



No. S-226670
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 THE *BUSINESS CORPORATIONS ACT*, S.N.B.
1981, c. B-9.1, AS AMENDED**

AND

**IN THE MATTER OF A PLAN OF COMPROMISE AND ARRANGEMENT OF
TREVALI MINING CORPORATION AND TREVALI MINING (NEW BRUNSWICK)
LTD.**

PETITIONERS

TWELFTH REPORT OF THE MONITOR

June 26, 2023

TWELFTH REPORT OF THE MONITOR

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INTRODUCTION

1. On August 19, 2022 (the “**Filing Date**”), Trevali Mining Corporation (“**Trevali Corp.**”) and Trevali Mining (New Brunswick) Ltd. (“**Trevali NB**” and collectively, “**Trevali**” or the “**Applicants**”) commenced proceedings (the “**CCAA Proceedings**”) under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) pursuant to an order granted by this Honourable Court, which was subsequently amended and restated on August 29, 2022 (the “**ARIO**”).
2. The ARIO appointed FTI Consulting Canada Inc. (“**FTI**”) as Monitor in the CCAA Proceedings (the “**Monitor**”) and established a stay of proceedings (the “**Stay of Proceedings**”) in favour of the Applicants until October 6, 2022. The Stay of Proceedings has since been extended until and including July 14, 2023, in respect of Trevali Corp. The Stay of Proceedings in respect of Trevali NB expired on January 24, 2023.
3. On September 14, 2022, this Honourable Court granted an order approving procedures for a sales and investment solicitation process (the “**SISP**”) and a sales agent agreement (the “**Sales Agent Agreement**”) between Trevali Corp. and National Bank Financial Inc. (the “**Sales Agent**”) and granting a charge to secure the Sales Agent’s fees.
4. On October 12, 2022, this Honourable Court granted the following orders:
 - a. an order authorizing and empowering Trevali Corp. to obtain and borrow an interim financing tranche (the “**Interim Financing Tranche**”) agreed amongst Trevali Corp., the RCF Lenders (as defined in the First Report of the Monitor, dated August 26, 2022), and the administrative agent for the RCF Lenders, the Bank of Nova Scotia (the “**RCF Administrative Agent**”), and granting a charge in favour of the RCF Administrative Agent, on behalf of the RCF Lenders, to secure obligations in connection with the Interim Financing Tranche; and

- b. an order authorizing and approving a settlement agreement (the “**Settlement Agreement**”) between the Applicants, the RCF Lenders, Glencore International AG, Glencore AG and Glencore Canada Corporation (collectively, “**Glencore Group**”) addressing the issues which arose in response to Glencore Group declining to advise whether they would assert a right of set-off against amounts owing by them for delivery under off-take agreements with the Applicants and certain affiliated entities.
5. On December 21, 2022, in connection with the SISP and relating to the Rosh Pinah mine, this Honourable Court granted an order (the “**AVO**”), among other things, approving Trevali Corp.’s execution of a Share and Asset Purchase Agreement dated December 15, 2022, between Trevali Corp., as vendor, and Appian Natural Resources Fund III LP and Appian Natural Resources (UST) Fund III LP (collectively, “**Appian**”), as purchasers (as amended from time to time, the “**Appian SPA**”).
6. On March 29, 2023, this Honourable Court granted an order (the “**Claims Process Order**”) approving a process for determining the nature and amounts of certain claims against the Applicants and their respective directors and officers (the “**Claims Process**”).
7. On April 24, 2023, this Honourable Court granted an order (the “**Distribution Order**”) authorizing Trevali Corp. to distribute the net proceeds resulting from the transaction contemplated by the Appian SPA (the “**Appian Transaction**”), and any other available proceeds, to the RCF Administrative Agent in an amount not to exceed the Outstanding Interim Financing Balance (as defined in the Settlement Agreement), plus the aggregate amounts owing under the Revolving Credit Facility and the Glencore Facility (each as defined in the Settlement Agreement), subject to maintaining a holdback reserve and certain other conditions.
8. Pursuant to an assignment agreement dated June 2, 2023, Appian assigned all of their rights, title and interest in and to, and all their benefits under, the Appian SPA, to ANR RP Limited (“**ANR**”).

9. On June 23, 2023, the Appian Transaction was successfully completed and the net proceeds were distributed in accordance with the Distribution Order.
10. On June 23, 2023, Trevali Corp. filed a Notice of Application for an order (the “**Stay Extension and Enhanced Monitor’s Powers Order**”):
 - a. extending the Stay of Proceedings with respect to Trevali Corp. until and including October 27, 2023 (the “**Stay Extension**”); and
 - b. expanding the powers of the Monitor with respect to Trevali Corp. and its property.
11. On June 26, 2023, the Monitor filed a Notice of Application for an order (the “**Sealing Order**”) sealing the Confidential Supplemental Report to the Twelfth Report of the Monitor dated June 26, 2023 (the “**Twelfth Confidential Supplemental**”).

PURPOSE

12. The purpose of this Twelfth Report is to provide this Honourable Court and the Applicants’ stakeholders with information with respect to:
 - a. the closing of the Appian Transaction;
 - b. Trevali Corp.’s application to enhance the powers of the Monitor with respect to Trevali Corp.;
 - c. an update on the Claims Process;
 - d. updated cash flow statement for the 19-week period ending October 29, 2023 (the “**Forecast Period**”) with respect to Trevali Corp. (the “**Wind-down Cash Flow Statement**”), including the key assumptions on which the cash flow statement is based;

- e. Trevali Corp.'s application for the Stay Extension;
- f. the Monitor's application for the Sealing Order; and
- g. the Monitor's conclusions and recommendations.

TERMS OF REFERENCE

13. In preparing this report, the Monitor has relied upon certain information (the "**Information**") including the Applicants' unaudited financial information, books and records and discussions with senior management of Trevali Corp. ("**Management**").
14. Except as described in this report, the Monitor has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Generally Accepted Assurance Standards pursuant to the Chartered Professional Accountants of Canada Handbook.
15. The Monitor has not examined or reviewed financial forecasts and projections referred to in this report in a manner that would comply with the procedures described in the Chartered Professional Accountants of Canada Handbook.
16. Future-oriented financial information reported to be relied on in preparing this report is based on Management's assumptions regarding future events. Actual results may vary from forecast and such variations may be material.
17. Unless otherwise stated, all monetary amounts contained herein are expressed in United States dollars to be consistent with the Applicants' primary reporting currency.
18. Capitalized terms not otherwise defined herein are as defined in the First Report of the Monitor in these CCAA Proceedings dated August 26, 2022.

APPIAN TRANSACTION

19. On June 23, 2023, the Appian Transaction closed; the culmination of a sales process that began in September 2022.
20. The Purchase Price (as defined in the Appian SPA) is redacted in the publicly filed Appian SPA. With respect to the unredacted Appian SPA, the Confidential Affidavit #10 of Brendan Creaney, affirmed December 16, 2022 (the “**Confidential Creaney Affidavit**”), which exhibits the unredacted Appian SPA, and the Confidential Supplemental to the Sixth Report of the Monitor dated December 19, 2022 (the “**Sixth Confidential Supplemental**”), which provides information in respect of the unredacted Appian SPA, are both subject to a sealing order (the “**Existing Sealing Order**”) granted by this Honourable Court on December 21, 2022. Accordingly, the Monitor intends to file, subject to the Sealing Order, the Twelfth Confidential Supplemental setting out more detail related to the Purchase Price and a breakdown of the Purchase Price, which information is subject to the Existing Sealing Order. This Twelfth Report contains the information that is either already publicly available or was previously referred to in the public filings.
21. On closing of the Appian Transaction:
 - a. the Purchase Price was funded through payments by ANR, the deposit and interest accrued on the deposit;
 - b. pursuant to the Sales Agent Agreement, the Sales Agent was paid a transaction fee of 1.5% of the transaction value, less a credit of 50% of the aggregate engagement fees paid during the first five months of the engagement;
 - c. the Working Capital Escrow Amount and the Indemnity Escrow Amount (each as defined in the Appian SPA) were paid to the escrow agents, being the Monitor and the Computershare Trust Company of Canada, respectively;

- d. a wind-down reserve (the “**Wind-down Reserve**”) of \$3.0 million and a holdback to secure the D&O Charge (as defined in the ARIO) of \$1.2 million were funded to be held in trust by the Monitor in relation to the on-going administration of the estate and potential claims related thereto;
- e. the RCF Administrative Agent, on behalf of the RCF Lenders, was paid the full amounts outstanding under the Interim Financing Tranche and the Revolving Credit Facility for a total of approximately \$113.6 million; and
- f. Glencore was paid a distribution of approximately \$13.1 million. In this regard, the Distribution Order authorized Trevali Corp. to make distributions in an amount not to exceed the Outstanding Interim Financing Balance plus the aggregate amounts owing under the Revolving Credit Facility and Glencore Facility which, as stated in the Tenth Report of the Monitor dated April 17, 2023, preserves the determination of the effect or application of such payments in the context of interpreting the Settlement Agreement for another day.

ENHANCED MONITOR’S POWERS

- 22. With the closing of the Appian Transaction, Trevali Corp. has now completed the sale of its most substantial asset and all of its operating business, while its two other previously operating mines are the subject of receivership and liquidation proceedings. Trevali Corp.’s director and officer insurance is set to expire on June 30, 2023 and will not be renewed. The existing director and officers of Trevali Corp. are not expected to continue in their current positions. The remaining employees of Trevali Corp. are expected to be terminated or otherwise move on to pursue other opportunities at that time.
- 23. The enhanced powers and protections proposed to be afforded to the Monitor pursuant to the Stay Extension and Enhanced Monitor’s Powers Order will allow for the estate of Trevali Corp. to be wound down and meet its remaining obligations under the Appian SPA, the AVO and the Claims Process Order, among other orders, in an efficient and cost-effective manner.

24. The enhanced powers in the Stay Extension and Enhanced Monitor's Powers Order will permit the Monitor to assume responsibility for the administration of the remainder of Trevali Corp.'s property and functions under the Claims Process Order at a time when Trevali Corp. is expected to have no management or directors. The Monitor has acted as court-appointed monitor of Trevali Corp. since August 2022 and is prepared to accept the expanded role provided in the Stay Extension and Enhanced Monitor's Powers Order should the Court grant such an order.
25. Recently, the Monitor has held several meetings with the sole director of Trevali Corp., Management and certain key stakeholders to discuss the Monitor's potential expanded role and prepare for an orderly transition of governance.
26. In the event that the Stay Extension and Enhanced Monitor's Powers Order is granted, the Monitor anticipates entering into consulting contracts with Brendan Creaney, the current Chief Financial Officer of Trevali Corp., Steven Molnar, the current Chief Legal Officer of Trevali Corp., and potentially other key management personnel to assist the Monitor with its administration of the estate, realization of assets and evaluation of outstanding Claims (as defined in the Claims Process Order). In that regard, Trevali Corp. and the Monitor have had discussions with Mr. Creaney and Mr. Molnar with respect to contract terms on which they would be willing to providing consulting services to Trevali Corp. after June 29, 2023, to assist with, among other things, post-closing matters with respect to the Appian Transaction, resolution of outstanding Claims against Trevali Corp., recovery on the remaining assets of Trevali Corp. and administration of the estate (the "**Consulting Services Agreements**").
27. The terms of the Consulting Services Agreements have been discussed with the applicable parties and will include a three-month minimum term, have termination rights for both Trevali Corp. and the consultants, will permit the consultants to engage in other work provided such other work does not interfere with the performance of services and compensates the consultants in a manner commensurate with their prior compensation.

28. The Monitor is of the view that the terms of the Consulting Services Agreements are commercially reasonable for executives of this profile and experience, considering their current compensation, and that retaining the institutional knowledge of Mr. Creaney and Mr. Molnar is critical to achieving favourable outcomes from the remaining realization efforts and to maximize the overall recoveries to stakeholders.

CLAIMS PROCESS

29. As described in the Eleventh Report of the Monitor dated May 31, 2023 (the “**Eleventh Report**”), the Monitor issued 11 Notices of Revision or Disallowance (“**NORD**”) pursuant to the Claims Process Order.

30. The Monitor received two Notices of Dispute of Revision or Disallowance within five business days of the corresponding date of delivery of the NORDs. Neither disputing party submitted a notice of application seeking to appeal the NORD, along with supporting affidavit material, within 15 business days after the date of delivery of the NORD as required by the Claims Process Order. Accordingly, both Claims have been deemed accepted at the amount, secured status and priority as set forth in the NORD pursuant to the Claims Process Order.

31. As described in the Eleventh Report, the Monitor has extended 10 Claims where it was determined by the Monitor, in consultation with Trevali Corp., that further evaluation of those Claims was warranted due to the contingent nature of the Claims or where further evidence of the amounts claimed was forthcoming. The Monitor expects to further extend the applicable timelines in respect of certain Claims.

CASH FLOW STATEMENT

32. The Monitor has prepared the Wind-down Cash Flow Statement to set out the liquidity requirements and cash position of Trevali Corp. during the Forecast Period. A copy of the Wind-down Cash Flow Statement is attached as Appendix “A”.

33. A summary of the Wind-down Cash Flow Statement is set out in the below table:

Trevali Corp.	
Wind-down Cash Flow Statement	
For the 19-week period ending October 29, 2023	
<i>(USD thousands)</i>	Weeks 1-19 Forecast

Receipts	
Other Receipts	\$ -
Total Receipts	-
Disbursements	
Contractors and Consultants	350
Restructuring Professional Fees	795
Other Professional Fees	20
Other Operating Disbursements	155
Total Disbursements	1,320
Net Change in Cash	(1,320)
Opening Cash	3,000
Ending Cash	\$ 1,680

34. The Wind-down Cash Flow Statement is based on the following key assumptions:

- a. opening cash is assumed to be the \$3.0 million Wind-down Reserve funded from the proceeds of the Appian Transaction and is presented exclusive of \$1.2 million held in respect of the D&O Charge;
- b. other receipts does not include recoveries on remaining assets, including the Working Capital Escrow Amount, that may be realized during the Forecast Period;
- c. as described above, the Monitor anticipates entering into short-term consulting contracts with certain key Management personnel to assist with post-closing matters, evaluation of Claims and realization of assets;
- d. restructuring professional fees include legal counsel to Trevali Corp., the Monitor and the Monitor's legal counsel;
- e. other professional fees include legal fees incurred in respect of insurance settlement discussions relating to the Perkoa mine, among other matters; and

- f. Trevali Corp. anticipates incurring certain overhead costs in order to, among other things, preserve and maintain access to company records and information systems.

SEALING ORDER

35. The Monitor's comments with respect to the application for the Sealing Order are as follows:

- a. the Twelfth Confidential Supplemental provides details of the Appian Transaction and the distribution of funds pursuant to the Distribution Order that would reveal details, or information that could be used to reverse engineer details, of the Appian SPA that are subject to the Existing Sealing Order. As a result, the Sealing Order in respect of the Twelfth Confidential Supplemental is necessary given the Existing Sealing Order; and
- b. the Twelfth Confidential Supplemental contains the same or similar information as the Confidential Creaney Affidavit that Appian previously advised was particularly commercially sensitive to them, which if made publicly available could adversely affect their commercial interests.

STAY EXTENSION

36. The Monitor's comments with respect to Trevali Corp.'s application for the Stay Extension are as follows:

- a. the Stay Extension will allow Trevali Corp. time to attend to post-closing matters associated with the Appian Transaction, review and evaluate unresolved Claims and otherwise administer Trevali Corp.'s estate;
- b. the Wind-down Cash Flow Statement forecasts that Trevali Corp. will have sufficient liquidity during the period of the Stay Extension;

- c. there is not any material financial prejudice to Trevali Corp.'s creditors as a result of the Stay of Proceedings being extended to October 27, 2023; and
- d. Trevali Corp. is acting in good faith and with due diligence.

CONCLUSIONS AND RECOMMENDATIONS

37. Based on the foregoing, the Monitor respectfully recommends that this Honourable Court grant the Stay Extension and Enhanced Monitor's Powers Order and the Sealing Order.

All of which is respectfully submitted this June 26, 2023.

FTI Consulting Canada Inc.
in its capacity as Monitor of Trevali


Tom Powell
Senior Managing Director


Mike Clark
Senior Director

Appendix A

Wind-down Cash Flow Statement for the 19-week
period ending October 29, 2023

Treviati Mining Corporation
 Wind-down Cash Flow Statement
 For the 19-week period ending October 29, 2023

(USD thousands)	Week 1 25-Jun Forecast	Week 2 2-Jul-23 Forecast	Week 3 9-Jul-23 Forecast	Week 4 16-Jul-23 Forecast	Week 5 23-Jul-23 Forecast	Week 6 30-Jul-23 Forecast	Week 7 6-Aug-23 Forecast	Week 8 13-Aug-23 Forecast	Week 9 20-Aug-23 Forecast	Week 10 27-Aug-23 Forecast	Week 11 3-Sep-23 Forecast	Week 12 10-Sep-23 Forecast	Week 13 17-Sep-23 Forecast	Week 14 24-Sep-23 Forecast	Week 15 1-Oct-23 Forecast	Week 16 8-Oct-23 Forecast	Week 17 15-Oct-23 Forecast	Week 18 22-Oct-23 Forecast	Week 19 29-Oct-23 Forecast	Total	
Operating Receipts	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Other Receipts	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Receipts	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Operating Disbursements	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Contractors and Consultants	-	100	-	-	-	100	-	-	-	-	100	-	-	-	50	-	-	-	-	-	350
Restructuring Professional Fees	-	-	-	-	-	-	265	-	-	-	265	-	-	-	265	-	-	-	-	-	795
Other Professional Fees	-	20	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	20
Other Operating Disbursements	5	5	5	5	5	5	25	5	5	5	25	5	5	5	25	5	5	5	5	5	155
Total Operating Disbursements	5	125	5	5	5	105	290	5	5	5	390	5	5	5	340	5	5	5	5	5	1,320
Net Change in Cash	(5)	(125)	(5)	(5)	(5)	(105)	(290)	(5)	(5)	(5)	(390)	(5)	(5)	(5)	(340)	(5)	(5)	(5)	(5)	(5)	(1,320)
Opening Cash	3,000	2,995	2,870	2,865	2,860	2,855	2,750	2,460	2,455	2,450	2,445	2,055	2,050	2,045	2,040	1,700	1,695	1,690	1,685	1,680	3,000
Ending Cash	2,995	2,870	2,865	2,860	2,855	2,750	2,460	2,455	2,450	2,445	2,055	2,050	2,045	2,040	1,700	1,695	1,690	1,685	1,680	1,680	1,680