Court File No. CV-23-00707394-00CL

Tacora Resources Inc.

SUPPLEMENT TO THE FOURTH REPORT OF FTI CONSULTING CANADA INC., IN ITS CAPACITY AS COURT-APPOINTED MONITOR

March 26, 2024

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ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF TACORA RESOURCES INC.

(Applicant)

SUPPLEMENTAL REPORT TO THE FOURTH REPORT TO THE COURT SUBMITTED BY FTI CONSULTING CANADA INC., IN ITS CAPACITY AS MONITOR

INTRODUCTION

1. Pursuant to an Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated October 10, 2023, Tacora Resources Inc. ("**Tacora**" or the "**Applicant**") was granted protection under the Companies' Creditors Arrangement Act, R.S.C., c. C-36, as amended (the "**CCAA**" and in reference to the proceeding, the "**CCAA Proceeding**") and FTI Consulting Canada Inc. was appointed monitor of the Applicant (in such capacity (the "**Monitor**").

2. On March 14, 2024, the Monitor filed its fourth report to the Court (the "**Fourth Report**"). This report (the "**Supplemental Fourth Report**") is supplementary to and should be read in conjunction with the Fourth Report. All capitalized terms used herein but not defined shall have the meanings given to them in the Fourth Report and this Supplemental Fourth Report is subject to the same terms of reference and disclaimer as set out in the Fourth Report in all respects.

PURPOSE

3. The purpose of this Supplemental Fourth Report is to provide additional information to the Court in respect of the relief sought by Tacora in the Sale Approval Motion and the relief sought by Cargill in the Preliminary Threshold Motion and the Cargill Responding Motion following the cross-examinations and document production, all as contemplated by the Litigation Schedule.

ADDITIONAL COMMENTS FOLLOWING DOCUMENT PRODUCTION AND CROSS-EXAMINATIONS

4. Over the course of the documentary production process there were various disputes regarding assertions of privilege as well as confidentiality with respect to receipt of documents by the Ad Hoc

Group from Cargill. The Monitor sought to assist the parties in coming to working resolutions of those issues that allowed the cross-examinations to proceed. The Monitor understands that counsel for the various parties continue to work toward satisfactory arrangements for preserving the confidentiality of aspects of the cross-examination transcripts and exhibits.

5. For the assistance of the Court, the Monitor notes the following issues that arose through the cross-examinations and documentary production and provides additional details under the following headings:

   (a) Allegations of communications not in accordance with the Solicitation Process;

   (b) Cargill's decision to knowingly submit a non-compliant Bid and related strategy;

   (c) Status of compliance with the Net Debt Condition and other conditions in the Investor Bid; and

   (d) Tacora's decision regarding a Disclaimer of the Cargill Offtake Agreement.

(a) Allegations of Communications not in accordance with the Solicitation Process

6. Paragraphs 15 and 32 of the Solicitation Process provide that any communications between Phase 1 Bidders and any communications and meetings between Phase 2 Bidders and management of the Applicant shall be supervised by representatives of the Financial Advisor and the Monitor, provided that such discussions shall remain confidential and shall not be disclosed without the consent of the parties to the discussion.

7. During cross-examinations, Cargill raised the following issues concerning communications without the involvement of the Monitor (i) a phone call between Tacora's CEO, Mr. Broking, and Mr. Bradley of Javelin on November 22, 2023; (ii) separate phone calls between Mr. Broking and Mr. Vuong of Tacora and Mr. Phil Larson from Millstreet Capital Management LLC (one of the Investors) on or about January 5, 2024; and (iii) a phone call between Mr. Martin Valdes of Resource Capital Fund VII L.P. (one of the Investors) and Mr. Broking and separately a phone call between Mr. Valdes and Mr. Vuong, both in January 2024.

8. The Monitor recalls and confirms that it was aware of and gave permission regarding the conversation between Mr. Broking and Mr. Bradley in November of 2023. The Monitor understood that the primary purpose of the communication was for Javelin to satisfy itself of Mr. Broking's commitment to the Applicant. Prior to this call, the Monitor instructed Mr. Broking not to discuss any confidential information that had not previously been provided to Javelin pursuant to the

Solicitation Process, and was satisfied that Mr. Broking understood his own responsibilities and obligations in connection with the Solicitation Process including in the context of his discussion with Javelin.

9. The Monitor does not recall discussing Mr. Broking's or Mr. Vuong's communications with Mr. Larson or Mr. Valdes. Greenhill has advised the Monitor that it does not recall Mr. Broking and Mr. Vuong discussing the communications with Messrs. Larson or Valdes.

10. During the cross-examination of Mr. Lehtinen of Cargill, Tacora raised various issues concerning communications without the involvement of the Monitor or Greenhill, including (i) communications between Mr. Lehtinen and his brother-in-law, Mr. Jonathan Sgarlata, a VP of engineering at Tacora regarding "various diligence matters" including "production and costs"; (ii) communications between Mr. Lehtinen and Mr. Dale Ekmark, a general manager of Tacora; and (iii) communications between members of Cargill and its potential investors with representatives of Partners in Performance ("**PIP**") (a consulting firm retained by Tacora to provide certain services to Tacora). During cross-examination Mr. Lehtinen agreed that he had a "general awareness" that Greenhill did not give permission for Cargill to communicate directly with PIP or to have PIP participate in Cargill equity investor discussions, but despite this Cargill invited PIP directly to at least one call with potential equity providers.

11. Based on a review of the evidence given during the cross-examinations, the Monitor understands that the parties did not always abide by the management communication protocol of the Solicitation Process or their confidentiality agreements with Tacora. However, in the Monitor's view, the few instances of non-compliance were minor and did not compromise the integrity of the Solicitation Process or Tacora's selection of the Investor Bid as the Successful Bid.

(b) Knowing Submission by Cargill of a Non- Compliant Bid and Related Strategy

12. During cross-examination, Mr. Lehtinen confirmed that Cargill's internal working group ("SteerCo" (for steering committee)) was planning on submitting an all-cash bid which was "fully backstopped by Cargill" to preserve the Cargill Offtake Agreement. The board materials prepared in connection with seeking the internal approvals associated with the bid noted that if other investment was not sourced by the Phase 2 Bid Deadline, Cargill should go forward with the fully backstopped bid and "deal with the investment -- investors later".

13. Mr. Lehtinen testified that he was advised that the CEO of Cargill did not approve a fully backstopped offer by Cargill, however, Cargill did authorize a firm finance commitment limit of

$100 million. Cargill was prepared to convert up to $100 million of capital into equity, but also wanted additional equity through one or more third party investors alongside Cargill's investment and to find a partner or partners who would be willing to join in a bid and own a 51% or more economic interest in Tacora.

14. Board materials prepared in connection with obtaining internal approvals set out the criteria required for a Qualified Phase 2 Bid which included "written evidence of firm commitment for financing or other evidence of ability to consummate the proposed transaction". Mr. Lehtinen agreed that the ultimate Cargill Phase 2 Bid did not meet "that particular characteristic of the SISP". He noted, however, that Cargill had an expectation that, notwithstanding this offer structure, Tacora and its advisors would continue to work with Cargill as it sought to formulate its bid and arrange equity finance.

15. Cargill's advisor, Jeremy Matican of Jefferies, LLC ("**Jefferies**") agreed that a Qualified Phase 2 Bid had to include written evidence of a firm commitment for financing. He also understood that Tacora could waive that condition in its discretion, but was not obliged to do so. Mr. Matican confirmed that Jefferies' recommended that "it would best position Cargill to backstop the bid in connection with the January 19th bid deadline" and that he was "disappointed" when Cargill did not take Jefferies' advice.

16. During its cross-examination of Mr. Lehtinen, the Applicant also put to Mr. Lehtinen and marked as exhibits a number of Cargill's internal emails regarding the bid preparation that were produced for the cross examinations. The emails include phrases such as "play this for more time", "slow play this to buy more time for equity to get there", and "we have made progress on extending the litigation timeline into April to give us more time to assemble an alternative transaction." In reliance on the foregoing exhibits, the Applicant put to Mr. Lehtinen the proposition that Cargill had adopted a tactical strategy of seeking to delay the closing or approval of the Investor Bid. Mr Lehtinen denied these allegations. Mr. Lehtinen stated that Cargill has not "slow-played a single thing" and has worked diligently to bring capital to the table. He insisted that Cargill's only expectation was to avoid a "binary, robotic process" and obtain a reasonable time for additional negotiations. Similarly, during the cross-examination of Mr. Paul Carrelo by Tacora, Mr. Carrelo denied that Cargill had engaged in a strategy to buy more time to allow its deal to come to fruition and stated that Cargill's "strategy has been – it is clear we are trying to give the company more space to drive towards what we believe is a value-maximizing transaction that is going to be beneficial to all stakeholders". When asked however, whether Cargill needed more time to obtain an equity commitment beyond the January 19th deadline for the Phase 2 Bid submission, Mr. Carrelo

responded: “Yeah, I mean, look, we did not see January 19th as a deadline, as you indicate. We needed more time past that date to continue our process and enable participants to run their own approval process and complete due diligence, so that was, yeah, that is where we were”.

17. The proposition that Cargill had adopted a tactical delay strategy was also put to Mr. Matican of Jefferies. Mr. Matican admitted that he understood it was part of Cargill’s approach to extend the litigation timeline to attempt to find committed investors.

18. Mr. Lehtinen agreed that as of the date of his examination on March 19, 2024, Cargill did not have any signed letters of intent regarding a financing commitment, but that Cargill was “hoping and working very hard” to obtain that commitment. Mr. Carrelo advised that as of the date of his examination on March 21, 2024, Cargill had “continued to work with those investors”, those investors “continue to be engaged on getting to the finish line”, and there was no binding commitment from any of them. Mr. Matican confirmed that as of the date of his examination on March 22, 2024, no prospective investors had provided committed financing.

19. Based on a review of the evidence given during the cross-examinations, the Monitor understands that Cargill and its advisors were aware (i) of the Phase 2 Bid Deadline but did not view that milestone as a firm date; (ii) of the discretion Tacora had with respect to waiving the financing condition; (iii) that Cargill’s Phase 2 Bid did not satisfy the bid criteria set out in the Solicitation Process; and (iv) that Cargill intended to delay Tacora’s decision in the Solicitation Process, including through the litigation timetable, to attempt to get a committed investor onboard. To date, Cargill still does not have committed financing for its Phase 2 Bid, and any late bid submitted by Cargill at this stage would be non-compliant with the Solicitation Process. In the Monitor’s view, at this point, the Investor Transaction remains the only Phase 2 Qualified Bid and provides a path for Tacora to successfully restructure and exit these CCAA Proceedings.

20. As described in its prior Reports, completing the Applicant’s restructuring as soon as possible is of critical importance to the Applicant and its stakeholders. The Solicitation Process set specific deadlines in recognition of this fact. The Applicant is vulnerable to fluctuations in the global price of iron ore, and negative movements in such prices can and have materially impacted cashflow. The Monitor also notes that the Applicant is in need of substantial capital investment to enable it to achieve consistent, profitable operations. Such funding will not be forthcoming during this CCAA Proceeding. The Monitor therefore remains of the view that it is imperative that the Applicant emerge from the CCAA Proceeding as soon as possible.

(c) Status of Net Debt Condition and other Conditions contained in Investor Bid

21. Over the course of the cross-examinations, Cargill raised with Mr. Broking the question as to whether the Net Debt Condition of the Investors' Bid was a bar to completing the Investor Transaction. Mr. Broking confirmed that Tacora was not likely able to satisfy this condition on closing.

22. As noted by Mr. Jackson, a Tacora director, during his cross-examination, the challenge with respect to the Net Debt Condition has arisen as a result of the delay in the hearing of the Sale Approval Motion of approximately three months beyond the target closing date set out in the Solicitation Process. During this delay the Applicant continues to incur operating losses, significant professional fees and has been subject to a significant drop in iron ore prices.

23. As set out in the Monitor's Fourth Report, the Subscription Agreement includes the Net Debt Condition[1]. Based on a review of the evidence given during the cross-examinations and the Monitor's knowledge of the Applicant's cash flows, the Monitor understands that Tacora remains unlikely to satisfy the Net Debt Condition on closing of the Investor Transaction, as currently structured.

24. The Monitor also understands that Tacora and the Investors remain engaged in discussions regarding certain conditions contained in the Investor Bid. These discussions include amendments to address the Net Debt Condition, increases to the Cure Costs Cap and Pre-Filing Trade Amounts to be assumed. The Subscription Agreement, however, has not yet been amended to address these items. The Monitor continues to encourage the parties to address these open items, including the Net Debt Condition, and will inform the Court on the status of these items at the hearing of the Sale Approval Motion.

(d) Tacora's decision regarding a Disclaimer of the Cargill Offtake Agreement

25. During the course of its cross-examination of Mr. Broking, Cargill put to Mr. Broking the suggestion that the delay in obtaining the Court's approval of a Successful Bid was at least in part due to Tacora's failure to bring forward a determination (prior to the actual sale approval) of the status of the Cargill Offtake Agreement and whether it is a contract which could be disclaimed or otherwise remain with a residual company following a reverse vesting order.

[1] The Net Debt Condition requires that the Net Debt immediately following the Closing Time cannot exceed $150 million.

26. The Monitor notes that it was a term of the Existing DIP Agreement that, other than in connection with a Successful Bid arising from the Solicitation Process, any step to disclaim or exclude the Cargill Offtake Agreement would result in a default of the Existing DIP Agreement. The Ad Hoc Group did in fact request an early adjudication of this issue in December. At the time, the Monitor was advised by Cargill's counsel that if such a motion was brought Cargill would view any such step at that time, including the Monitor seeking the advice and direction of this Court, as a default under the Existing DIP Agreement.

27. Additionally, any step to disclaim the Cargill Offtake Agreement without a firm committed replacement offtake arrangement, together with an arrangement providing access to immediate funding, could create significant instability. Ultimately, the Monitor is of the view that in the circumstances of this proceeding it would have been problematic to seek such a preliminary determination without the full context of a Successful Bid against which to evaluate and the terms of the Existing DIP Agreement precluded it.

28. The Monitor also understands that reverse vesting order transactions often involve the transfer of contracts (including non-assignable contracts) to a 'ResidualCo' without a prior disclaimer. Therefore, the determination of whether or not the Offtake could be disclaimed would not be a necessary step in such a transaction.

29. During the examination of Mr. Matican, the Applicant put to Mr. Matican as an exhibit a presentation dated January 2024, prepared by Jefferies, titled "Cargill vs Market Offtake". The presentation contained a comparison of the net present value difference between the current Cargill Offtake Agreement and a "hypothetical" market offtake agreement which assumed certain "Key Market Offtake Assumptions". [redacted] The Monitor understands that Tacora is [redacted] of the view that the Cargill Offtake Agreement is off-market, significantly inhibits Tacora's ability to raise capital to fund the necessary ramp-up and that Tacora cannot be restructured with the current Cargill Offtake Agreement in place. The Monitor agrees with this conclusion.

30. The Monitor understands that the Applicant and its advisors have considered carefully whether the Cargill Offtake Agreement could and should be disclaimed and the timing of such disclaimer, if applicable. The Monitor has participated in these conversations. The Monitor supports Tacora's current view that it is not legally necessary to disclaim the Cargill Offtake Agreement.

31. In paragraph 50 of the Fourth Report the Monitor noted that absent the Approval and Reverse Vesting Order sought by the Applicant, Tacora's tax attributes in the approximate amount of $665.1

million would likely be lost. The Monitor has been advised by counsel to Cargill that it believes the tax attributes may be preserved and monetarized following an asset sale transaction. In the Monitor's experience there is a high degree of uncertainty with respect to the possible monetization of tax attributes following an asset sale.

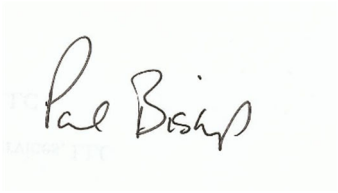
UPDATE ON MONITOR'S RECOMMENDATION

32. The Monitor recommended in the Fourth Report that the Approval and Reverse Vesting Order be granted for the reasons set out therein and in light of the information available to the Monitor at that time.

33. During the cross-examination and the document production contemplated by the Litigation Schedule, it has become clear that Cargill was fully aware of the requirement to submit a Phase 2 Qualified Bid no later than January 19, 2024, was capable of submitting a qualified bid and yet chose not to do so. The Monitor participated fully in board meetings at which the bids were considered and the Directors exercised their business judgement in selecting the Investor Bid. After careful review of additional information that has come to light in the cross examinations and document production, the Monitor's recommendation remains unchanged. The Monitor recommends that the Court grant the Approval and Reverse Vesting Order and the relief sought therein be approved.

The Monitor respectfully submits to the Court this Supplemental Fourth Report dated this 26th the day of March, 2024.

FTI Consulting Canada Inc.
in its capacity as Court-appointed Monitor of Tacora Resources Inc. and not in its personal or corporate capacity



By: _____ _____

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PROCEEDING COMMENCED AT
TORONTO

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