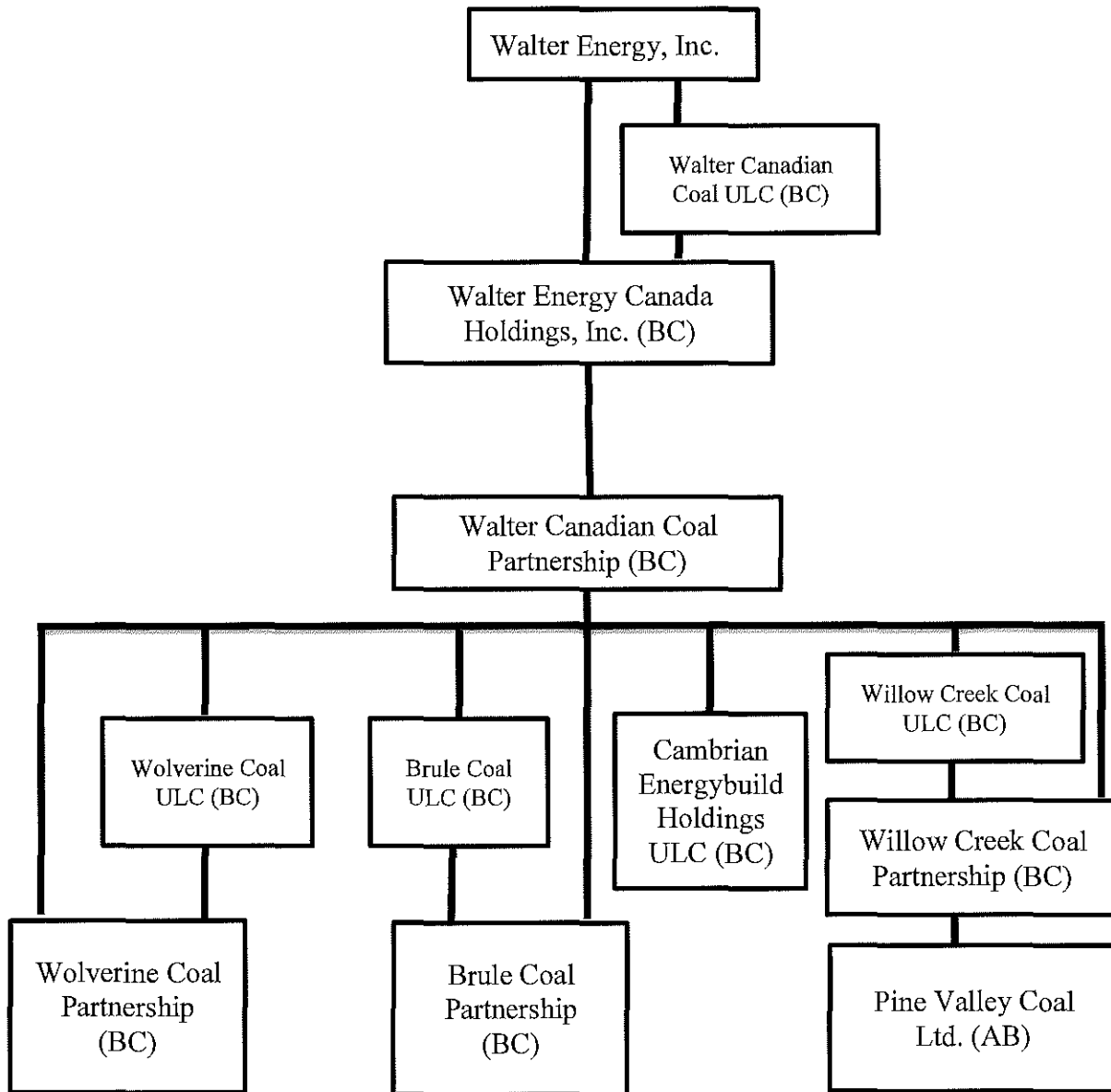
- (c) **“Walter U.S. Group”** and **“Walter Non-U.S. Group”**: The Walter Group operates its business in two distinct segments: (i) U.S. Operations (the **“Walter U.S. Group”**), and (ii) Canadian and U.K. Operations (the **“Walter Non-U.S. Group”**). As discussed in more detail below, Walter Energy U.S., a public company, reports its financial results by segment and does not provide financial reporting for the Walter Canada Group or the Walter U.K. Group independently.
- (d) **“Walter Canada Group”** and **“Walter U.K. Group”**: The Walter Non-U.S. Group can be further broken down into Canadian and U.K. operations (the **“Walter Canada Group”** and **“Walter U.K. Group”**, respectively). The Walter Canada Group consists of all the entities listed in Exhibit “A”, including under the headings “Petitioners” and “Partnerships”. The members of the Walter U.K. Group are indirect subsidiaries of Walter Energy Canada.
- (e) **“Walter Energy Canada”** is Walter Energy Canada Holdings, Inc., a company incorporated under the laws of B.C. Walter Energy Canada is the parent company for the Walter Non-U.S. Group. Walter Energy Canada is wholly owned by Walter Energy U.S.
- (f) **“U.S. Petitioners”** includes substantially all members of the Walter U.S. Group. Attached hereto as **Exhibit “C”** is a list of the members of the Walter U.S. Group that filed for and were granted Chapter 11 protection.

**(B) The Walter Canada Group**

11. Walter Energy Canada is a holding company and the general partner of Walter Canadian Coal Partnership. It was incorporated on March 9, 2011. All of the issued and outstanding shares of Walter Energy Canada are held by Walter Energy U.S. Walter Energy U.S. formerly traded on the NYSE under the symbol “WLT”, but was delisted due to failure to meet certain continued listing conditions.

12. The principal operating entity of the Walter Canada Group is Walter Canadian Coal Partnership, a B.C. general partnership. Its partners are Walter Energy Canada and Walter Canadian Coal ULC, a B.C. unlimited liability company formed on June 28, 2012. All of the issued and outstanding shares of Walter Canadian Coal ULC are held by Walter Energy Canada.

13. The principal assets of the Walter Canada Group are the Brule, Willow Creek and Wolverine Mines, located in northeast B.C., and the Walter Energy Canada Group’s 50% interest in the Belcourt Saxon Coal Limited Partnership. As the organizational chart attached hereto as **Exhibit “D”** indicates, Walter Canadian Coal Partnership is a partner of each of the three B.C. partnerships that operate the Canadian mines: Wolverine Coal Partnership, Brule Coal Partnership and Willow Creek Coal Partnership. Each of the partnerships has a separate B.C. unlimited liability company as its other partner. The mines will be discussed in more detail below. The following is a simplified version of the organizational chart at Exhibit “D”:



15. British Columbia is the Walter Canada Group's chief place of business.

**(C) The Walter U.K. Group**

16. The Walter Group also has U.K. assets, which are held through a B.C. unlimited liability corporation, Cambrian Energybuild Holdings ULC ("Energybuild ULC"). The Walter U.K. Group's operations consist of an underground development mine located in South Wales that produces anthracite coal.

17. Energybuild ULC is wholly owned by Walter Canadian Coal Partnership, and is a holding company that holds shares of a U.K. holding company that, in turn, owns shares of the U.K. companies that operate the mine in South Wales and perform other related activities.

18. The Walter U.K. Group's primary activity has been the development and expansion of the Aberpergym underground coal mine located at Glynneath in the Neath Valley. In the fall of 2011, the Walter U.K. Group stopped continuous mine development operations to focus on completing a new drift opening. The Walter U.K. Group completed the upper section of the drift during 2012, but due to challenges related to an oversupply of coal and decreased demand, the Walter U.K. Group took steps to reduce development spending in this U.K. mine until market conditions improve. This has slowed the development of the drift opening.

19. The Walter U.K. Group idled the U.K. mines in 2015 to further manage its liquidity. Towards that end, on or about June 5, 2015, the Walter U.K. Group commenced a 30-day consultation period with the National Union of Mineworkers South Wales in connection with the Walter U.K. Group's plans to idle the U.K. mines. On or about July 4, 2015, the majority of the Walter U.K. Group's employees were rendered redundant, and the mines now retain only those employees necessary to keep the premises in safe, idling condition. Before July 4, 2015, the Walter U.K. Group employed approximately 70 full-time employees, including management and personnel engaged in underground mining activities. Approximately 10 employees were retained to sell remaining coal inventory and to manage security and environmental matters. Development of the U.K. mine can begin relatively quickly if market conditions improve.

20. Prior to the commencement of the Chapter 11 Cases, the Walter U.K. Group generally funded its operations through sales of coal and intercompany loans received from Walter Energy U.S. The Walter U.K. Group owes approximately £4 million to the Walter U.S. Group in respect of borrowings made between April 2011 and March 2015. In June 2015, the Walter Canada Group advanced an additional US\$3 million to the Walter U.K. Group to address its funding needs. It is anticipated that the Walter U.K. Group will not need any additional funding in 2015 and is projected to have sufficient funding to operate in its current idled state until the end of the third quarter of 2016.

21. At this time, it is not anticipated that the members of the Walter U.K. Group will be petitioners in these CCAA proceedings. The members of the Walter U.K. Group are not debtors in the Chapter 11 Cases.

**(D) The Walter U.S. Group**

22. As discussed in more detail in my First Day Declaration, the Walter U.S. Group has operations in Alabama and West Virginia. As of the U.S. Petition Date, the U.S. Petitioners had the following obligations (excluding accrued and unpaid interest):

Facility	Outstanding Indebtedness
2011 Credit Agreement	Term B Loan: \$978.2 million US Revolver: \$ 76.9 million <sup>1</sup>
9.50% Senior Secured First Lien Notes due October 15, 2019 (" <b>First Lien Notes</b> ")	US\$970.0 million
11.0% / 12% Senior Secured Second Lien PIK Toggle Notes due 2020	US\$360.5 million
9.875% Senior Notes due 2020	US\$388.0 million
8.50% Senior Notes due 2021	US\$383.0 million
<b>Total Funded Debt:</b>	<b>US\$3.146 billion</b>

23. The Walter U.S. Group has also guaranteed the US\$150 million multi-currency revolving credit facility available to Walter Energy Canada under the 2011 Credit Agreement (the "**Canadian Revolver**"). No amounts are drawn on the Canadian Revolver, but the Walter U.S. Group has guaranteed Walter Energy Canada's obligations in respect of approximately \$22.6 million of undrawn letters of credit issued under the 2011 Credit Agreement that are discussed in more detail below.

24. The Walter Canada Group does not have any obligations in respect of the US\$3.146 billion of outstanding indebtedness described above. The Walter Canada Group only has limited obligations in relation to certain letters of credit issued for the benefit of the Walter Canada Group under the 2011 Credit Agreement. These obligations are described in more detail below.

25. Prior to the commencement of the Chapter 11 Cases, the Walter Group engaged in extensive negotiations with a committee of lenders under the 2011 Credit Agreement and holders of the First Lien Notes (the "**Steering Committee**") and their advisors to address the challenges faced by the Walter Group, including those faced by the Walter Canada Group. As a result, the U.S. Petitioners entered into a Restructuring Support Agreement ("**RSA**") with the Steering Committee. The RSA contemplated a consensual debt-to-equity conversion of Walter Energy U.S.'s prepetition first lien secured debt for substantially all of the reorganized Walter Group's common stock. As a result of developments in the Chapter 11 Cases, however, the RSA was terminated.

<sup>1</sup> The US Revolver is undrawn but a number of outstanding letters of credit have been issued.



26. The Steering Committee and the U.S. Petitioners then engaged in further negotiations which resulted in the granting of the amended final order (A) authorizing postpetition use of cash collateral, (B) granting adequate protection to the prepetition secured parties and (C) granting related relief in the Chapter 11 Cases on September 28, 2015 (the "**Cash Collateral Order**"). A copy of the Cash Collateral Order is attached as **Exhibit "E"** to this affidavit. The Cash Collateral Order required the U.S. Petitioners to commence a sales process for certain assets held by the U.S. Petitioners and has certain more direct consequences for the Walter Canada Group, discussed below.

27. In accordance with the Cash Collateral Order, the U.S. Petitioners have begun to implement a sales process in the Chapter 11 Cases. On November 5, 2015 Walter Energy U.S. announced that it had entered into a stalking horse asset purchase agreement (the "**U.S. APA**") with a newly formed entity capitalized and owned by the First Lien Lenders ("**Coal Acquisition LLC**"), pursuant to which Coal Acquisition LLC became the stalking horse bidder in a bid to acquire substantially all of the Walter U.S. Group's Alabama assets. On November 25, 2015, the U.S. APA and related bid procedures were approved by the U.S. Court.

28. Pursuant to the bid procedures, a court-supervised auction process under section 363 of the U.S. Bankruptcy Code is scheduled to be held on January 5, 2016. Accordingly, the U.S. APA is subject to higher or otherwise better offers, among other conditions. If the U.S. APA is the successful bid pursuant to the sales process, it is anticipated that the transaction will close in mid to late February.

29. The APA does not include all the assets held by the Walter U.S. Group, such as the shares of Walter Energy Canada, nor does it include the assets held by members of the Walter Non-U.S. Group. PJT Partners Inc. has been canvassing the market in an attempt to find a purchaser for the assets of the Walter Canada Group. Following discussions with applicable government authorities, the Walter Canada Group anticipates that it will seek this Court's approval for further marketing efforts to be undertaken for the assets of the Walter Canada Group in these CCAA proceedings.

30. Once the sale contemplated by the U.S. APA is complete, the Walter U.S. Group will no longer be in a position to support the Walter Non-U.S. Group financially and it will no longer provide essential management services, unless other arrangements are made. These essential management services include accounting, procurement, environmental management, tax support, treasury functions, and legal advice. Currently, the Walter Canada Group pays approximately \$1 million per month to the Walter U.S. Group for these essential management services, based on a historical overhead allocation methodology. Negotiations among the Walter Canada Group and the Walter U.S. Group are underway to address the provision of these services and the pricing of such services until the consummation of the transaction contemplated by the U.S. APA (assuming the U.S. APA is the successful bid).

**(E) The Western Acquisition**

31. On April 1, 2011, Walter Energy U.S. acquired Western Coal Corp. ("**Western**") and its subsidiaries. Walter Energy Canada was formed for the purpose of acquiring Western. Walter Energy Canada acquired all outstanding common shares of Western for US\$3.3 billion<sup>2</sup> under an arrangement agreement approved by the B.C. Supreme Court pursuant to the B.C. *Business Corporations Act* (the "**Western Acquisition**"). Certain transactions in connection with the Western Acquisition, including share purchases, were completed and consideration was paid prior to April 2011. If these transactions are included, the total consideration paid in respect of the Western Acquisition was approximately US\$3.7 billion. Before 2011, the Walter Group did not have any operations in Canada or the U.K. When the Western Acquisition closed, Walter Energy Canada acquired all direct and indirect subsidiaries of Western and their assets, including mines and mineral reserves in Canada, West Virginia and the U.K.

32. Concurrently, and in connection with entering into the arrangement agreement with Western, Walter Energy U.S., Western and Walter Energy Canada entered into a credit facility with Morgan Stanley Senior Funding, Inc., the Bank of Nova Scotia ("**BNS**") and the other lenders thereunder (the "**Bank Lenders**") pursuant to which, subject to the conditions set forth therein, the Bank Lenders committed to providing Walter Energy U.S. (the "**U.S. Borrower**"), Western and Walter Energy Canada (the "**Canadian Borrowers**" and, collectively with the U.S. Borrower, the "**Borrowers**") with US\$2.725 billion of senior secured credit facilities, the proceeds of which were used to (i) fund the cash consideration for the Western Acquisition, (ii) pay certain fees and expenses in connection with the Western Acquisition, (iii) refinance all existing indebtedness of Walter Energy U.S. and Western and their respective subsidiaries, and (iv) provide ongoing working capital to Walter Energy U.S. and its subsidiaries (the "**2011 Credit Agreement**"). Due to its size, the 2011 Credit Agreement and the subsequent amendments are not attached to this Affidavit, but will be made available upon request.

33. As discussed in more detail below in the section titled "The Financial Position of the Walter Group", the Canadian Borrowers only have limited obligations in respect of the 2011 Credit Agreement. As discussed below, the majority of the funding Walter Energy Canada paid for the Western Acquisition was obtained under a hybrid debt transaction.

34. The Western Acquisition closed on April 1, 2011 with the following final consideration:

- (a) payment of US\$2,107,018,736.90, representing 67% of the total consideration for the transaction; and
- (b) 8,951,558 shares of Walter Energy U.S., valued at approximately US\$1,224,125,538, representing 33% of the total consideration for the transaction.

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<sup>2</sup> At the time of the Western Acquisition, the Canadian and U.S. dollars were trading near parity.

35. The Western Acquisition was a strategic initiative by Walter Energy U.S. to increase reserves available for future production and create a diverse geographical footprint with strategic access to high-growth steel-producing countries in both the Atlantic and Pacific basins.

36. After the completion of the Western Acquisition, the Walter Group engaged in a series of internal restructurings to rationalize operations and to organize the Walter Group into geographical business segments, the Walter U.S. Group, the Walter Canada Group and the Walter U.K. Group.

### **III. THE WALTER GROUP'S BUSINESS – THE COAL INDUSTRY**

37. The Walter Group is a leading producer and exporter of metallurgical coal for the global steel industry, with mines, mineral reserves and operations in the U.S., Canada and the U.K. There are three types of metallurgical coal: (i) hard coking coal, (ii) semi-soft coking coal, and (iii) pulverized coal injection ("PCI") coal. The Walter Canada Group's mines produce hard coking coal and PCI coal.

38. In recent years, the global market for metallurgical coal has sharply contracted. Metallurgical coal markets are influenced by the level of crude steel production, which in turn depends on global economic conditions. Recessionary forces in the global economy reduced global demand for metallurgical coal and resulted in a precipitous decline in its price.

39. The *British Columbia Coal Industry Overviews* for the years 2011 to 2014 (attached hereto as **Exhibit "F"**) explain that, following a historic peak in 2011, prices of hard coking and PCI coal decreased as global inventories increased. The sharp decrease in price from 2011 to 2014 is demonstrated by the table below:

	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
BC premium hard coking coal	US\$220 per tonne	US\$175 per tonne	US\$155 per tonne	US\$121 per tonne
PCI coal	US\$144 -180 per tonne	US\$144 -180 per tonne	US\$125 - \$144 per tonne	US\$107 per tonne

(All prices estimated West Coast Port Price.)

40. The benchmark price metallurgical coal has dropped dramatically from US\$330 per tonne in the second quarter of 2011 to US\$89 per tonne in the fourth quarter of 2015.

41. According to Wood Mackenzie's *Global Metallurgical Coal Short-term Outlook* released in September 2015, attached as **Exhibit "G"** to this affidavit, metallurgical coal prices are expected to remain depressed throughout 2015, with a modest recovery expected in early 2016.

42. At current prices, even with the modest recovery Wood Mackenzie predicts in early 2016, the Walter Canada Group anticipates that metallurgical coal production will remain uneconomic for the immediately foreseeable future.

43. Over the last two years, the high cost of coal extraction in northeastern B.C., combined with low metallurgical coal prices and the near-term market outlook caused the Walter Group, including the Walter Canada Group, to focus on containing costs to preserve enterprise value and mitigate the impact of poor market conditions. This strategy included planned reductions in capital spending.

44. In B.C., reductions in capital spending have been achieved by way of idling mines or otherwise curtailing operations. Mining operations at the Walter Canada Group's three mines (Brule, Willow Creek and Wolverine) were curtailed or idled between April 2013 and June 2014 and placed in care and maintenance, all in an effort to reduce costs and minimize losses while the metallurgical coal market remained depressed. Steps have been taken to ensure that the mines can return to production quickly if market conditions warrant. Copies of the press releases announcing the idling of the mines are attached as **Exhibit "H"** to this Affidavit.

45. Idling of the mines has resulted in significant savings for the Walter Non-U.S. Group. Walter Energy U.S. reported a Walter Non-U.S. Group operating loss of US\$183.2 million for the year ended December 31, 2014. For the three months ended September 30, 2015, Walter Energy U.S. reported a Walter Non-U.S. Group operating loss of US\$2.974 billion. The operating results for the Walter Non-U.S. Group for the nine months ended September 30, 2015 include asset impairment charges of US\$2.9 billion to write-down the carrying values of the Canadian and U.K. operations segment to fair value. In the absence of this write-down, the operating loss would have been approximately US\$74 million, a significant improvement over the 2014 year that resulted from the idling of the Canadian and U.K. mining operations.

46. The suspension of mining operations was intended to be temporary, and the Walter Canada Group intended to resume operations once existing inventories had been depleted and metallurgical coal prices had recovered. However, the idling of the mines has been prolonged because metallurgical coal prices continue to worsen and there is significant global overcapacity. The Walter Canada Group continues to monitor developments such as the weakening Canadian dollar and declining diesel fuel prices to assess whether and when to resume mining operations. However, these developments are not sufficient at present to warrant a restarting of the Canadian mines. Given the recent developments in the Chapter 11 Cases, the Walter Canada Group does not have sufficient resources to wait and see whether the market for Canadian coal will improve.

47. To successfully restructure, the Walter Canada Group needs to survive the prolonged depressed coal prices with sufficient capital to restart operations. The most viable restructuring option available to the Walter Canada Group at the time of this Affidavit is a sale of the assets pursuant to the CCAA.

#### **IV. THE WALTER CANADA GROUP – MANAGEMENT AND MINES**

48. The Walter Group's financial statements report the Walter Non-U.S. Group on a consolidated basis; however, the Walter Canada Group and the Walter U.K. Group are operated separately and there is little overlap between the two corporate groups, other than the fact that the President of Walter Energy Canada is also the President of Energybuild Group Limited, the parent company of all of the U.K. members of the Walter Group.

49. The Canadian mining operations consist of three surface metallurgical coal mines in Northeast B.C.'s coalfields: (i) the Brule Mine, (ii) the Willow Creek Mine, and (iii) the Wolverine Mine, sometimes referred to as the Perry Creek Mine. The Brule and Willow Creek Mines are near Chetwynd, B.C.; the Wolverine Mine is near Tumbler Ridge, B.C.

50. As of December 31, 2014, the Walter Canada Group was estimated to have approximately 133.4 million metric tonnes of recoverable metallurgical coal reserves including 91.3 million metric tonnes at potential future mine sites (including the Walter Canada Group's share of Belcourt Saxon's reserves). As discussed, all the Walter Canada Group mines were idled prior to December 31, 2014, so these estimates are generally unchanged.

51. The Canadian mines are located near existing infrastructure established for the Northeast B.C. coalfields, including rail and road networks that are available year round. Coal produced from the mines is shipped by rail to the Ridley Terminals in Prince Rupert. Active mineral extraction at each of the three mines has been suspended but existing coal inventory was being shipped to Prince Rupert in the third quarter of 2015. For the nine months ended September 30, 2015, a total of 634,000 metric tonnes of coal was sold by the Walter Non-U.S. Group. Only 100,000 metric tonnes was produced. Instead, existing inventory at the Brule and Willow Mine was shipped.

52. A more detailed description of the Canadian operations at each of the mines is set out below.

##### **(A) Brule Mine**

53. Brule Coal Partnership ("**Brule Partnership**") operates the Brule Mine, which is located 28 miles south of Chetwynd, B.C. The Brule Mine is an open pit metallurgical coal mine that produces pulverized coal injection coal. PCI coal is generally sold at 15-20% discount to the price of hard coking coal. As of December 31, 2014, the Brule Mine had approximately 16.6 million metric tonnes of recoverable coal reserves. The Brule Mine is expected to have a life of at least 8 years (assuming the applicable permits are renewed or extended), which could be extended depending on how the mine is operated.

54. The Brule Mine does not have a processing plant or a rail load-out facility. Instead, coal from the Brule Mine is transported by truck to the Willow Creek Mine for processing and loading onto rail cars for shipment to Prince Rupert.

55. The dramatic drop in coal prices led the Walter Canada Group to idle the Brule Mine in June 2014. Since that time, the only operations at the Brule Mine were loading the remaining coal and hauling it to the Willow Creek Mine, maintaining the mine and mining equipment, and complying with environmental and other laws and regulations. The final haul of coal from the Brule Mine to Willow Creek occurred on or about April 28, 2015.

56. Idling costs for both the Brule Mine and Willow Creek Mines are estimated to be in excess of \$652,000 per month, with some seasonal variation. Idling costs consist of property taxes, expenses related to water and air sampling, reporting to the Ministry of Environment, surveying, geotechnical support, reclamation matters, other environmental monitoring, expenses related to the maintenance of the bioreactor (discussed below), maintenance of the mining machinery and equipment, loss control expenses and labour costs associated with the foregoing. Employment matters at the Brule Mine are described in greater detail below.

57. The Walter Canada Group has experienced some issues meeting the revised provincial water quality guidelines relating to selenium, nitrate and sulphate levels at the Brule Mine. Like many coal mines, the Brule Mine operations have resulted in increased levels of selenium (a natural occurring element) being released into the environment, largely as a result of rain falling on rock exposed through the mining process.

58. The selenium issues at the Brule Mine are more significant than at the Wolverine and Willow Creek Mines, in part because of differences in the local environment and dilution rates of the neighbouring creeks and rivers. The Walter Canada Group is working with the British Columbia Ministry of Environment to address selenium issues at Brule and various selenium management approaches have been considered. This includes, but is not limited to, a biochemical reactor which has been permitted and constructed, and is presently being tested (for the first time in a Northern Canadian mine).

59. The Walter Canada Group estimates that the cost of maintaining the bioreactor through to the end of the first quarter of 2016 will be less than US\$150,000. If the bioreactor is successful in meeting its objectives, it is anticipated that two more bioreactors will be established and a third may be constructed. The cost to build each bioreactor is estimated at approximately US\$1.0 million. Given the nature of the technology and the local environmental conditions, the Walter Canada Group will not know until August 2016 whether or to what extent the bioreactor assists in achieving the selenium management objectives. If the bioreactor, along with other selenium management steps, is unsuccessful in sufficiently meeting objectives, active treatment of the effluent may be required at some point. Active treatment would be considerably more expensive than the selenium management measures used to date.

**(B) Willow Creek Mine**

60. Willow Creek Coal Partnership operates the Willow Creek Mine, located 28 miles west of Chetwynd, B.C. It is an open pit metallurgical coal mine with a coal processing plant and a rail load-out facility. The Willow Creek Mine produces metallurgical coal comprised of an estimated one-third hard coking coal and two-thirds low-volatile PCI coal. As of December 31, 2014, the Willow Creek Mine had approximately 16.6 million metric tonnes of recoverable coal reserves. The Willow Creek Mine is currently expected to have an operating life of at least 10 years if running at full production.

61. In April 2013, the decision was made to curtail mining production at the Willow Creek Mine in response to declining coal prices and the excess inventory of PCI coal that had developed at the Brule Mine. The mining footprint was reduced from 110 thousand tonnes per month to 20-30 thousand tonnes per month.

62. Coal prices continued to decline and Willow Creek mining activity was idled in May 2014. The coal processing plant remained in operation until late summer 2015. During this period, the Willow Creek plant was tasked with processing coal from the Brule Mine as well as processing a stockpile of mid-volatile PCI coal that had accumulated at Willow Creek Mine. Processing at the Willow Creek plant includes crushing, sizing and washing coal to remove impurities.

63. Willow Creek completed its processing of the Brule coal and mid-volatile PCI coal in August 2015. At that time, the processing plant was idled and all employees engaged at the processing plant received notice of termination. The rail load-out facility remained in operation until the final shipment of coal from Willow Creek to Ridley Terminals occurred in October 2015. Willow Creek Mine is now fully idled. The only remaining activities at the Willow Creek Mine relate to security, environmental testing and maintenance of on-site facilities.

64. As mentioned above, idling costs for both the Willow Creek Mine and the Brule Mine are estimated to be in excess of \$652,000 per month, with some seasonal variation. Idling costs consist of property taxes, expenses related to water and air sampling, reporting to the Ministry of Environment, surveying, geotechnical support, reclamation matters, other environmental monitoring, maintenance of the mining machinery and equipment, loss control expenses and labour costs associated with the foregoing. Employment matters at the Willow Creek Mine are described in greater detail below.

**(C) Wolverine (Perry Creek) Mine**

65. Wolverine Coal Partnership operates the Wolverine Mine, which is approximately 15 miles south of Tumbler Ridge, B.C. The Wolverine Mine is an open pit metallurgical coal mine with a coal processing plant and a rail load-out facility. The mine produces premium hard coking coal. As of December 31, 2014, the Wolverine Mine had approximately 8.8 million metric tonnes of recoverable coal reserves. It is estimated that the current reserves at the Wolverine Mine have a life of 4 years; however, the Walter

Canada Group has permits for a number of future mine sites near the Wolverine Mine. If these sites are developed, they are expected to have a life of approximately 10 years.

66. Production at Wolverine was idled in May 2014 in response to low coal prices. The only remaining activities at the Wolverine Mine relate to security, environmental testing and maintenance of on-site facilities, including a tailings pond. In the aftermath of the Mount Polley tailings pond failure, tailings ponds are under heightened scrutiny in B.C. The Walter Canada Group has installed a number of additional monitoring sensors and is watching the tailings pond closely. At this time, additional work on the tailings pond is not necessary because the Wolverine Mine is idle; however, further work on the tailings pond is likely necessary before mining at the Wolverine Mine can be restarted.

67. Idling costs for the Wolverine Mine are estimated to be in excess of \$515,000 per month, with some seasonal variation. Idling costs consist of property taxes, expenses related to water and air sampling, reporting to the Ministry of Environment, surveying, geotechnical support and reclamation matters, other environmental monitoring, maintenance of the mining machinery and equipment, maintaining the tailings pond, loss control expenses and labour costs associated with the foregoing. Employment matters at the Wolverine Mine are described in greater detail below.

**(D) Additional Mine Sites**

68. In addition to the three idled mines, the Walter Canada Group owns the right to mine at the following sites in B.C.: Hermann, Mount Spieker, EB, Mink Creek, Hudette, West Brazion, Willow West, Falling Creek, Mink Creek and certain other sites (collectively, the "**Potential Future Sites**"). At present the only activity in relation to the Potential Future Sites relates to maintaining the company's coal licenses for the Potential Future Sites. Some of the coal resources at the Potential Future Sites are not included in the Walter Canada Group's estimated reserves.

**(E) Belcourt Saxon Coal Limited Partnership**

69. In connection with the Western Acquisition, Walter Energy acquired a 50% interest in the Belcourt Saxon Coal Limited Partnership ("**Belcourt Saxon**"). Belcourt Saxon owns two multi-deposit coal properties located approximately 40 to 80 miles south of the Wolverine Mine in northeast B.C. The other 50% interest in Belcourt Saxon is owned by Peace River Coal Limited Partnership. The Peace River Coal Limited Partnership is a third party not affiliated with the Walter Group. It is affiliated with Anglo American Exploration (Canada) Ltd.

70. The Walter Canada Group's share of the reserves on these properties comprises approximately 28.5 million metric tonnes of recoverable coal. The joint venture was formed for the future exploration and development of surface coal mines. Costs associated with the joint venture were insignificant for the last four years. No field work has been conducted on the Belcourt Saxon properties recently, other than maintenance of environmental monitoring stations and activities relating to maintaining of Belcourt



Saxon's coal licenses. If coal prices rebound, the Belcourt Saxon properties may significantly increase in value.

**V. THE WALTER CANADA GROUP – EMPLOYEES**

71. There are currently 19 active employees employed by the Walter Canada Group and certain other part time employees are engaged on an as needed basis. These employees include the general mine manager, environmental monitoring staff, engineers, geologists, human resources staff and loss control staff. There are 4 loss control staff assigned to each mine site and the remaining staff support all three mines. None of these staff members are covered by a collective agreement.

72. The Walter Canada Group currently cumulatively employs a total of approximately 315 active and inactive employees in Canada, including approximately 280 inactive, unionized employees employed at the Wolverine Mine and certain employees on disability leave. The inactive Wolverine Mine employees currently on temporary layoff pursuant to the terms of a collective agreement, as further explained below.

**(A) *Brule Employees***

73. No positions at the Brule Mine are covered by a collective agreement.

74. The Brule Mine was idled in June 2014. At the time of idling, there were approximately 200 active employees at Brule. Approximately 150 employees were terminated when the Brule Mine was idled and some additional employees have departed since idling began. There were approximately 40 remaining employees at the Brule Mine who were involved in loading coal onto trucks and certain other maintenance and related work. The majority of the remaining employees were given notice during the week of April 6, 2015, and were terminated on or about May 26, 2015, after all inventory was moved and the necessary steps to idle the remaining equipment were completed. As of the date hereof, these employees have received notice of termination pursuant to the B.C. *Employment Standards Act* (the "ESA") and, if applicable, additional severance amounts in respect of common law notice entitlements.

75. The only remaining activities at the Brule Mine relate to security services and ongoing environmental testing and monitoring.

**(B) *Willow Creek Employees***

76. Some employees at the Willow Creek Mine are represented by a union, namely the Christian Labour Association of Canada ("CLAC"). The CLAC collective agreement expired November 30, 2014, but its terms continue in effect pursuant to the B.C. *Labour Relations Code*. Key features of the expired CLAC collective agreement include:

- (a) a deemed termination and extinguishment of recall rights after 12 months on layoff; and

- (b) employee severance of 1 week per completed year of service to a maximum of 10 weeks.

77. In April 2013, the decision was made to curtail mining production at the Willow Creek Mine in response to declining coal prices. Approximately 250 employees were laid off when mining was curtailed. In respect of these employees:

- (a) All unionized employees who were laid off received notice of termination and severance pay required under the CLAC collective agreement; and
- (b) All non-unionized employees who were terminated received notice of termination pursuant to the ESA and, if applicable, additional severance amounts in respect of common law notice entitlements.

78. The reduced operation at the Willow Creek Mine employed approximately 100 employees in both the mine and the processing plant. The Willow Creek Mine was idled in May 2014, although the coal processing plant continued to operate until August and the load-out facility continued to operate until October. Approximately 70 employees were laid off when the mine was idled and the majority of the remaining employees were laid off when the processing plant and load-out facility were idled in August and October of 2015. In respect of these employees:

- (a) All unionized employees who were laid off received notice of termination and severance pay required under the CLAC collective agreement; and
- (b) All non-unionized employees who were terminated received notice of termination pursuant to the ESA and, if applicable, additional severance amounts in respect of common law notice entitlements.

79. All processing at the Willow Creek Mine was completed in August and all coal loading was completed in early October 2015. Since that time the plant has been idled. The only remaining activities at the Willow Creek relate to security, environmental testing and maintenance of on-site facilities.

**(C) Wolverine Employees**

80. Certain positions at the Wolverine Mine are covered by a collective bargaining agreement with the United Steelworkers, Local 1-424 (the "**Steelworkers**"), which expired July 31, 2015. Key features of the Steelworkers collective agreement include:

- (a) a deemed termination and extinguishment of recall rights after 24 months on layoff; and
- (b) employee severance pay of 2 weeks per completed year of service to a maximum of 10 weeks.

81. The terms continued in effect pursuant to the BC *Labour Relations Code* after July 31, 2015.

82. Mining production at the Wolverine Mine was idled in April 2014 in response to low coal prices. Approximately 425 employees were laid off when the mine was idled; 300 of those employees were unionized. In respect of these employees:

- (a) All non-unionized employees who were terminated received notice of termination pursuant to the ESA and, if applicable, additional severance amounts in respect of common law notice entitlements; and
- (b) Any unionized employees who have not been recalled retain recall rights until April 2016 when the temporary layoff automatically becomes a termination of employment pursuant to the terms of the Steelworkers collective agreement outlined above.

83. The only remaining activities at the Wolverine Mine relate to security, environmental testing and maintenance of on-site facilities, including a tailings pond.

**(D) Existing and Potential Employee and Union Matters**

84. The Walter Canada Group is aware of certain current and potential employee and union related matters. The most significant of these relate to the Wolverine Mine. In particular, there is a potential liability that could be as high as \$11.3 million relating to unionized employee severance costs that may allegedly arise if the unionized employees at the Wolverine Mine are not recalled to work prior to April 2016, on the date that their employment is deemed to be terminated under the Steelworkers collective agreement. There are a number of other claims that have been raised in respect of the Wolverine Mine employees, including certain claims relating to the Northern Living Allowance and certain claims related to the notice provisions under s. 54 of the B.C. *Labour Relations Code* that are currently subject to an application for judicial review.

**VI. THE REAL PROPERTY AND ENVIRONMENTAL AND REGULATORY MATTERS**

85. The Walter Canada Group's operations are subject to environmental assessment under the B.C. *Environmental Assessment Act* and its predecessor legislation, the *Mine Development Assessment Act*. Each mine was issued an environmental assessment certificate that sets out the criteria for designing and constructing the project, along with a schedule of commitments the Walter Canada Group has made to address concerns raised through the environmental assessment process. If, for any reason, the Walter Canada Group's operations are not conducted in accordance with the environmental assessment certificate, the Walter Canada Group's operations may be temporarily suspended until such time as its operations are brought back into compliance.

86. Any significant changes to the Walter Canada Group's current operations or further development of its properties in B.C. may trigger a federal or provincial environmental assessment or both.

87. Each of the Walter Canada Group's mining sites were inspected by the British Columbia Ministry of Energy and Mines in September 2014. The Ministry was satisfied with the conditions at the mines.

88. Pursuant to the *Mines Act*, 1996, c. 293 (the "**Mines Act**"), the Walter Canada Group's operations require permits outlining the details of the work at each mine and a program for the conservation of cultural heritage resources and for the protection and reclamation of the land and watercourses affected by the mine. The Chief Inspector of Mines may issue a permit with conditions, including requiring that the owner, agent, manager or permittee give security in an amount and form specified by the Chief Inspector for mine reclamation and to provide for the protection of watercourses and cultural heritage resources affected by the mine. The reclamation security may be applied towards mine closure or reclamation costs and other miscellaneous obligations if permit conditions are not met. Detailed reclamation and closure requirements are contained in the *Health, Safety and Reclamation Code* for Mines in British Columbia (the "**Mine Code**") established under *Mines Act*.

89. Under the *Mines Act* and the *Mine Code*, the Walter Canada Group has filed mine plans and reclamation programs for each of its operations. The Walter Canada Group accrues for reclamation costs to be incurred related to the operation and eventual closure of its mines once they have reached the end of their life. Additionally, under the terms of each mine permit, the Walter Canada Group is required to submit an updated mine plan every five years. The Walter Canada Group submitted updated five-year mine plans for Wolverine Mine and Brule Mine in 2013.

90. Estimates of the Walter Canada Group's total reclamation liabilities are based on permit requirements and its experience with similar activities. As of October 31, 2015, the Walter Canada Group accrued US\$57.4 million in respect of its asset retirement obligations for all of the Walter Canada Group's mining operations until the end of the lives of each mine using a net present value calculation. The calculation incorporated estimates of all reclamation costs on the basis that the mines would be in continuous operation until the end of the life of each mine. A separate reclamation estimate was prepared by a third party environmental consultant for the Brule and Wolverine Mines, as a component of the five-year mine plans, on the assumption that the reclamation of the now idled mine sites would occur in the near term (rather than at the end of the life of each mine). On this basis, the environmental consultant has estimated reclamation obligations at approximately \$12-14 million per mine. Assuming that Willow Creek reclamation costs are in the same range as the other mines, the total reclamation costs are estimated to be \$36-42 million. These reclamation obligation estimates are based upon the five year mine plans that have not yet been approved by the Ministry of Energy and Mines.

91. As of October 2015, the Walter Canada Group had posted letters of credit for post-mining reclamation, as required by its *Mines Act* permits, totaling approximately \$22.6 million, consisting principally of:

- (a) \$3.35 million, pursuant to Mining Permit C-221, in relation to the Brule Mine;
- (b) \$6 million, pursuant to Mining Permit C-153, as amended on June 9, 2011, in relation to the Willow Creek Mine; and
- (c) \$11.5 million, pursuant Mining Permit C-223, as amended on April 23, 2012 in relation to the Wolverine Mine (collectively, the "**Mining Permits**").

92. The Mining Permits are non-assignable and non-transferrable unless amended, pursuant to s. 11.1 of the *British Columbia Mines Act*, by way of application to the Chief Inspector or its delegate. The Mining Permits also require the permittee to notify the Chief Inspector of Mines of any intention to depart from either the work plan or reclamation program "to any substantial degree", and to not proceed without written authorization.

93. In addition to the Mining Permits, each of the mining sites has obtained the following types of permits/licenses to operate:

- Environmental Assessment Certificates ("**EACs**");
- Coal leases or licences;
- Various environmental permits including (i) air contaminant discharge permits (due to the dust or fine particulate matter created during the operations), (ii) water permits (due to the need to use or divert water existing on the site for the operations) and (iii) waste / effluent discharge permits (together, "**Environmental Permits**");
- licenses to cut and remove timber and permits to use forestry service roads issued under the *Forestry Act*;
- Explosive storage and handling permits issued under the *Mines Act*; and
- Other land tenures such as statutory right of ways and licenses of occupation.

94. It is imperative that the Walter Canada Group retain all of their EACs, coal leases and licenses, Environmental Permits and other rights throughout the restructuring proceedings to ensure that they can continue to operate and, should conditions prove favourable, ramp up mining at one or more of the Canadian mines. Without the EACs, coal leases and licences, Environmental Permits and other rights described above, the Walter Canada Group is prohibited from undertaking any activity on the site,

including ongoing maintenance and remediation. These rights are also necessary to preserve enterprise value.

95. As of today's date there are no orders outstanding or charges issues for any environmental non-compliance.

## **VII. THE WALTER CANADA GROUP – OTHER KEY CONTRACTS**

### Supplier and other contracts

96. The Walter Canada Group also has a number of critical contracts with equipment lessors, mechanics, parts suppliers, road maintenance companies, warehouses, offsite equipment storage and repair and environmental consultants. Each of the partnerships have entered into separate contracts with the applicable suppliers. Because Walter Canada Group's mines are located in an area of British Columbia that is far from a major urban centre, many of the Walter Canada Group's contracts are with the only available supplier of products and services in the area. Continued supply from these vendors will be essential for any proposed restructuring of the Walter Canada Group. For this reason, it is anticipated that certain pre-filing payments will be made to suppliers in accordance with the cash flows that have been reviewed by KPMG Inc. as proposed Monitor ("**KPMG**" or the "**Proposed Monitor**"), which I understand will be attached to the Proposed Monitor's pre-filing report.

### Sale of certain equipment to Walter Energy U.S.

97. The Willow Creek Coal Partnership and Brule Coal Partnership (the "**Vendors**") plan to enter into an agreement with Jim Walter Resources, Inc. (a subsidiary of Walter Energy U.S.) (the "**Purchaser**") whereby the Purchaser has agreed to buy three bulldozers from the Vendors for a purchase price of approximately US\$1,200,000, plus applicable taxes, and subject to adjustment as described below (the "**Surplus Equipment Transaction**"). The bill of sale for the Surplus Equipment Transaction will be executed in substantially the form attached as **Exhibit "I"** to this Affidavit.

98. The Walter Group, including the Walter Canada Group, has been attempting to sell various pieces of equipment for over a year, including by delivering lists of all of available equipment to selected potential purchasers, such as other mine operators and equipment sales brokers, and posting information regarding the equipment on equipment auctioneer websites.

99. The purchase price contemplated for the Surplus Equipment Transaction is equal to the appraised value of the bulldozers plus the applicable transaction costs. In addition, no commission will be paid out of the purchase price. As such, the net proceeds of the Surplus Equipment Transaction is likely to be higher than the amount realized on a sale to an arm's length party.

100. After the Initial Order is issued, the Proposed Monitor intends to expand upon the marketing process undertaken to date by the Walter Canada Group to sell the bulldozers. If a higher or better offer is not obtained by mid to late December, or, if a higher or better offer is obtained by mid to late December but the Purchaser agrees to match such higher or better offer, then it is proposed that the Proposed Monitor will deliver to the Purchaser a first certificate of the Proposed Monitor stating that the conditions to the sale have been met (the "**First Certificate**"). Among other things, this approach will avoid the need for the Walter Canada Group to schedule a further Court appearance with associated costs.

101. The Surplus Equipment Transaction will provide the Walter Canada Group with some additional funds during the CCAA proceedings. The Proposed Monitor has been consulted regarding the Surplus Equipment Transaction and agrees that it is a fair and reasonable transaction in the circumstances, subject to the efforts described above to be undertaken subsequently to see if a higher or better offer can be obtained.

102. This transaction will provide the Purchaser with assets necessary to the operation of its businesses and it will allow the Vendors to sell assets that are not presently needed, due to the idling of their operations. In addition, the transaction may be beneficial for U.S. federal income taxes for Walter Energy U.S., the parent of the Purchaser, and potentially, for the acquiror of substantially all of the Purchaser's assets (which assets may include those sold by the Vendors) through a sale in the Chapter 11 Cases.

103. It is contemplated that the purchase price will be paid within 60 days of the date of bill of sale. The payment terms are intended to reflect standard commercial practice in the industry and are necessary given the present constraints on the Purchaser's liquidity resulting from the Chapter 11 Cases. The payment terms have been agreed to by both parties and the Vendors are taking steps to ensure the purchase price is paid, including through protections proposed in the Initial Order

104. The Walter Canada Group will be seeking a provision in the Initial Order approving the Surplus Equipment Transaction and vesting title to the equipment in the Purchaser upon delivery of the First Certificate free and clear of any liens or encumbrances on such equipment except for the Equipment Charge (defined below). Any such liens are proposed to attach to the proceeds of the sale in the same manner and with the same priority as such liens had with respect to the equipment to be sold. In addition, the Walter Canada Group has taken a security interest in the equipment sold and will remain in possession of the equipment until the purchase price is paid in full.

105. To further secure the Purchaser's payment of the purchase price to the Vendors, the Walter Canada Group is also seeking a Court-ordered first-ranking charge on the equipment sold (the "**Equipment Charge**") so that the Walter Canada Group will be paid in priority to any creditor of the Purchaser. Once the purchase price is paid, it is proposed that the Equipment Charge will be extinguished automatically upon delivery of a second certificate of the Proposed Monitor certifying that

payment has been made. The Vendors are also seeking an order that ownership of the equipment will revert to the Vendors if the purchase price is not paid within 90 days of the date of the Initial Order.

**VIII. THE FINANCIAL POSITION OF THE WALTER GROUP**

106. As a publicly traded company, Walter Energy U.S. files consolidated financial statements with the Securities and Exchange Commission in the United States reflecting the financial position of the Walter Group. These financial statements include the consolidated results of U.S., U.K. and Canadian operations. A copy of the audited consolidated financial statements for the Walter Group for the fiscal year-ended December 31, 2014 is attached as **Exhibit "J"** to this Affidavit. A copy of each of the Walter Group's interim financial statements for the first, second and third quarters of 2015 are attached as **Exhibit "K"** to this Affidavit. These include the Walter Group's most recently filed interim financial statements from the third quarter of 2015, published on November 5, 2015. The Walter Group does not prepare stand-alone financial statements for the Canadian operations, but does provide details for its operating segments, the Walter U.S. Group and the Walter Non-U.S. Group .

***(A) Financial Position of the Walter Non-U.S. Group***

107. The financial statements show that revenue for the Walter Non-U.S. Group has declined in every year since 2011. The 2011 revenue figure was US\$698 million; it decreased to US\$668 million in 2012, US\$527 million in 2013 and US\$237 million in 2014. The Walter Non-U.S. Group's declining revenue is a result of the declining price of coal and the idling of the mines.

108. The financial statements also show declining sales of coal by the members of the Walter Non-U.S. Group. These declining sales are consistent with the idled state of all of the mines of the Walter Non-U.S. Group.

***(B) Summary of Walter Canada Assets, Liabilities and Revenue***

109. The Walter Canada Group prepares segment-specific balance sheets. Comprehensive details of the financial position of the Walter Canada Group are available in its balance sheets of December 2014, March 2015, September 2015 and October 2015 (the "**Balance Sheets**"), attached as **Exhibit "L"** to this affidavit.

110. The Balance Sheets show that in October 2015, the Walter Canada Group had assets totalling \$379 million, a decrease from the December 2014 figure of \$3.368 billion. The significant reduction in the value of the Walter Canada Group's assets is a result of the write-down taken earlier in 2015 and more fully described in paragraph 45. The value of the Walter Canada Group's assets as set out in the October 2015 balance sheet is comprised of the following:



- (a) *Current Assets:* US\$66 million, of which US\$26.9 million is in cash or cash equivalents, US\$8 million is coal inventory attributable to the Walter Canada Group's stockpiled coal inventory at all three mines, and US\$20.8 million in supplies inventory; and
- (b) *Long Term Assets:* US\$312.9 million, of which US\$75.4 million is in property, plant and equipment.

111. The Balance Sheets show that in October 2015, the Walter Canada Group had liabilities totalling US\$68.2 million, a decrease from the December 2014 figure of \$752 million, primarily due to a reduction in deferred tax liabilities. These amounts do not include the Walter Canada Group's liabilities in relation to undrawn letters of credit, but do include the following:

- (a) *Current Liabilities:* US\$19.5 million; and
- (b) *Long Term Liabilities:* US\$48.7 million.

112. The balance sheets also indicate a receivable of approximately \$16 million in respect of coal sold by the Brule Coal Partnership. This receivable has been paid and Brule Coal Partnership is holding the funds received.

113. The net cash position of the principal members of the Walter Canada Group as of December 1, 2015 was as follows: (i) Walter Energy Canada held approximately \$1.1 million, (ii) Brule Coal Partnership held approximately US\$29.4 million, (iii) Willow Creek Coal Partnership held approximately US\$3 million, (iv) Wolverine Coal Partnership held approximately US\$5 million, and (v) Walter Canadian Coal Partnership held approximately \$3.2 million. All of the accounts, other than the Walter Energy Canada account, are held in the name of Walter Canadian Coal Partnership for the other partnerships and are subject to the Cash Management System defined and described below.

114. The unlimited liability companies that are members of the Walter Canada Group are fully liable for the debts of the respective partnerships, hold a .01% interest in such respective partnership and have very limited cash. In addition, Pine Valley Coal Ltd. and 0541237 B.C. Ltd. have legal rights to certain mineral licenses, but have no other assets. They require funding from the other members of the Walter Canada Group to maintain the mineral licenses in good standing. I do verily believe that these entities are therefore insolvent.

**(C) *Cash Management System***

115. The Walter Canada Group uses an account network at BNS. Each of Walter Canadian Coal Partnership, Brule Partnership, Willow Creek Partnership and Wolverine Partnership maintains a Canadian dollar and a U.S. dollar account with BNS. Certain customary pooling arrangements have been established with respect to all of these accounts. Under these pooling arrangements, BNS permits certain

of the accounts to have a negative dollar balance without applying its overdraft policy so long as the balance in all of the accounts, on a net basis, is positive. The accounts of the different partnerships are not consolidated. Funds are transferred from one partnership account to another quarterly and on certain other occasions to establish a positive balance in each account. Certain intercompany receivables are booked in relation to these transfers and these receivables are generally capitalized at year end such that the transfers are ultimately treated as partnership distributions made by certain partnerships to Walter Canadian Coal Partnership and as capital contributions made by Walter Canadian Coal Partnership to other partnerships. In addition, payments are made to the Walter Canadian Coal Partnership account in respect of each partnerships' share of certain shared services, royalty agreements and other transactions in the ordinary course of business. This system is referred to as the "**Cash Management System**". All bank accounts are located in Canada, but are generally managed by Walter Energy U.S., including by officers of Walter Energy Canada who are also employees of Walter Energy U.S. Walter Energy U.S. is responsible for the receipt and management of the vast majority of accounts receivable and for the disbursement of the vast majority of accounts payable incurred by the Walter Canada Group.

116. The Walter Canada Group is seeking certain enhanced powers of the Proposed Monitor in connection with the Cash Management System as more fully set out below.

**(D) Secured Debt & Credit Facility**

117. As described above, on April 1, 2011, Walter Energy U.S., Western Coal Corp. and Walter Energy Canada entered into the 2011 Credit Agreement to partially fund the acquisition of Western and to pay off all outstanding loans. The lenders consisted of various financial institutions who comprise the Bank Lenders. Morgan Stanley Senior Funding, Inc. acts as administrative agent and collateral agent.

118. The 2011 Credit Agreement includes the US\$150 million multi-currency Canadian Revolver available to Walter Energy Canada. The Canadian Revolver provides for operational needs and letters of credit.

119. Amounts outstanding on the Canadian Revolver consist primarily of obligations in respect of issued but undrawn letters of credit. The Walter Canada Group is liable for approximately \$22.6 million of undrawn letters of credit issued by BNS pursuant to the 2011 Credit Agreement.

120. The members of the Walter Non-U.S. Group, including Walter Energy Canada, are not liable for and have not guaranteed Walter Energy U.S.' obligations under the 2011 Credit Agreement or any of its other major financial obligations. Walter Energy Canada and the other members of the Walter Canada Group only have obligations to the Bank Lenders in respect of the obligations of Walter Energy Canada and Western Coal Corp. under the Canadian Revolver, namely the letters of credit.

121. With respect to the obligations of Walter Energy Canada under the Canadian Revolver, such obligations are secured by a first priority lien and security interest in all of the following, whether owned on the closing date or thereafter acquired:

- (a) All equity interests of (or other ownership interests in), and intercompany debt of, the entities owned by Walter Energy Canada;
- (b) All present and future tangible and intangible assets of Walter Energy Canada, including but not limited to, machinery and equipment, inventory and other goods, accounts receivable, owned and leased real property, leases on mines, fixtures, deposit accounts, general intangibles, intercompany debt, license rights, intellectual property, chattel paper, insurance policies, contract rights, hedge agreements, documents, instruments, indemnification rights, mineral rights, tax refunds, investment property and cash, wherever located, subject to exceptions and thresholds to be agreed; and
- (c) All proceeds and products of the property and assets described in clauses (a) and (b) above.

122. Walter Energy Canada's obligations under the 2011 Credit Agreement are guaranteed by each of the members of the Walter Canada Group other than Belcourt Saxon Coal Ltd. and Belcourt Saxon Limited Partnership. These guarantees are secured by a security interest in all of the present and after-acquired property of the members of the Walter Canada Group who are guarantors.

123. On April 1, 2011, Walter Energy Canada and Walter Canadian Coal Partnership and certain other Canadian subsidiaries of Walter Energy U.S. (the "**Canadian Guarantors**") and the Collateral Agent entered into the Canadian Guaranty and Collateral Agreement, which was amended and restated in its entirety on July 31, 2012 (such amended and restated agreement and additional documents and ancillary agreements, as amended and supplemented from time to time, the "**Canadian Guaranty and Collateral Agreement**"). A copy of the Canadian Guaranty and Collateral Agreement is attached as **Exhibit "M"** to this Affidavit. A list of the Canadian Guarantors is attached as **Exhibit "N"**.

124. The security interests granted to the Collateral Agent pursuant to the Canadian Guaranty and Collateral Agreement are perfected by registrations made in the B.C. Personal Property Registry. Attached hereto as **Exhibit "O"** is a true copy of the search results from the B.C. Personal Property Registry with respect to the Walter Canada Group dated October 21, 2015.

125. Pursuant to the Canadian Guaranty and Collateral Agreement, each of Walter Energy Canada and Western Coal Corp. and the Canadian Guarantors jointly and severally, unconditionally and irrevocably, guaranteed to the Collateral Agent, for the benefit of the Bank Lenders, the prompt and complete payment and performance when due of all of the obligations of each of the Canadian Borrowers

and Canadian Guarantors, which comprise the Canadian Revolver and related obligations (the "**Canadian Obligations**").

126. The 2011 Credit Agreement contains customary events of default and covenants, including among other things, covenants that restrict Walter Energy U.S. and its subsidiaries' ability to incur certain additional indebtedness, create or permit liens on assets, pay dividends and repurchase stock, engage in mergers or acquisitions, and make investments and loans. The 2011 Credit Agreement also includes certain financial covenants that must be maintained. Walter Energy U.S. is in default of its obligations under the 2011 Credit Agreement, including due to the commencement of the Chapter 11 Cases. The Bank Lenders may have a right to declare that Walter Energy Canada is in default of the 2011 Credit Agreement as well.

127. In addition, Walter Energy U.S. and the U.S. Guarantors have guaranteed, on a secured basis, the Canadian Obligations pursuant to the U.S. Guaranty and Collateral Agreement between the members of the Walter U.S. Group more fully described therein and Morgan Stanley Senior Funding, Inc., as Collateral Agent.

128. The B.C. Personal Property Registry search results also indicate that certain other creditors have perfected security interests against members of the Walter Canada Group, generally in respect of purchase money security interests in certain equipment. However, at this time there are no further amounts owing to these former creditors in respect of any of the equipment other than in relation to one vehicle.

**(E) The Hybrid Debt Structure**

129. In connection with the Western Acquisition, Walter Energy Canada borrowed approximately US\$2 billion from Walter Energy U.S. and issued a promissory note (the "**Note**") to Walter Energy U.S. in respect of such indebtedness and pledged the Subscription Agreement (defined below) to secure repayment of the Note. The funds advanced were used to acquire Western. Interest on the Note is payable in cash or in common shares of Walter Energy Canada.

130. The Note was issued as part of a series of transactions entered into by Walter Energy U.S., Walter Energy Canada and Walter Energy Holdings, LLC ("**LLC**"), a wholly owned subsidiary of Walter Energy U.S., to maximize tax efficiencies. In addition to the Note, LLC entered into a subscription agreement with Walter Energy Canada (the "**Subscription Agreement**"), pursuant to which LLC agreed to subscribe for new common shares of Walter Energy Canada on the maturity of the Note for cash equal to the aggregate principal amount of the Note. Walter Energy U.S. also entered into a capital support agreement with LLC (the "**Capital Support Agreement**") in which Walter Energy U.S. agreed to purchase shares of LLC with cash or by contribution of the Note to assist LLC to meet LLC's obligations under the Subscription Agreement. Walter Energy U.S. also gave Walter Energy Canada a guarantee of LLC's

obligations under the Subscription Agreement (the "**Guarantee**"). The Subscription Agreement, the Capital Support Agreement and the Guarantee are described collectively as the "**Hybrid Debt Structure**".

**IX. IMPACT OF THE CHAPTER 11 CASES ON THE WALTER CANADA GROUP**

131. As discussed above, the U.S. Petitioners are subject to the Cash Collateral Order. The Cash Collateral Order imposes certain restrictions on the activities of the U.S. Petitioners and their affiliates that apply so long as the U.S. Petitioners need to make use of the cash collateral. Although the Walter Canada Group is not subject to the Cash Collateral Order, it nevertheless imposes certain restrictions on the Walter Canada Group.

132. In addition, the Cash Collateral Order requires the Walter Canada Group to obtain the consent of the Steering Committee before:

- (a) commencing a sale process or disposing of any material assets;
- (b) commencing any insolvency proceedings;
- (c) or incurring any new secured or unsecured debt outside the ordinary course of business, unless such debt (i) was to a member of the Walter U.S. Group, (ii) was guaranteed by all members of the Walter Canada Group, and (iii) such loans and guarantees were secured by liens on all present and future property of the Walter Canada Group pursuant to loan documents and security agreements in form and substance satisfactory to the Majority Lenders and assigned to the Majority Lenders.

133. The Steering Committee has been consulted and have not objected to this petition seeking relief under the CCAA.

134. In addition, PJT Partners Inc. has been canvassing the market in an attempt to find a purchaser for the assets of the Walter Canada Group. PJT Partners Inc., formerly a part of Blackstone Advisory Partners L.P., has been engaged by counsel to Walter Energy U.S. as its financial advisor to assist the Walter Group with its restructuring. It is anticipated that, after appropriate consultation with governmental authorities, the Canadian Petitioners will seek approval of a sales process in these CCAA proceedings to be run by PJT Partners Inc. At the time such approval is sought, it is anticipated that the Canadian Petitioners will also seek the approval of an engagement letter to be entered into by certain of the Walter Canada Group and PJT Partners Inc.

**X. THE NEED FOR RELIEF UNDER THE CCAA AND RELIEF SOUGHT**

135. As discussed above, the Walter Canada Group has idled its three mines and has sold all of its remaining saleable coal inventory stockpiled at those mines. As a result, the Walter Canada Group is not

producing coal and is not generating revenue. The Walter Canada's Group's survival depends on having sufficient capital to maintain and then restart the mines when coal prices improve.

136. The Walter Canada Group has a finite amount of funding. The annual costs associated with idling the Canadian mines are in excess of \$16 million. In addition, significant working capital investments would be required before any of the Canadian mining operations can be restarted and the Walter Canada Group faces a number of claims that may deplete its remaining funds.

137. The Walter Canada Group also has aggregate, long-term secured liabilities under the 2011 Credit Agreement in excess of \$22.6 million with the associated annual fees and interest expenses, primarily in connection with the issuance of letters of credit to secure the Walter Canada Group's environmental and other obligations.

138. Furthermore, in March 2015, the B.C. Ministry of Finance issued notices of assessment in relation to the Brule Mine. The Walter Canada Group is obligated to pay the B.C. Ministry of Finance \$6,373,623, an amount owing in relation to a BC Mineral Tax audit for the 2005-2008 tax periods. The Walter Canada Group has negotiated a payment plan with the B.C. Ministry of Finance. There is approximately \$1 million outstanding in respect of this payment plan. In addition, the years of 2010 and 2011 are currently being assessed and the result of the assessment could give rise to an additional mineral tax liability for the Walter Canada Group.

139. Based on known obligations and not considering contingent or potential claims, the Walter Canada Group does not have sufficient funding to restart the mines. The Walter Canada Group intended to rely on financial support from Walter Energy U.S. to restart the Canadian mines when warranted by market conditions. In light of the status of the Chapter 11 Cases, including the U.S. APA and bid procedures approved in the Chapter 11 Cases, the Walter Canada Group has been advised that it will not be able to rely on Walter Energy U.S. for financial support going forward or for essential management services after the sale contemplated by the U.S. APA is complete. If the Walter Canada Group cannot rely on its parent for financial support or for essential management services, it will not be able to restart the Canadian mines without additional financing.

140. At this time, the available liquid assets of the Walter Canada Group plus the aggregate, realizable value of the Walter Canada Group's other assets, property and undertaking, if sold in an expedited fashion in current market conditions, is not sufficient to enable the members of the Walter Canada Group to pay their obligations that are due or will become due during the period necessary for the Walter Canada Group to determine its path forward and to put that plan into effect unless the Walter Canada Group has the benefit of the relief sought under the CCAA, including a stay of proceedings. It certainly is not sufficient to restart the mines from care and maintenance to permit the Walter Canada Group to begin generating revenue. Accordingly, the Walter Canada Group faces a looming liquidity crisis and, absent protection under the CCAA, will exhaust its remaining cash within six months.

141. Accordingly, it is essential that the Canadian Petitioners are granted CCAA protection forthwith and have the relief extended to the other members of the Walter Canada Group in order to stabilize their affairs, commence discussions with stakeholders and seek a going concern outcome while they still have sufficient liquidity available.

142. If the Walter Canada Group is to restructure, among other things, the Walter Canada Group must de-integrate its management and operations from the Walter U.S. Group and work with applicable governmental authorities to establish an independent sales process to maximize value for the stakeholders of the Walter Canada Group before it is too late to do so. If no buyer can be found within a relatively short time frame, it will be necessary for the Walter Canada Group to permanently cease operations.

143. The members of the Walter Canada Group and their boards of directors have considered the circumstances and the alternatives available to the Walter Canada Group. In exercise of their business judgement, they have determined that the filing by the Walter Canada Group for protection under the CCAA is necessary at this time and the pursuit of the restructuring is in the best interests of the Walter Canada Group.

**(A) Stay of Proceedings and Partnerships**

144. The Walter Canada Group is concerned that, in light of declining revenues and the current liquidity challenges at the Canadian entity level, an uncontrolled material adverse change to the Walter Canada Group's business would precipitate a quick and significant erosion in enterprise value to the detriment of all stakeholders. The Walter Canada Group therefore requires a stay of proceedings and the "breathing space" created by a stay of proceedings to restructure their affairs.

145. In particular, the Walter Canada Group requires a stay of proceedings to manage the impact of the known potential claims, including employee claims at the Wolverine Mine, the possible assessment of mineral taxes for the 2010 and 2011 taxation year and the potential need for further security requested in respect of environmental claims. The effect of such claims, if not carefully managed, would likely result in the abrupt cessation of operations for the Walter Canada and would make it impossible to re-start the mines at any time in the future. The Walter Canada Group is requesting an initial stay of proceedings for the 30 days following the filing date to allow the Walter Canada Group sufficient time to engage with its stakeholders and in particular with applicable government authorities to determine whether there is a path forward to a going concern sale.

146. The Petitioners also seek to have a stay of proceedings and other benefits of an Initial Order under the CCAA extended to the Walter Canadian Coal Partnership, the Brule Coal Partnership, the Willow Creek Partnership and the Wolverine Coal Partnership. As discussed above, the partnerships

carry on operations integral to the business of the Walter Canada Group and are the principal vehicles through which the mines are operated.

147. In addition, the Petitioners seek to have a stay of proceedings extended to Belcourt Saxon Coal Ltd. for the limited purpose of preventing any action that may be taken under the Belcourt Saxon Coal Limited Partnership Agreement of March 2, 2005 to remove it as general partner of Belcourt Saxon Coal Limited Partnership or to force a sale to any particular person of the Walter Canada Group's interest in Belcourt Saxon Coal Limited Partnership, including as a result of any of the Charges being sought by the Walter Canada Group, any offers received during the CCAA proceedings or any other matters that may arise as a result of the insolvency of the Walter Canada Group.

**(B) Payments During this CCAA Proceeding in Respect of Pre-Filing Obligations**

148. During the course of these CCAA proceedings, the Walter Canada Group intends to make payments for goods and services supplied post-filing in the ordinary course and to make a limited number of pre-filing payments to suppliers that are critical, as set out in the cash flow projections prepared by the Walter Canada Group and reviewed by the Proposed Monitor and as permitted in the Initial Order.

**(C) Management Services Provided by Walter Energy U.S.**

149. Walter Energy U.S. and its subsidiaries provide a variety of shared services to the Walter Canada Group, including services pursuant to certain management agreements and other intercompany agreements (collectively, the "**Shared Services**"). Given the importance of these Shared Services to the Walter Canada Group's operations, the expertise and experience of Walter U.S. Group and the significant extent to which the Walter Canada Group relies on the Walter U.S. Group to provide these essential services, the Walter Canada Group will continue paying the Walter U.S. Group during the CCAA proceeding on a basis consistent with current payment terms and business practices but subject to certain changes to reflect the present set of services needed by the Walter Canada Group. The Walter U.S. Group has confirmed that it intends to continue providing Shared Services until the closing of the transaction contemplated by the U.S. APA or another sale under section 363 of the U.S. Bankruptcy Code to be completed in the Chapter 11 Cases. The Walter Canada Group will immediately commence steps to reduce and eliminate the need for the full slate of Shared Services, with the goal of ensuring that the Walter Canada Group can be fully independent of Walter Energy U.S. and the other members of the Walter U.S. Group before the U.S. APA or another sale closes.

**(D) Proposed Monitor**

150. The Walter Canada Group is seeking the appointment of KPMG as the Monitor in these proceedings. KPMG is a qualified financial restructuring firm and has consented to act as the Monitor. A copy of its consent is attached at **Exhibit "P"**. As discussed in paragraph 151, certain enhanced powers are requested for the Proposed Monitor.



151. The proposed Initial Order contemplates an enhanced role for the Proposed Monitor, including overseeing the Cash Management System and all receipts and disbursements in relation to the Walter Canada Group's accounts, assisting the Walter Canada Group in the preparation of cash flow statements, participating in any discussions or consultations with the Walter Canada Group's stakeholders, including unions and governmental authorities. In addition, due to the Walter Canada Group's intention to de-integrate from the Walter U.S. Group, the Proposed Monitor should be authorized to review and monitor the provision of and payment for all Shared Services, assist the Walter Canada Group in negotiations with Walter Energy, Inc. and its affiliates regarding changes to existing Shared Services arrangements and assist the Walter Canada Group in developing alternatives to the Shared Services, including with respect to sourcing new service providers with respect to any or all services that are currently Shared Services, in each case in such manner as the Proposed Monitor, in consultation with the Walter Canada Group, consider appropriate and the proposed sale process to be commenced in respect of the Walter Canada Group if such consultation is successful. It is also contemplated that the Proposed Monitor have the ability to cause the members of the Walter Canada Group to initiate bankruptcy proceedings in circumstances where they are unable to do so on their own behalf.

***(E) Charges and other Protections***

Administration Charge

152. It is proposed that the Proposed Monitor, its counsel and the Petitioners' counsel be granted a court-ordered charge on the assets of the Walter Canada Group as security for their fees and disbursements relating to services rendered in respect of the Walter Canada Group (collectively, the "**Administration Charge**"). The Administration Charge is not to exceed an aggregate of \$2.5 million. The Administration Charge would have first priority over all other charges.

153. All of the beneficiaries of the Administration Charge have contributed, and continue to contribute, to the restructuring of the Walter Canada Group. The Walter Canada Group has sought to ensure that there is no unwarranted duplication of roles so as to minimize the professional fees associated with the restructuring.

Directors' and Officers' Charge

154. A successful restructuring of the Walter Canada Group will only be possible with the continued participation in the near term of the Walter Canada Group's directors and officers. These personnel are essential to the viability of the Walter Canada Group's continuing business.

155. I am advised by legal counsel for the Walter Canada Group, and do verily believe that, in certain circumstances, directors and officers can be held liable for certain obligations of a company owing to employees and government entities. The Walter Canada Group estimates, with the assistance of the Proposed Monitor, that the obligations in respect of unpaid accrued wages, unremitted source reductions,

unpaid accrued vacation pay and certain taxes could amount to a total potential director liability of approximately \$2.5 million.

156. The Walter U.S. Group maintains a directors' and officers' insurance policy that also provides coverage to the directors and officers of the Walter Canada Group. The primary limit of this insurance is \$10 million, the excess limits total \$90 million, and there is an additional \$50 million of coverage for certain specified liabilities. The directors' and officers' insurance policy is scheduled to expire on July 1, 2016. The Walter U.S. Group has purchased run off coverage for a period of 6 years after the expiration of the directors' and officers' insurance policy. In addition, the Walter U.S. Group maintains certain other insurance policies for the benefit of the directors and officers of the Walter Group.

157. The remaining directors and officers have indicated that, in light of the uncertainty surrounding limits and exclusions in directors' and officers' insurance, their continued service and involvement in this restructuring is conditional upon the granting of an Order under the CCAA which grants a charge in favour of the directors and officers of the Walter Group in the amount of \$2.5 million on the property of the Walter Canada Group (the "**Directors' Charge**"). The Directors' Charge will be subordinate to the proposed Administration Charge. The Directors' Charge would act as security for indemnification obligations for the Walter Group Directors' potential liabilities as set out above.

158. The Directors' Charge is necessary so that the Walter Canada Group may benefit from its directors' and officers' experience with the business and the metallurgical coal mining industry and so that its directors and officers can guide the Company's restructuring efforts.

159. In addition, it is proposed that the directors and officers receive the benefit of a stay of proceedings and that this Court order that the directors and officers not be liable for any losses, claims or damages of any nature or kind except to the extent that such losses, claims or damages result from gross negligence or wilful misconduct on the part of such director or officer.

**(F) Cash Flow Forecast**

160. I am advised by the Proposed Monitor that cash flow projections demonstrate that the Walter Canada Group can continue going concern operations during the proposed stay period. A copy of the 13-week cash flow projections, as prepared by the Walter Group with the assistance of its financial advisors and the Proposed Monitor, is attached to the Proposed Monitor's pre-filing report.

**XI. CONCLUSION**

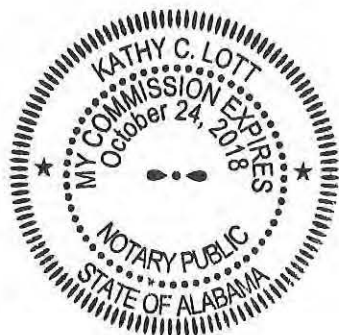
161. The Walter Canada Group, like many other North American coal producers, is facing financial difficulties due to the prolonged depression in coal prices. The Walter Canada Group managed its business with due diligence by idling its mines and seeking to position itself to have sufficient capital to restart its mines when coal prices rebound. The developments in Chapter 11 Cases, and specifically the

U.S. APA which would eliminate the Walter Canada Group's access to the funding necessary to restart the Mines, have necessitated this petition for relief under the CCAA. The Walter Canada Group seeks the protection of the stay of proceedings under the CCAA to develop a path to a going concern outcome that will protect the Walter Canada Group's stakeholders, creditors, employees, suppliers and the environment. If a going concern outcome is not possible, then the Walter Canada Group will be forced to wind down operations and seeks the breathing space in which to do so.

SWORN BEFORE ME at Birmingham, Alabama, United States, on December 4<sup>th</sup>, 2015. ) ) ) ) ) ) ) ) ) )

Kathy C. Lott  
A Notary Public in the State of Alabama )

W. G. Harvey  
**WILLIAM G. HARVEY**



This is Exhibit "A" referred to in Affidavit #1 of **William G. Harvey** sworn December 4, 2015 at Birmingham, Alabama, United States.

*Kathy C. Lott*

A Notary Public in the State of Alabama



## **PETITIONERS**

1. Walter Energy Canada Holdings, Inc.
2. Walter Canadian Coal ULC
3. Wolverine Coal ULC
4. Brule Coal ULC
5. Cambrian Energybuild Holdings ULC
6. Willow Creek Coal ULC
7. Pine Valley Coal, Ltd.
8. 0541237 BC, Ltd.

## **PARTNERSHIPS**

1. Willow Creek Coal Partnership
2. Walter Canadian Coal Partnership
3. Wolverine Coal Partnership
4. Brule Coal Partnership