

C A N A D A

PROVINCE OF QUÉBEC
DISTRICT OF **MONTRÉAL**

SUPERIOR COURT

Commercial Division

(Sitting as a court designated pursuant to the *Companies' Creditors Arrangement Act*, R.S.C., c. 36, as amended)

Nº: **500-11-048114-157**

IN THE MATTER OF THE PLAN OF COMPROMISE OR ARRANGEMENT OF:

WABUSH IRON CO. LIMITED

WABUSH RESOURCES INC.

Petitioners

-and-

FTI CONSULTING CANADA INC.

Monitor

-and-

TWIN FALLS POWER CORPORATION

CHURCHILL FALLS (LABRADOR) CORPORATION LIMITED

Mises-en-cause

MOTION FOR ISSUANCE OF AN APPROVAL AND VESTING ORDER WITH RESPECT TO THE SALE OF SHARES OF TWIN FALLS POWER CORPORATION¹

(Sections 11 and 36 *ff* of the *Companies' Creditors Arrangement Act*)

TO THE HONOURABLE MR. JUSTICE MICHEL PINSONNAULT, J.S.C. OR ONE OF THE HONOURABLE JUDGES OF THE SUPERIOR COURT, SITTING IN THE COMMERCIAL DIVISION, IN AND FOR THE DISTRICT OF MONTRÉAL, THE PETITIONERS SUBMIT:

1. BACKGROUND

1. On January 27, 2015, the CCAA Court issued an Initial Order (as subsequently amended, rectified and/or restated the "**Bloom Lake Initial Order**") commencing these proceedings (the "**CCAA Proceedings**") pursuant to the *Companies' Creditors Arrangement Act* (the "**CCAA**") in respect of Bloom Lake General Partner Limited, Quinto Mining Corporation, 8568391 Canada Limited ("**8568391**") and Cliffs Québec Iron Mining ULC and the Mises-en-cause The Bloom Lake Iron Ore Mine Limited Partnership and Bloom Lake Railway Company Limited (all such parties together (other than 8568391 from and after November

¹ Except as otherwise provided for herein, all capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Bloom Lake Initial Order (as defined herein) the Wabush Initial Order (as defined herein), and the CBCA Motion (as defined herein).

21, 2019 when 8568391 ceased to be a CCAA Party upon its wind-up and dissolution), the "**Bloom Lake CCAA Parties**"), as appears from the Initial Order dated January 27, 2015, which forms part of the Court record.

2. On May 20, 2015, the CCAA Court issued an Initial Order (as subsequently amended, rectified and/or restated the "**Wabush Initial Order**"; the Wabush Initial Order, together with the Bloom Lake Initial Order, the "**Initial Orders**") extending the scope of the CCAA Proceedings to the Petitioners Wabush Iron Co. Limited ("**Wabush Iron**") and Wabush Resources Inc. ("**Wabush Resources**"; Wabush Resources, together with Wabush Iron, "**Wabush**" or the "**Sellers**") and the Mises-en-cause Wabush Mines, Wabush Lake Railway Company Limited, and Arnaud Railway Company (and collectively, the "**Wabush CCAA Parties**"; the Wabush CCAA Parties, together with the Bloom Lake CCAA Parties, the "**CCAA Parties**").
3. Pursuant to the Bloom Lake Initial Order and the Wabush Initial Order, a stay of proceedings was ordered in respect of the CCAA Parties, which has been extended on several occasions, most recently on November 26, 2021, and currently expires on June 30, 2022, as now appears from the Court record.
4. Pursuant to the Bloom Lake Initial Order and the Wabush Initial Order, FTI Consulting Canada Inc. ("**FTI**") was appointed as monitor in respect of the business and financial affairs of the CCAA Parties (the "**Monitor**").
5. On June 29, 2018, Mr. Justice Hamilton issued an order sanctioning the Joint Plan of Compromise and Arrangement dated as of May 16, 2018 (as subsequently amended, rectified and/or restated, the "**Plan**"), the whole as appears from the Court record.
6. On July 31, 2018, the Monitor issued the Plan Implementation Date Certificate, confirming the implementation of the Plan on July 31, 2018, the whole as appears from the Court record.
7. Pursuant to the Plan, the net proceeds of sales and other recoveries are to be distributed to the creditors of the Participating CCAA Parties (as defined therein) in accordance with the terms and conditions of the Plan.
8. Since the implementation of the Plan, the CCAA Parties, with the assistance of the Monitor, have been working to wind down the estates of the CCAA Parties so that the net proceeds from such recoveries and realizations can finally be distributed to the creditors of the CCAA Parties as soon as possible.
9. The CCAA Parties have been informed by the Monitor that a significant majority of the creditors of Wabush are former employees of Wabush Mines, many of whom are elderly, and who are reasonably assumed to be anxious to receive their final distributions as soon as possible.
10. Subject to the resolution and collection of certain outstanding tax refunds, the CCAA Parties have monetized all of their assets other than the combined 17.062% equity interest (the "**Twinco Interest**") held by Wabush Iron and Wabush Resources in Twin Falls Power Corporation ("**Twinco**").

11. On November 16, 2020, in furtherance of the CCAA Parties' efforts to monetize the Twinco Interest, the CCAA Parties filed a *Motion for the Winding up and Dissolution, Distribution of Assets, Reimbursement of Monies and Additional Relief* (the "**CBCA Motion**") on a *pro forma* basis, which was subsequently scheduled by the Court to be heard on January 29, 2021. A copy of the CBCA Motion is communicated herewith as **Exhibit R-1**.
12. On January 27, 2021, this Court adjourned the CBCA Motion, the CFLCo Contestation (as defined below) and the Twinco Dismissal Motion (as defined below), *sine die*, and on February 22, 2021, the Supreme Court of Newfoundland and Labrador (the "**Newfoundland Court**") adjourned the Twinco Liquidation Motion (as defined below), in order to allow the parties an opportunity to explore the possibility of a consensual resolution of the matters raised in those proceedings.
13. The CCAA Parties, Twinco and CFLCo have now reached a consensual resolution of the disputes between them. Such resolution is documented in the Share Purchase Agreement dated as of January 13, 2022 among Wabush Iron and Wabush Resources (as Sellers) (together, "**Wabush**" or the "**Sellers**") and Churchill Falls (Labrador) Corporation Limited ("**CFLCo**") and, if Iron Ore Company of Canada ("**IOC**") exercises the IOC Participation Right (defined below), IOC (as Purchaser) (as may be amended, modified or supplemented in accordance with its terms, the "**Share Purchase Agreement**") and the terms of the Approval and Vesting Order (if granted). A copy of the Share Purchase Agreement is communicated herewith as **Exhibit R-2**.

2. ORDER SOUGHT

14. The Petitioners, Wabush Iron and Wabush Resources as Sellers under the Share Purchase Agreement, hereby seek the issuance of an Approval and Vesting Order substantially in the form of the draft Approval and Vesting Order communicated herewith as **Exhibit R-3** (the "**Draft Approval and Vesting Order**") which provides for, *inter alia*:
 - a) the Court's approval of the proposed transaction (the "**Proposed Transaction**") contemplated by the Share Purchase Agreement; and
 - b) the vesting of all of the Sellers' right, title and interest in and to the Twinco Interest in the Purchaser, free and clear of all encumbrances upon the issuance to the Sellers and the Purchaser of a certificate by the Monitor in the form of Schedule "A" to the Draft Approval and Vesting Order (the "**Monitor's Certificate**"), the whole as provided in the Share Purchase Agreement and as further detailed below.

3. OVERVIEW OF FACTS

3.1 Twin Falls Power Corporation

15. Twinco is an incorporated joint venture formed under the *Canada Business Corporations Act* (the "**CBCA**") on February 18, 1960 among CFLCo, Wabush Iron and Wabush Resources, and IOC, among others.
16. As at December 31, 2019, Twinco was owned 33.3% by CFLCo, 49.6% by IOC, 4.6% by Wabush Iron and 12.5% by Wabush Resources.

17. Pursuant to the Participation Agreement, dated January 2, 1977, which serves as the *de facto* unanimous shareholders' agreement for the Twinco joint venture, CFLCo has the right to appoint three directors of Twinco for every director nominated by IOC, Wabush Resources and Wabush Iron.
18. On July 14, 2017, the then two nominee directors of Wabush, Patrick Ryan and Clifford Smith, resigned in conjunction with the sale by Wabush of the Scully Mine, which was the last material asset of the CCAA Parties to be sold in these CCAA Proceedings. No replacement nominees of Wabush have been appointed to the Twinco Board.
19. The history of the Twinco Plant (as defined below) is long and complicated and is set out in significant detail in the CBCA Motion, the highlights of which are set out below.
20. In 1961, CFLCo licensed to Twinco the rights to develop a 225-megawatt hydroelectric generating plant on the Unknown River in Labrador (the "**Twinco Plant**").
21. In addition to the Twinco Plant, Twinco owned a number of other assets including: (i) the physical building which houses the Twinco Plant (the "**Twinco Building**"); (ii) the transmission lines from the Twinco Plant to its consumers (the "**Twinco Transmission Lines**"); and (iii) the equipment which comprises the Twinco Plant and was used in the production of hydro-electric power (the "**Twinco Machinery**", and collectively, with the Twinco Building and Twinco Transmission Lines, and such other assets of Twinco, the "**Twinco Assets**").
22. In 1974, CFLCo took over the Twinco Plant and undertook maintenance obligations in respect of the Twinco Plant (the "**CFLCo Maintenance Obligations**"), and indemnified Twinco in respect of those obligations and environmental liabilities in connection with the Twinco Plant and Twinco Assets (the "**CFLCo Indemnity**"), each as more particularly detailed in the CBCA Motion.
23. The Twinco Plant was placed into an extended shutdown in 1974. Since that time until today, based on various environmental assessments commissioned by Twinco over the years as summarized in various Audited Financial Statements of Twinco, the CCAA Parties understand there to be potential environmental liability that may have occurred in respect of the Twinco Plant and Twinco Assets (the "**Potential Environmental Liability**").

3.2 The CBCA Motion

24. As stated in the CBCA Motion, for years, both prior to and after the commencement of the CCAA Proceedings, the CCAA Parties, with the support of IOC, sought to obtain a distribution of the Twinco Cash to Twinco's shareholders, but such distribution was historically resisted by Twinco and CFLCo.
25. The history of the CCAA Parties and its dialogue with Twinco and its majority shareholder CFLCo, is set out in detail in the CBCA Motion.
26. On November 16, 2020, to facilitate monetization of the Twinco Interest, the CCAA Parties filed the CBCA Motion, seeking the issuance of an Order against Twinco and CFLCo, among other things:

- a) directing the winding up and dissolution of Twinco pursuant to section 214 and/or section 241(3)(l) of the CBCA and a distribution of: (i) the Twinco Cash net of all reasonable fees and expenses incurred by Twinco to implement and complete the wind up and dissolution sought in the CBCA Motion (the “**Remaining Twinco Cash**”), and (ii) the CFLCo Reimbursement to Twinco’s shareholders, including Wabush, on a *pro rata* basis;
- b) in the alternative to (a), directing Twinco and/or CFLCo to purchase the shares of Twinco held by Wabush pursuant to section 214(2) and/or section 241(3)(f) of the CBCA for a purchase price equal to the amount of Wabush’s *pro rata* share of: (i) the Twinco Cash, and (ii) the CFLCo Reimbursement (as defined therein); and
- c) such further and other relief as this Honourable Court deems just.

3.3 Events After Filing the CBCA Motion

27. In response to the CBCA Motion, Twinco filed a *Motion by Twin Falls Power Corporation to Dismiss the Application for Lack of Jurisdiction and for Forum Non-Conveniens* dated January 15, 2021, to dismiss the CCAA Parties’ CBCA Motion for lack of jurisdiction of this Court to hear the CBCA Motion and for *forum non-conveniens* (the “**Twinco Dismissal Motion**”), and CFLCo filed a Contestation to the CBCA Motion dated January 15, 2021 (the “**CFLCo Contestation**”), both to be heard by this Court on January 29, 2021, along with the CBCA Motion.
28. In the CFLCo Contestation, CFLCo advised the CCAA Parties that it was going to imminently commence an originating application for a court supervised liquidation and dissolution of Twinco in the Newfoundland Court (the “**Twinco Liquidation Application**”).
29. The Twinco Liquidation Application was formally issued on January 21, 2021, to be heard on February 23, 2021.
30. Subject to receipt of the Twinco Dismissal Motion and CFLCo Contestation and the CBCA Motion hearing date, the parties agreed to seek an adjournment of the CBCA Motion, Twinco Dismissal Motion, the CFLCo Contestation and the Twinco Liquidation Application, in each case without prejudice to each party’s right to seek a new hearing date for any of such proceedings on 14 days’ prior written notice to the other parties.
31. On January 27, 2021, this Court adjourned *sine die* the CBCA Motion, the Twinco Dismissal Motion, and the CFLCo Contestation and on February 22, 2021, CFLCo confirmed the adjournment *sine die* of the Twinco Liquidation Application with the Newfoundland Court (all such adjourned proceedings, the “**Adjourned Proceedings**”).
32. By letter dated February 1, 2021 (the “**February 1 Letter**”), counsel for the CCAA Parties sought to confirm its understanding of the terms of the adjournment of the Adjourned Proceedings as amongst the parties.
33. However, the CCAA Parties and Monitor were unable to obtain information from Twinco and CFLCo that the CCAA Parties and Monitor required to properly assess the approximate value of the Twinco Interest in order to agree to a consensual resolution. As a result, the negotiations did not proceed in any meaningful way.

34. On May 6, 2021, the CCAA Parties filed a *Motion for the Expansion of the Monitor's Powers* to facilitate the monetization of the Twinco Interest for the benefit of the CCAA Parties' creditors and the winding up of the CCAA Parties' estate and termination of the CCAA Proceedings, by providing the Monitor with the expanded powers to obtain certain information from Twinco and CFLCo.
35. The *Motion for the Expansion of the Monitor's Powers* was heard on June 2, 2021 and on July 14, 2021, Mr. Justice Pinsonnault released a decision granting the motion (the "**Expansion of Powers Decision**").
36. The Twinco Dismissal Motion was heard on August 6, 2021 and on August 12, 2021, Mr. Justice Pinsonnault issued a judgment dismissing the Twinco Dismissal Motion and affirming the jurisdiction of the CCAA Court to hear the CBCA Motion (the "**Twinco Dismissal Decision**").

3.4 Events After Expansion of Powers Decision and Twinco Dismissal Decision

37. On August 4, 2021, CFLCo filed an application for leave to appeal the Expansion of Powers Decision.
38. On September 2, 2021, CFLCo filed a motion for leave to appeal the Twinco Dismissal Decision (together with the application for leave to appeal the Expansion of Powers Decision, the "**Leave Applications**").
39. The Leave Applications have been adjourned multiple times to facilitate a consensual resolution, most recently to February 21, 2022 and the CCAA Parties, CFLCo and the Monitor have continued to work to resolve the outstanding matters in dispute, including obtaining additional information and disclosures in respect of Twinco that would enable the CCAA Parties and the Monitor to assess the estimated value of the Twinco Interest for the purposes of negotiating a potential settlement of the disputes set out in the Adjourned Proceedings.
40. Such additional information and disclosures were ultimately agreed by the parties to be set out in the form of sworn affidavits from officers and directors of Twinco, being Dana Pope, Controller and Director of Twinco, and Oral Burry, General Manager and Director of Twinco (the "**Twinco Affidavits**").
41. The content of the Twinco Affidavits were discussed and negotiated between the CCAA Parties, Twinco, CFLCo and the Monitor to include information as to (i) the quantum of maintenance and environmental expenses incurred by Twinco since 2012 and amounts thereof that have not been reimbursed by CFLCo or customers, including IOC and Wabush, (ii) the updated amount of cash at Twinco, (iii) the updated amount of liabilities at Twinco, and (iv) estimated costs for completion of the winding-up and dissolution of Twinco.
42. The Twinco Affidavits were finalized and sworn on October 18, 2021 and the financial information contained in the Twinco Affidavits as at August 31, 2021 disclosed cash and receivables of approximately \$5.8 million and liabilities of approximately \$331,000 and estimated costs to complete the liquidation of approximately \$345,000, resulting in an estimated net equity in Twinco upon completion of the winding-up and liquidation of

Twinco of approximately \$5,208,000. Wabush's pro rata share of the estimated net equity would be 17.062% or approximately \$888,589.

43. The estimated liabilities in the Twinco Affidavits include a deduction of approximately \$173,000 for "Extraordinary Maintenance" costs that have been paid by Twinco since 2012 but not reimbursed under the CFLCo Indemnity or by others and an estimated \$282,000 for future PCB environmental costs to be incurred by Twinco.
44. While the parties do not necessarily agree as to whether the foregoing Extraordinary Maintenance costs or the future PCB environmental costs identified in the Twinco Affidavits are subject to the CFLCo Indemnity or not, nor to the potential quantum for the winding-up and liquidation, the CCAA Parties recognize that there would be additional costs and delay to the Wabush CCAA Parties' estates associated with adjudicating these matters.
45. Given the delay in finalizing the terms of the Proposed Transaction and Share Purchase Agreement, Wabush and the Monitor requested and received from Ms. Pope, Controller and a director of Twinco, a supplemental affidavit sworn on January 5, 2022, which confirmed that to her knowledge although there has been some variation, there have been no material changes to the financial information contained in her initial affidavit. She further noted however that additional substantial amounts may be incurred in the future in connection with the removal of PCBs.
46. After extensive negotiations, the parties have agreed on a settlement amount of \$875,000, which is reflected in the Purchase Price for the shares of Twinco held by Wabush (the "**Wabush Twinco Shares**") under the Share Purchase Agreement.
47. The settlement in the form of the Proposed Transaction and Share Purchase Agreement, if approved by the Court, is scheduled to close once the Escrow Release Conditions (as defined below) are satisfied and in any event no later than February 14, 2022.
48. The Proposed Transaction would permit the CCAA Parties to obtain their approximate share of the net equity in Twinco without having to wait for the liquidation of Twinco to be completed, which could take many months or years to complete. The Proposed Transaction would also avoid the ongoing costs associated with monitoring and participating in the Twinco liquidation proceedings. With the Proposed Transaction, CFLCo may, if it wishes to, continue the Twinco Liquidation Application on whatever process and timeline it so chooses.

3.5 IOC Waiver of IOC Participation Right

49. Pursuant to section 7 of the Participation Agreement dated January 2, 1977 among, *inter alia*, Wabush, CFLCo and IOC (the "**Participation Agreement**"), in order to transfer the Wabush Twinco Shares of held by them to CFLCo as contemplated by the Proposed Transaction, Wabush is required to offer IOC its pro rata share of the Wabush Twinco Shares (based on the current holdings of CFLCo and IOC of the common stock of Twinco) on the same terms and conditions agreed upon with CFLCo (the "**IOC Participation Right**").
50. Pursuant to the Participation Agreement, Wabush's offer to IOC pursuant to IOC's Participation Right remains open for thirty (30) days from the date of the offer.

51. On December 2, 2021, the Monitor's counsel, with the consent of Wabush and CFLCo, informed IOC's counsel by email that Wabush and CFLCo have been negotiating a settlement of the Adjourned Proceedings in the form of the Proposed Transaction and the amount of the proposed purchase price in respect thereof and requested a waiver from IOC of the IOC Participation Right.
52. As noted in the CBCA Motion, the CCAA Parties had included the Wabush Twinco Shares in their comprehensive sale and investment solicitation process but no one, including IOC, had expressed any interest in acquiring such interest.
53. A waiver of the IOC Participation Right by IOC prior to finalization of the Share Purchase Agreement (the "**IOC Waiver**") would have substantially simplified the escrow mechanics in the Share Purchase Agreement and expedited closing of the Proposed Transaction due to the 30-day period in which IOC could exercise the IOC Participation Right.
54. Upon not receiving any substantive response from IOC, on December 17, 2021, the CCAA Parties' counsel, on behalf of Wabush, notified IOC and its counsel in writing of the Proposed Transaction, and offered IOC the opportunity to exercise the IOC Participation Right to acquire a pro rata share of the Wabush Twinco Shares being offered to CFLCo under the Proposed Transaction (the "**IOC Participation Offer Notice**").
55. A copy of the draft Share Purchase Agreement, which the Sellers believed at that time to be in substantially final form, was attached to the IOC Participation Offer Notice.
56. The offer expiry date in the IOC Participation Offer Notice is January 17, 2022 (the "**IOC Participation Expiry Date**"), being 30 days from the date of the IOC Participation Offer Notice.
57. The Sellers and CFLCo agreed not to wait for the expiry of the IOC Participation Right before executing the Share Purchase Agreement. Instead, to accommodate the IOC Participation Right, the Share Purchase Agreement includes an extensive set of provisions dealing with the possibility that IOC could become a Purchaser thereunder if IOC exercised the IOC Participation Right prior to the IOC Participation Expiry Date and satisfied the IOC Participation Conditions set out in the Share Purchase Agreement (the "**IOC Participation Provisions**").
58. On January 12, 2022, on the eve of the execution of the Share Purchase Agreement, IOC delivered the IOC Waiver, resulting in the IOC Participation Provisions being moot. However, to avoid incurring any further delay and costs in amending the then finalized Share Purchase Agreement, Wabush and CFLCo agreed to execute the Share Purchase Agreement with all the IOC Participation Provisions intact, subject to the addition of a provision that clarifies that due to the receipt of the IOC Waiver prior to execution of the Share Purchase Agreement, certain deliverables that were required to be delivered by the Sellers, CFLCo and the Monitor into escrow to accommodate the possibility of IOC becoming a Purchaser under the Share Purchase Agreement were no longer required to be delivered into escrow for closing of the Proposed Transaction to occur.
59. On January 14, 2022, the Share Purchase Agreement was executed by the Sellers and CFLCo.

3.6 Overview of the Proposed Transaction

60. The principal terms and conditions of the transaction contemplated by the Share Purchase Agreement are as follows (terms not otherwise defined herein have the meanings given to them in the Share Purchase Agreement):
- a) Wabush will sell the Wabush Twinco Shares to CFLCo for CDN \$875,000 cash, free and clear of any withholding, set-off or deduction of any kind (the “**Purchase Price**”), to be payable to the Monitor, on behalf of Wabush, in escrow on execution of the Share Purchase Agreement.
 - b) The allocation of the Purchase Price will be allocated as between Wabush Iron and Wabush Resources in accordance with each entity’s shareholdings in Twinco.
 - c) The Proposed Transaction will be “as is, where is” with limited representations or warranties, which representations and warranties shall not survive Closing.
 - d) The Proposed Transaction is subject to approval by the CCAA Court.
 - e) No later than two (2) Business Days following execution of the Share Purchase Agreement, with the exception of the Purchase Price Funds (which shall have been delivered by CFLCo to the Monitor’s Counsel in escrow concurrently with execution of the Share Purchase Agreement) and the originally executed Notices of Discontinuances in respect of the Leave Applications and the Liquidation Application (which are to be delivered to the Monitor’s Counsel in escrow prior to this Motion being served on the Service List, with the exception of the Notice of Discontinuance in respect of the Liquidation Application as executed by CFLCo’s Counsel, which is still in the process of being delivered at the time of this Motion and the Parties and Monitor have agreed to an extension of the time period for receipt by the Monitor), the Sellers are to deliver the Sellers Deliverables and CFLCo is to deliver the CFLCo Purchaser Deliverables, in each case to the Monitor’s Counsel to be held in escrow in accordance with the terms of the Share Purchase Agreement.
 - f) To provide for Closing of the Proposed Transaction to occur automatically once certain minimal Escrow Release Conditions (as defined below) are satisfied, Wabush and CFLCo are to deliver a full suite of closing documents into escrow.
 - g) Notices of Discontinuances in respect of the CBCA Motion, Leave Applications and Liquidation Application as against Wabush only (collectively, the “**Notices of Discontinuance**”), each on a without costs basis, which are included in the escrowed closing deliverables are to be filed with the applicable court by counsel to the applicable parties as soon as practicable and no later than five (5) Business Days after Closing.
 - h) The escrowed closing deliverables also include a mutual full and final release (the “**Mutual Release**”) provided by Wabush, the Monitor, CFLCo and Twinco in respect of all claims against each other, and their respective officers and directors, in form and substance satisfactory to the parties thereto, provided however that CFLCo and Twinco will not release each other from any claims that may exist between them. Pursuant to such release, CFLCo and Twinco will also release all

former directors of Twinco who were nominees of Wabush on the Twinco board of directors.

- i) As the Monitor is a party to the Mutual Release, it will also deliver the Mutual Release in escrow to the Monitor's Counsel to be held and released from escrow on Closing in accordance with the Share Purchase Agreement.
 - j) Closing will occur upon the satisfaction of each of the following conditions as determined by the Monitor (the "**Escrow Release Conditions**") by no later than the Outside Date (i.e. February 14, 2022):
 - (i) The Approval and Vesting Order shall have been issued in substantially the form of Schedule "J" of the Share Purchase Agreement (with such amendments as agreed to by the Purchaser and the Sellers, in each case acting reasonably) by no later than the Outside Date.
 - (ii) There shall be in effect no order, injunction, decree or judgment of any court or other Government Entity making it illegal or directly or indirectly prohibiting, restraining, enjoining or preventing the consummation of any of the transactions contemplated hereby.
 - (iii) The IOC Waiver shall have been received or if no IOC Waiver has been received, certain other conditions shall have been satisfied. As noted above, the IOC Waiver was received on January 12, 2022.
61. The Monitor has informed the CCAA Parties that it has received the Purchase Price Funds from CFLCo and the Monitor's Counsel has received all of the Sellers Deliverables, Purchaser Deliverables and Monitor Deliverables that are required at this time to be delivered to the Monitor's Counsel in escrow in accordance with the terms of the Share Purchase Agreement, with the exception of the original of the Notice of Discontinuance in respect of the Liquidation Application as executed by CFLCo, which as noted above is in the process of being delivered.
62. Upon Closing, the Sellers Deliverables, Purchaser Deliverables and Monitor Deliverables are to be released from escrow by the Monitor's Counsel and the Monitor is to issue the Monitor's Certificate to Wabush and the applicable Purchaser and file a copy thereof with the Court as soon as practicable.
63. The Share Purchase Agreement provides that unless consented to by CFLCo, the Sellers shall provide at least ten (10) days' notice of the AVO Motion to the service list. The Sellers have requested and received CFLCo's consent to the abridgement of that notice period.

3.7 Approval of Share Purchase Agreement and Proposed Transaction

64. The Sellers, applying their business judgment and in consultation with the Monitor, are of a view that:
- a) given the CCAA Parties' extensive effort to monetize the Twinco Interest, as set out in greater detail in the CBCA Motion, no superior sale of the Twinco Interest is possible;

- b) the Purchase Price for the Twinco Interest is fair and reasonable in the circumstances; and
 - c) the approval of the Share Purchase Agreement and Proposed Transaction is in the best interests of the Sellers' stakeholders, as a whole.
65. The Sellers are satisfied that, should this Court grant this Motion, the remaining conditions to Closing and closing mechanics should lead to the Closing of the Proposed Transaction.
66. In addition, the Sellers submit that the following important factors favour the approval of the Share Purchase Agreement and the Proposed Transaction:
- a) the Twinco Interest is the last remaining asset of the CCAA Parties to be monetized. Approval of the Proposed Transaction will facilitate winding-down and termination of the CCAA Proceedings;
 - b) the Share Purchase Agreement provides a consensual resolution for extensive litigation among the CCAA Parties, CFLCo and Twinco;
 - c) the CCAA Parties have consulted extensively with the Monitor as to the Share Purchase Agreement and the Proposed Transaction in this Motion and the Monitor has confirmed to the CCAA Parties that the Monitor supports this Motion and the relief being sought herein; and
 - d) the Proposed Transaction is the best available option to the Sellers and will benefit the stakeholders of the Sellers as a whole.

4. PROCEDURAL MATTERS

67. The Petitioners submit that the notices given of the presentation of the present Motion are proper and sufficient.
68. Pursuant to paragraph 54 of the Bloom Lake Initial Order and to paragraph 56 of the Wabush Initial Order, all motions in these CCAA Proceedings are to be brought on not less than ten (10) calendar days' notice to all Persons on the service list. Each motion must specify a date (the "**Initial Return Date**") and time for the hearing.
69. The Petitioners hereby request from this Court that this above-mentioned delay be abridged in order to allow this Motion to be properly presentable on January 25, 2022, which is the date that this Court has graciously made itself available to hear this Motion.
70. The service of the present Motion serves as notice pursuant to paragraph 54 of the Bloom Lake Initial Order and paragraphs 47 and 56 of the Wabush Initial Order.
71. Paragraph 55 of the Bloom Lake Initial Order and paragraph 57 of the Wabush Initial Order require that any Person wishing to object to the relief sought on a motion in the CCAA Proceedings must serve responding motion materials or a notice stating the objection to the motion and grounds for such objection (a "**Notice of Objection**") in writing to the moving party and the Monitor, with a copy to all persons on the service list, no later than 5 p.m. Montréal time on the date that is four (4) calendar days prior to the Initial Return Date (the "**Objection Deadline**"). Considering the hearing date of this Motion, the

Petitioners agree to abridge this delay. Accordingly, any parties wishing to object to the relief sought on this Motion must serve responding motion materials or a Notice of Objection by no later than 12 p.m. Montréal time on January 24, 2022.

72. Paragraph 57 of the Bloom Lake Initial Order and paragraph 59 of the Wabush Initial Order provide that the Monitor shall communicate with the Judge and the service list with respect to the Hearing Details.

5. CONCLUSIONS

73. In light of the foregoing, the Petitioners hereby respectfully seek an order approving the Proposed Transaction substantially in the form of the Draft Approval and Vesting Order (Exhibit R-3) which provides for the Court's approval of the Share Purchase Agreement and the Proposed Transaction contemplated therein.
74. The present Motion is well founded in fact and in law.

FOR THESE REASONS, MAY IT PLEASE THE COURT TO:

GRANT the present Motion;

ABRIDGE the 10-day delay for service of the present Motion and **DECLARE** that the present Motion is returnable on January 25, 2022;

ISSUE the order in the form of the Draft Approval and Vesting Order, Exhibit R-3, communicated in support hereof;

WITHOUT COSTS, save and except in case of contestation.

Montréal, January 18, 2022

Blake, Cassels & Graydon L.L.P.

BLAKE, CASSELS & GRAYDON LLP

Attorneys for the Petitioners

(Court Code: BB-8098)

1 Place Ville-Marie, Suite 3000

Montréal, Quebec H3B 4N8

M^{re} Bernard Boucher

bernard.boucher@blakes.com

Telephone: 514-982-4006

Fax: (514) 982-4099

Our reference: 11573-374

AFFIDAVIT

I, the undersigned, James Graham, the General Counsel & Secretary of Bloom Lake General Partner Limited, Cliffs Québec Iron Mining ULC, Quinto Mining Corporation, Wabush Resources Inc., Bloom Lake Railway Company Limited, Wabush Iron Co. Limited, and the Secretary of Arnaud Railway Company and Wabush Lake Railway Company Limited, having a place of business at 200 Public Square, Cleveland, Ohio, solemnly affirm that all the facts alleged in the present *Motion for the Issuance of an Approval and Vesting Order with Respect to the Sale of Shares of Twin Falls Power Corporation* are true.

AND I HAVE SIGNED:


James Graham

SOLEMNLY DECLARED before me at
Cleveland, Ohio, on this
18th day January, 2022


Notary Public



ANNETTE ANTHONY
NOTARY PUBLIC
STATE OF OHIO
Recorded in
Cuyahoga County
My Comm. Exp. 11/12/2022

NOTICE OF PRESENTATION

TO: Service List

TAKE NOTICE that the present *Motion for the Issuance of an Approval and Vesting Order with Respect to the Sale of Shares of Twin Falls Power Corporation* will be presented **virtually** for adjudication before the Honourable Michel A. Pinsonnault, J.S.C., or another of the honourable judges of the Superior Court, Commercial Division, sitting in and for the district of Montréal, in the Montréal Courthouse located at 1, Notre-Dame Street East, Montréal, Québec, on **January 25, 2022 at 9:30 a.m.**

The coordinates to join the hearing are the following:

Microsoft Teams

Join the virtual meeting:

[Click here](#)

By videoconference:

teams@teams.justice.gouv.qc.ca

Videoconférence ID: 117 354 411 5

By telephone:

[+1 581-319-2194](tel:+15813192194), 829662913# (Canada, Quebec)

[\(833\) 450-1741](tel:(833)4501741), 829662913# (Canada - Toll Free Number)

Conference Telephone ID: 829 662 913#

DO GOVERN YOURSELF ACCORDINGLY.

Montréal, January 18, 2022

Blake, Cassels & Graydon L.L.P.

BLAKE, CASSELS & GRAYDON LLP

Attorneys for the Petitioners

1 Place Ville-Marie, Suite 3000

Montréal, Quebec H3B 4N8

M^{re} Bernard Boucher

bernard.boucher@blakes.com

Telephone: 514-982-4006

Fax: (514) 982-4099

Our reference: 11573-374

C A N A D A

PROVINCE OF QUÉBEC
DISTRICT OF **MONTREAL**

SUPERIOR COURT

Commercial Division

(Sitting as a court designated pursuant to the *Companies' Creditors Arrangement Act*, R.S.C., c. 36, as amended)

N^o: **500-11-048114-157**

**IN THE MATTER OF THE PLAN OF COMPROMISE OR
ARRANGEMENT OF:**

**WABUSH IRON CO. LIMITED
WABUSH RESOURCES INC.**

Petitioners

-and-

FTI CONSULTING CANADA INC.

Monitor

-and-

**TWIN FALLS POWER CORPORATION
CHURCHILL FALLS (LABRADOR) CORPORATION
LIMITED**

Mises-en-cause

LIST OF EXHIBITS

(In support of the *Motion for Issuance of an Approval and Vesting Order with Respect to the Sale of Shares of Twin Falls Power Corporation*)

- | | |
|------------|---|
| R-1 | Motion for the Winding up and Dissolution, Distribution of Assets, Reimbursement of Monies and Additional Relief; |
| R-2 | Share Purchase Agreement dated as of January 13, 2022; |
| R-3 | Draft Approval and Vesting Order |

Montréal, January 18, 2022

Blake, Cassels & Graydon L.L.P.

BLAKE, CASSELS & GRAYDON LLP
Attorneys for the Petitioners

N°: 500-11-048114-157

**SUPERIOR COURT
DISTRICT OF MONTREAL
(Commercial Division)**

**IN THE MATTER OF THE PLAN OF COMPROMISE OR
ARRANGEMENT OF:**

**WABUSH RESOURCES INC.
WABUSH IRON CO. LIMITED**

Petitioners

-and-

FTI CONSULTING CANADA INC.

Monitor

-and-

**TWIN FALLS POWER CORPORATION
CHURCHILL FALLS (LABRADOR) CORPORATION
LIMITED**

Mises-en-cause

**MOTION FOR THE ISSUANCE OF AN APPROVAL AND
VESTING ORDER WITH RESPECT TO THE SALE OF
SHARES OF TWIN FALLS POWER CORPORATION AND
LIST OF EXHIBITS**
(Sections 11 and 36 ff of the CCAA)

ORIGINAL

The logo for the law firm Blakes, featuring the name 'Blakes' in a stylized, cursive script.

M^{re} Bernard Boucher

BB-8098

BLAKE, CASSELS & GRAYDON LLP

Barristers & Solicitors

1 Place Ville Marie, Suite 3000

Montréal, Québec H3B 4N8

Telephone: 514-982-4006 / Fax: 514-982-4099

Email: bernard.boucher@blakes.com

Our File: 11573-374