

COURT FILE NUMBER 2501-00574

COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY

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

AND IN THE MATTER OF THE PLAN OF COMPROMISE OR ARRANGEMENT OF WESTPHALIA DEV. CORP.

APPLICANT WESTPHALIA DEV. CORP.

DOCUMENT **APPLICATION**

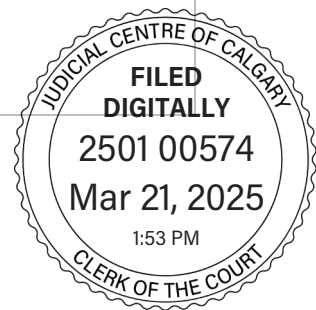
Re: Termination of Proceedings and Discharge of Monitor

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
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Lawyers for the Applicant, Westphalia Dev. Corp.
File no.: 1001326363

Clerk's stamp



NOTICE TO RESPONDENT

This application is made against you. You are a respondent. You have the right to state your side of this matter before the judge.

To do so, you must be in Court when the application is heard as shown below:

Date: March 28, 2025
Time: 10:00 A.M.
Where: Calgary
Before Whom: The Honourable Justice Bourque via WebEx
<https://albertacourts.webex.com/meet/virtual.courtroom60>

Go to the end of this document to see what else you can do and when you must do it.

Remedy claimed or sought:

1. The Applicant, Westphalia Dev. Corp. (**WDC**, or the **Applicant**), seeks an Order under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the **CCAA**), substantially in the form attached hereto as **Schedule "A"** (the **CCAA Termination Order**), which, among other things:

- (a) abridges the time for service of this Application and supporting documents and declares service to be good and sufficient;
- (b) upon service by FTI Consulting Canada Inc. in its capacity as Monitor of the Applicant (the **Monitor**) on the Service List of an executed certificate, in substantially the form attached as Schedule "A" to the Plan Sanction Order, certifying that the Implementation Date has occurred (the **CCAA Termination Time**);
- (c) terminates, releases and discharges the Administration Charge and Directors' Charge at the CCAA Termination Time;
- (d) discharges the Monitor in its capacity as Monitor of the Applicant in these CCAA proceedings, effective at the CCAA Termination Time;
- (e) approves the Pre-Filing Report of the proposed Monitor dated January 14, 2025, the First Report of the Monitor dated January 21, 2025, the Second Report of the Monitor dated February 27, 2025 and the Third Report of the Monitor, to be filed (the **Third Report**), and the activities of the Monitor as set out therein;
- (f) approves the professional fees, disbursements and other charges of the Monitor and its legal counsel, Blake, Cassels & Graydon LLP (**Monitor's Counsel**) as reported in the Third Report, including expected professional fees, disbursements and other charges to conclude these CCAA proceedings;
- (g) provides for a release of the Monitor and the Monitor's Counsel and counsel to the Applicant, and each of their respective affiliates, officers, directors, partners, employees and agents from any and all claims, whether known

or unknown, matured or unmatured, foreseen or unforeseen, existing or hereafter arising, based in whole or in part on any act or omission, transaction, dealing or other occurrence in any way relating to, arising out of, or in respect of, these CCAA proceedings or with respect to their respective conduct in these CCAA proceedings; and

- (h) such further and other relief as counsel for the Applicant may advise and this Honourable Court may permit.

2. Capitalized terms used but not defined herein take their meaning from the Plan of Compromise and Arrangement of the Applicant, dated February 24, 2025 (the **Plan**).

Grounds for making this application:

Background

3. The Applicant applied for and obtained an Initial Order pursuant to the CCAA by an Order of this Court, dated January 14, 2025. Among other things, the Initial Order:

- (a) declared that the Applicant is the company to which the CCAA applies;
- (b) stayed all proceedings and remedies as against the Applicant up to and including January 24, 2025;
- (c) authorized the Applicant to carry on business in a manner consistent with the preservation of its property and business;
- (d) authorized the Applicant to make certain essential payments to creditors;
- (e) appointed FTI Consulting Canada Inc. as Monitor;
- (f) approved the Administration Charge, to a maximum amount of \$100,000, and the Directors' Charge, to a maximum amount of \$25,000; and
- (g) authorized payment of the reasonable fees and disbursements of the Monitor, the Monitor's Counsel, and the Applicant's counsel.

4. On January 23, 2025, the Applicant returned to the Court and obtained an Amended and Restated Initial Order, which, among other things:

- (a) extended the stay period up to and including March 31, 2025;
- (b) approved of the Applicant's entry into a certain interim loan agreement and approved a priority charge to a maximum amount of \$550,000;
- (c) increased the Administration Charge to \$250,000; and
- (d) required the Monitor and its legal counsel to pass their accounts from time to time.

5. Also on January 23, 2025, the Applicant obtained a Claims Process Order, which approved a reverse claims process with a Claims Bar Date of February 28, 2025.

6. The Claims Process was undertaken by the Monitor consistently with the terms of the Claims Process Order. Four creditors were identified, including two Convenience Class Creditors and two Affected Creditors, being WAM and WIGL.

7. On February 24, 2025, the Applicant applied for a Meeting Order, which appended the Plan.

8. On March 4, 2025, the Court granted a Meeting Order, which authorized the Applicant to call and hold a Meeting for the purposes of having Creditors with Voting Claims vote on the Plan.

9. The Meeting is scheduled to take place virtually on March 25, 2025. Provided the Plan is approved by a Requisite Majority, the Applicant will seek a Sanction Order concurrently with the Order being sought herein.

CCAA Termination

10. If the Plan is approved by Voting Creditors and sanctioned by the Court, the Applicant will implement the transaction contemplated in the Plan as promptly as practicable. This is anticipated to occur the same day of or first business day following the granting of the

Sanction Order. With the closing of the transaction, the Applicant will have achieved its stated purpose of these proceedings.

11. As such, under the terms of the proposed CCAA Termination Order, (i) upon service by the Monitor on the Service List of an executed certificate, in substantially the form attached as Schedule "A" to the Plan Sanction Order, certifying that the Implementation Date has occurred, these CCAA proceedings shall be terminated; and (ii) the Administration Charge and Directors' Charge shall be terminated, released and discharged at the CCAA Termination Time.

12. Effective at the CCAA Termination Time, the Monitor will be discharged from its duties as Monitor in these CCAA proceedings. The Monitor will still have the authority to carry out, complete or address any matters in its role as Monitor that are ancillary or incidental to these CCAA proceedings following the CCAA Termination Time, as required.

13. The proposed CCAA Termination Order provides for a release of the Monitor, the Monitor's counsel, and the Applicant's counsel from the certain released claims. The proposed release includes an express carve-out for any claim finally determined to be the result of the gross negligence or wilful misconduct on the part of the applicable party.

14. The proposed released parties have facilitated and made substantial contributions to these CCAA proceedings, including in completing the transaction contemplated in the Plan, and the releases are appropriately limited in scope and tailored.

15. The Monitor supports the relief sought, including the proposed releases.

16. Such further and other grounds as counsel may advise and this Honourable Court may permit.

Material or evidence to be relied on:

17. The pleadings, affidavits, reports, and materials filed in the within proceedings, in particular, the Fourth Affidavit of Bryce Tingle, K.C., to be filed.

18. The Third Report of the Monitor, to be filed.

19. Such further and other evidence as counsel may advise and this Honourable Court may permit.

Applicable Acts and regulations:

20. *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended.

21. *Alberta Rules of Court*, Alta Reg 124/2010, and in particular, Part 6 thereto.

22. Such further and other acts and regulations as counsel may advise and this Honourable Court may permit.

Any irregularity complained of or objection relied on:

23. None.

How the application is proposed to be heard or considered:

24. Before the Honourable Justice Bourque, on the Commercial List, or as soon thereafter as this matter may be heard.

AFFIDAVIT EVIDENCE IS REQUIRED IF YOU WISH TO OBJECT.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and time shown at the beginning of the form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.

Schedule "A"

COURT FILE NUMBER 2501-00574
COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY

Clerk's stamp

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

AND IN THE MATTER OF THE PLAN OF
COMPROMISE OR ARRANGEMENT OF
WESTPHALIA DEV. CORP.

APPLICANT WESTPHALIA DEV. CORP.

DOCUMENT **ORDER (CCAA TERMINATION)**

ADDRESS FOR
SERVICE AND
CONTACT
INFORMATION OF
PARTY FILING THIS
DOCUMENT

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Lawyers for the Applicant, Westphalia Dev. Corp.
File no.: 1001326363

DATE ON WHICH ORDER WAS PRONOUNCED: March 28, 2025

NAME OF JUDGE WHO MADE THIS ORDER: The Honourable Justice Bourque

LOCATION OF HEARING: Calgary, Alberta

UPON the Application of the Applicant, Westphalia Dev. Corp. (**WDC**, or the **Applicant**), for an Order, among other things (i) approving the reports of FTI Consulting Canada Inc. (**FTI**, or the **Monitor**), and the activities and conduct of the Monitor described therein, (ii) approving the fees, disbursements and other charges of the Monitor and the Monitor's legal counsel, Blake,

Cassels & Graydon LLP (the **Monitor's Counsel**) as described in the Third Report of the Monitor (the **Third Report**), (iii) terminating these CCAA proceedings upon the service of the Monitor's Certificate (as defined in the Order (Plan Sanction) dated March 28, 2025) on the service list in these CCAA proceedings (the **Service List**), (iv) terminating the Administration Charge and the Directors' Charge upon the service of the Monitor's Certificate on the Service List, (v) discharging FTI as the Monitor as at the time of service of the Monitor's Certificate, and (vi) granting certain releases;

AND UPON having read the Application; the Fourth Affidavit of Bryce Tingle, K.C., sworn, the Third Report, and the Affidavit of Service; **AND UPON** hearing from counsel for the Applicant, counsel for the Monitor, and any other parties that may be present:

IT IS HEREBY ORDERED THAT:

Service

1. Service of the Application and supporting documents is hereby deemed to be good and sufficient, the time for notice is hereby abridged to the time provided, and no other person is required to have been served with notice of the Application.

Approval of Monitor's Reports and Activities

2. The Pre-filing Report of the proposed Monitor, dated January 14, 2025, the First Report of the Monitor, dated January 21, 2025, the Second Report of the Monitor, dated February 27, 2025, and the Third Report of the Monitor, and the actions, conduct and activities of the Monitor as set out therein are hereby ratified and approved.

Approval of Accounts of Monitor and its Legal Counsel

3. The fees and disbursements of the Monitor, as summarized in the Third Report, are hereby approved without the necessity of a formal passing of its accounts.

4. The fees and disbursements of the Monitor's Counsel, as summarized in the Third Report, are hereby approved without the necessity of a formal assessment of its accounts.

5. The estimated fees and disbursements of the Monitor and the Monitor's Counsel to complete the Monitor's remaining duties in these CCAA proceedings, as set out in the Third Report, are hereby approved without the necessity of a formal passing or assessment of their accounts.

Termination of CCAA Proceedings

6. Upon service by the Monitor of an executed certificate in substantially the form attached as Schedule "B" to the Plan Sanction Order (the **Monitor's Certificate**) on the Service List certifying that, to the knowledge of the Monitor, all matters to be attended to in connection with these CCAA proceedings have been completed to the satisfaction of the Monitor, the CCAA proceedings shall be terminated without any further act or formality (the **CCAA Termination Time**); provided, however, that nothing herein impacts the validity of any Orders made in these CCAA proceedings or any actions or steps taken by any person in accordance therewith.

7. The Monitor is hereby directed to file a copy of the Monitor's Certificate with the Court as soon as reasonably practicable following service thereof on the Service List.

8. The Administration Charge and Directors' Charge, as those terms are defined in the Amended and Restated Initial Order, dated January 23, 2025, shall be terminated, released and discharged at the CCAA Termination Time without any further act or formality.

Discharge of Monitor

9. Effective at the CCAA Termination Time, FTI shall be discharged as Monitor of the Applicant and shall have no further duties, obligations or responsibilities as Monitor from and after the CCAA Termination Time, provided that, notwithstanding its discharge as Monitor and the termination of these CCAA proceedings, FTI is authorized to take such steps and actions as it deems necessary to address matters ancillary or incidental to its capacity as Monitor following the CCAA Termination Time (**Monitor Incidental Matters**).

10. Notwithstanding any provision of this Order, the Monitor's discharge and the termination of these CCAA proceedings, nothing herein shall affect, vary, derogate from, limit, or amend, and the Monitor shall continue to have the benefit of, all of the rights, approvals, releases and protections in favour of FTI in its capacity as Monitor at law or pursuant to the CCAA, the Amended

and Restated Initial Order, dated January 23, 2025, and any other order of this Court in these CCAA proceedings or otherwise, all of which are expressly continued and confirmed following the CCAA Termination Time, including in connection with completing or addressing any Monitor Incidental Matters.

Releases

11. Upon the CCAA Termination Time, the Monitor, the Monitor's Counsel, and counsel to the Applicant, and each of their respective affiliates, officers, directors, partners, employees and agents (collectively, the **Released Parties** and each a **Released Party**) shall be and are hereby forever released and discharged from any and all claims that any person may have or be entitled to assert against any of the Released Parties, whether known or unknown, matured or unmatured, foreseen or unforeseen, existing or hereafter arising, based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place on or prior to the CCAA Termination Time in any in any way relating to, arising out of, or in respect of, these CCAA proceedings or with respect to their respective conduct in these CCAA proceedings (collectively, the **Released Claims**), and any such Released Claims are hereby irrevocably and forever released, stayed, extinguished and further barred, and the Released Parties shall have no liability in respect thereof, provided that the Released Claims shall not include any claim or liability finally determined to be the result of the gross negligence, willful misconduct or fraud on the part of the applicable Released Party.

12. No action or other proceeding shall be commenced against any of the Released Parties in any way arising from or related to these CCAA proceedings except with prior leave of this Court and on at least seven days' prior written notice to the applicable Released Party.

13. Notwithstanding the discharge of FTI as Monitor of the Applicant and the termination of these CCAA proceedings, the Court shall remain seized of any matter arising from the CCAA proceedings, and FTI shall have the authority from and after the date of this Order to apply to this Court to address matters ancillary or incidental to the CCAA proceedings (including the Monitor Incidental Matters).

General

14. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or the United States, or in any other foreign jurisdiction, to give effect to this Order and to assist the Applicant, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicant and to the Monitor, as an officer of the Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Applicant in any foreign proceeding, or to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order.

15. Each of the Applicant and the Monitor shall be at liberty and are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

16. The Applicant shall serve this Order on the Service List by any of email, facsimile, courier, registered mail, regular mail or personal delivery, and no persons other than those on the Service List are required to be served with a copy of this Order.

Justice of the Court of King's Bench of Alberta