

**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 NEVADA COPPER, INC., NEVADA COPPER CORP., 0607792 B.C.
LTD., LION IRON CORP., NC FARMS LLC AND NC DITCH COMPANY LLC**

**APPLICATION OF NEVADA COPPER, INC. UNDER SECTION 46 OF THE *COMPANIES'*
CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED**

**REPORT OF THE PROPOSED INFORMATION OFFICER
ALVAREZ & MARSAL CANADA INC.**

June 20, 2024

TABLE OF CONTENTS

| | | |
|-------------|---|-----------|
| 1.0 | INTRODUCTION..... | 1 |
| 2.0 | TERMS OF REFERENCE AND DISCLAIMER..... | 3 |
| 3.0 | A&M’S QUALIFICATIONS TO ACT AS INFORMATION OFFICER | 4 |
| 4.0 | BACKGROUND | 5 |
| 5.0 | CENTRE OF MAIN INTEREST | 13 |
| 6.0 | DIP FACILITY | 14 |
| 7.0 | ADDITIONAL ORDERS FOR WHICH RECOGNITION IS BEING SOUGHT ... | 18 |
| 8.0 | COURT ORDERED CHARGES SOUGHT IN THE SUPPLEMENTAL ORDER | 18 |
| 9.0 | PROPOSED INITIAL ACTIVITIES OF THE INFORMATION OFFICER..... | 19 |
| 10.0 | RECOMMENDATIONS | 20 |

APPENDICES

Appendix “A” – Summary of DIP Facility

Appendix “B” – Consent to Act

1.0 INTRODUCTION

- 1.1 On June 10, 2024 (the “**Petition Date**”), Nevada Copper, Inc. (“**NCI**”) and its affiliates (collectively, the “**Debtors**” or the “**Company**”) commenced cases in the United States Bankruptcy Court for the District of Nevada (the “**U.S. Bankruptcy Court**”) by filing voluntary petitions for relief under Chapter 11 of Title 11 of the United States Bankruptcy Code (the “**Chapter 11 Cases**”).
- 1.2 The primary purpose of the Chapter 11 Cases is to provide the Debtors with the necessary relief to continue the Sale Process (as defined below) that began prior to the Petition Date and find a long-term solution to their operational and financial challenges in a manner that maximizes value. The Debtors include NCI’s Canadian parent, Nevada Copper Corp., (“**NCU**”) and its Canadian subsidiary, 0607792 B.C. Ltd. (“**0607 BC**”) (collectively, the “**Canadian Debtors**”).
- 1.3 On the Petition Date, the Debtors filed a number of motions for interim and/or final orders (the “**First Day Motions**”) in the Chapter 11 Cases to permit the Debtors to continue to operate their business in the ordinary course and to continue to advance the Sale Process. Following a hearing in respect of the First Day Motions (the “**First Day Hearing**”), the U.S. Bankruptcy Court granted certain orders (the “**First Day Orders**”), including an order (the “**Foreign Representative Order**”) authorizing NCI to act as foreign representative on behalf of the Debtors’ estates.¹
- 1.4 Alvarez & Marsal Canada Inc. (“**A&M**” or the “**Proposed Information Officer**”) understands that NCI, in its capacity as the foreign representative of the Debtors in respect of the Chapter 11 Cases

¹ Copies of each of the Chapter 11 Orders and other documents related to the Chapter 11 Cases are available at the website maintained by Epiq Corporate Restructuring, LLC: <https://dm.epiq11.com/case/nevadacopper/dockets>.

(in such capacity, the “**Foreign Representative**”), has commenced an application before the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) for recognition of the Chapter 11 Cases as foreign main proceedings pursuant to Part IV of the *Companies’ Creditors Arrangement Act* (“**CCAA**”) (the “**Recognition Proceedings**”, and together with the Chapter 11 Cases, the “**Restructuring Proceedings**”). Other than the Chapter 11 Cases and the Recognition Proceedings, the Proposed Information Officer understands that there are currently no other foreign proceedings (as defined in section 45 of the CCAA) in respect of the Debtors.

1.5 The purpose of this Report of the Proposed Information Officer (this “**Pre-Filing Report**”) is to provide this Court with background information with respect to the Debtors and the Restructuring Proceedings, and to assist the Court in considering the Foreign Representative’s request for the following relief:

- (a) an order, among other things: (i) recognizing the Chapter 11 Cases as “foreign main proceedings” in respect of the Debtors; and (ii) granting a stay of proceedings in Canada in respect of the Debtors and their property and business, and in respect of their respective directors and officers (the “**Initial Recognition Order**”); and
- (b) an order, among other things: (i) recognizing and enforcing in Canada certain of the First Day Orders entered in the Chapter 11 Cases, including the Foreign Representative Order; (ii) appointing A&M as information officer in respect of the Recognition Proceedings (in such capacity, the “**Information Officer**”); and (iii) granting the Administration Charge and the DIP Lender’s Charge (each as defined below) (the “**Supplemental Order**”).

2.0 TERMS OF REFERENCE AND DISCLAIMER

2.1 In preparing this Pre-Filing Report, A&M has relied solely on information and documents provided by the Foreign Representative and other Debtors and their Canadian legal counsel, and publicly available documents filed with the U.S. Bankruptcy Court (collectively the “**Information**”). Except as otherwise described in this Pre-Filing Report:

- (a) the Proposed Information Officer has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Proposed Information Officer has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards (“**CASs**”) pursuant to the *Chartered Professional Accountants of Canada Handbook* (the “**Handbook**”) and accordingly, the Proposed Information Officer expresses no opinion or other form of assurance contemplated under CASs in respect of the Information; and
- (b) some of the information referred to in this Pre-Filing Report consists of forecasts and projections. An examination or review of the financial forecasts and projections, as outlined in the Handbook, has not been performed.

2.2 Future-oriented financial information referred to in this Pre-Filing Report was prepared based on estimates and assumptions made by the Company’s management. Readers are cautioned that, since projections are based upon assumptions about future events and conditions that are not ascertainable, the actual results will vary from the projections, and the variations could be significant.

2.3 This Pre-Filing Report should be read in conjunction with the Affidavit of Gregory J. Martin, sworn on June 19, 2024 (the “**Martin Affidavit**”). Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Martin Affidavit.

2.4 Unless otherwise stated, all monetary amounts contained herein are expressed in United States dollars.

3.0 A&M’S QUALIFICATIONS TO ACT AS INFORMATION OFFICER

3.1 A&M was engaged by the Debtors effective May 10, 2024, for the purpose of preparing for the Recognition Proceedings and to act as the Information Officer. As such, A&M is familiar with the business and operations of NCI and the Debtors, and the key issues and stakeholders in the proposed Recognition Proceedings.

3.2 A&M is a trustee within the meaning of section 2 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, and has significant experience in connection with proceedings under the CCAA, including acting as Information Officer in the recognition proceedings of Coach USA, WeWork Canada, Yellow Corporation, Sungard Availability Services, Knotel Canada, Brooks Brothers Canada, Pier 1 Imports, Jack Cooper Ventures, Payless Shoes, Modular Space Holdings, LightSquared, Durabla Canada and others.

3.3 The senior A&M professional personnel with carriage of this matter include experienced insolvency and restructuring practitioners who are Chartered Professional Accountants, Chartered Insolvency and Restructuring Professionals and Licensed Insolvency Trustees, who have acted in cross-border restructurings and CCAA matters of a similar nature in Canada.

3.4 The Proposed Information Officer has retained Cassels Brock & Blackwell LLP (“**Cassels**”) to act as its independent legal counsel.

3.5 A&M has consented to act as Information Officer should this Court approve the requested Initial Recognition Order and the Supplemental Order.

4.0 BACKGROUND

Company Overview

4.1 The Company, through NCI, is in the business of mining copper and other minerals and operates a processing plant that refines copper ore into copper concentrate. The bulk of the Company’s operations have been focused on the development of the Pumpkin Hollow project (the “**Project**”), which is located near Yerington, Nevada in the United States. The Project, which contains substantial mineral reserves and resources, including not only copper, but gold, silver and iron magnetite, consists of primarily two development projects: (i) an underground mine and processing facility (the “**Underground Mine**”); and (ii) an open-pit project (the “**Open Pit Development**”), that is in pre-feasibility stage of development. The Company generated approximately \$4.5 million in operating revenue for the year ended December 31, 2023. A comprehensive overview of the Debtors’ business is provided in the Martin Affidavit. A summary balance sheet for the Debtors is also provided in the Martin Affidavit.

4.2 As of the Petition Date, the Company employed approximately 197 people, approximately 136 of which are paid on an hourly basis (the “**Hourly Employees**”) and 61 of which are paid an annual salary (the “**Salaried Employees**”). Of the Debtors’ 197 full-time employees, 3 are employed by NCU and are usually based in Canada (the “**Canadian Employees**”), with the remainder employed by NCI and located in the United States.

- 4.3 The Company maintains employee savings plans for eligible employees in both the United States and Canada (the “**Employee Savings Plan**”), which require that employer and employee contributions be made in respect of participating employees.
- 4.4 NCU is the ultimate parent of each of the other Debtors, including the Foreign Representative. NCU is a public company traded on the Toronto Stock Exchange under the symbol “NCU”. As of the Petition Date, NCU’s largest shareholder is Pala Investments Limited (“**Pala**”), which holds approximately 61.66% of NCU’s shares. Mercuria Energy Trading S.A (“**Mercuria**”) is believed to own approximately 17.24% of NCU’s shares, while management and directors own approximately 0.18%. The remainder of NCU’s common shares are held by other investors.
- 4.5 NCU has limited business operations in Canada (through services of three employees), and substantially all its Canadian assets are in the form of its wholly-owned equity interest in, and intercompany loan repayable from, NCI. The other Canadian Debtor, 0607 BC, is a dormant shell company with no material assets or business in Canada or elsewhere. The Canadian Debtors are a small part of the broader integrated corporate group. As of the Petition Date, the Canadian Debtors represented approximately 1.5% of the Company’s workforce and generate no operating revenue on a standalone basis.
- 4.6 The Debtors have no physical office or other place of business in Canada. The Debtors, through NCU, have a Canadian registered office, which is the office of their British Columbia lawyers.
- 4.7 As of the Petition Date, approximately \$115,000 was payable to unsecured trade creditors of NCU, comprised of amounts owing to IT vendors, professional/consultants and investor relation firms. NCI has additional stakeholders located in Canada.

- 4.8 A detailed discussion of the Debtors’ business, including the events leading up to the Restructuring Proceedings, is provided in the Martin Affidavit.

Prepetition Capital Structure and Debt

- 4.9 As of the Petition Date, the Debtors had secured debt of approximately \$279.2 million in aggregate principal amount of outstanding (including capitalized interest) as set out below:

| Prepetition Credit Facilities | Approximate Amount Outstanding² |
|--|---|
| Second A&R Credit Agreement | \$188.0 million |
| Stream Agreement Deposits | \$78.2 million |
| Third A&R Loan Facility | \$10.0 million |
| Advance Payment Facility | \$3.0 million |
| Total | \$279.2 million |

- 4.10 Each of these credit facilities (the “**Prepetition Credit Facilities**”) is described in detail in the Martin Affidavit. Key terms and components of the Prepetition Credit Facilities include:

| Prepetition Credit Facilities | |
|--|---|
| Second A&R Credit Agreement | |
| Borrower | <ul style="list-style-type: none">• NCI |

² The approximate total amount in this chart consists of the aggregate principal amount as of the Petition Date (including capitalized interest, where applicable).

| | |
|-------------------------------------|--|
| Lender/Agent | <ul style="list-style-type: none"> • KfW IPEX-Bank GmbH (“KfW”), as administrative agent, sole lead arranger • Initial Senior Lenders (as defined in the Martin Affidavit) • Pala Investments Limited, as Tranche A-2 lender • Triple Flag International Ltd. (“Triple Flag”), as Tranche A-2 lender • TF R&S Canada Ltd (“TF Canada”), as Tranche A-2 lender • Mercuria Investments US, Inc (“Mercuria US”), as Tranche A-2 lender |
| Principal Amount Outstanding | <ul style="list-style-type: none"> • \$188.0 million |
| Security & Guarantors | <ul style="list-style-type: none"> • First-priority liens in substantially all of the property and assets of the Debtors (except for the APA Collateral), and all present and after-acquired property of all the Debtors (the “Project Collateral”) • Second-priority lien in all marketable metal-bearing material that is extracted or otherwise recovered from the Project (“APA Collateral”) • All Debtors are guarantors of and have granted security in respect of the obligations under the Second A&R Credit Agreement • Tranche B Loans are guaranteed by Pala under a separate guarantee agreement |
| Stream Agreement | |
| Obligor | <ul style="list-style-type: none"> • NCI |
| Purchaser | <ul style="list-style-type: none"> • Triple Flag |
| Principal Amount Outstanding | <ul style="list-style-type: none"> • \$78.2 million |
| Security & Guarantors | <ul style="list-style-type: none"> • Second-priority lien in the Project Collateral • Third-priority lien in the APA Collateral • All Debtors are guarantors of and have granted security in respect of the Stream Agreement |
| Third A&R Loan Agreement | |
| Borrowers | <ul style="list-style-type: none"> • NCU |
| Lender | <ul style="list-style-type: none"> • Pala Investments Ltd. As lender |
| Principal Amount Outstanding | <ul style="list-style-type: none"> • \$10.0 million |

| | |
|---------------------------------|--|
| Security & Guarantors | <ul style="list-style-type: none"> • Fourth-priority lien on substantially all of the Debtors' assets • All Debtors are guarantors of and have granted security in respect of the Third A&R Loan Agreement |
| Advance Payment Facility | |
| Obligor | <ul style="list-style-type: none"> • NCI |
| Purchaser | <ul style="list-style-type: none"> • Concord Resources Limited |
| Principal Amount Outstanding | <ul style="list-style-type: none"> • \$3.0 million |
| Security & Guarantors | <ul style="list-style-type: none"> • First-priority lien in the APA Collateral and a third-priority lien in the Project Collateral |

4.11 The Second A&R Credit Agreement provided the Debtors with, among other things: (i) \$115 million funded by KfW (the “**Initial Senior Lenders**”) (the “**Tranche A Loans**”); (ii) an additional \$15 million funded by the Initial Senior Lenders (the “**Tranche B Loans**”); (iii) \$15 million funded by Pala, Triple Flag and Mercuria US; and (iv) additional advances of \$18.8 million funded by Pala, Triple Flag, Mercuria US and TF Canada (the amounts in (iii) and (iv) being the “**Tranche A-2 Loans**”). In total, \$163.8 million in aggregate principal was funded through the Senior Secured Credit Agreement (excluding capitalized interest).

4.12 The relationship between Triple Flag, KfW, Pala Investments Ltd., Concord Resources Limited and the Debtors is governed by each respective intercreditor agreement (collectively, the “**Intercreditor Agreements**”). A summary of the individual intercreditor agreements is provided in the Martin Affidavit.

4.13 Although not funded indebtedness, NCU has granted a lien on its assets to secure potential reimbursement obligations that may arise in favour of Trisura Insurance Company (“**Trisura**”),

with respect to surety bonds securing certain obligations of NCI. The Debtors have two outstanding surety bonds (the “**Surety Bonds**”) which are renewed on an annual basis for a total of \$321,000 in the aggregate.

- 4.14 In addition, the Debtors have approximately \$226.6 million in amounts outstanding in unsecured funded debt obligations consisting of: (i) \$78.3 million owing in Unsecured Loans (as defined in the Martin Affidavit); and (ii) \$148.3 million owing to NCU from NCI under documented intercompany loans from NCU to NCI (the “**Intercompany Loans**”). Further details on the Intercompany Loans are provided in the Martin Affidavit.

Security Review

- 4.15 Should this Court grant the Initial Recognition Order and the Supplemental Order, the Proposed Information Officer (in its capacity as Information Officer) intends to arrange for its counsel, Cassels, to complete a customary security review in respect of the pre-petition security delivered by the Canadian Debtors and corresponding lien filings. The Proposed Information Officer did not request Cassels to complete a security review prior to the commencement of the Recognition Proceedings because the relief requested in connection with the DIP Facility (as defined below) does not include a roll up or pay down of any obligations under the Prepetition Credit Facilities.

Cash Management Systems

- 4.16 As described in the Martin Affidavit, the Debtors maintain an integrated, centralized cash management system (the “**Cash Management System**”) to collect, transfer and disburse funds generated by their operations to satisfy financial obligations. As described below, the Cash

Management System of the Debtors is highly integrated, with the majority of the assets located in the United States.

- 4.17 The Cash Management System serves numerous functions including, among other things: (i) providing the ability to track and control corporate funds; (ii) ensuring cash availability; (iii) prompting payment of corporate, employee and vendor-related expenses; and (iv) reducing administrative costs by facilitating the efficient movement of funds.
- 4.18 According to the motion material filed in the Chapter 11 Cases, the Cash Management System is comprised of eleven (11) bank accounts that handle the primary collection and disbursement of funds, four (4) of which are located in Canada held at Bank of Montreal (“**BMO**”) (collectively, the “**Canadian Bank Accounts**”). The Canadian Bank Accounts are managed on a day-to-day basis by the Debtors’ financial personnel and are overseen by the Debtors’ financial personnel located in the United States and the limited personnel in Canada.
- 4.19 As at the Petition Date, the Canadian Bank Accounts held approximately CAD\$47,874 and USD\$7,007.
- 4.20 The “Proceeds Account” as defined in the Omnibus Declaration of Gregory J. Martin dated June 10, 2024 (the “**Martin Declaration**”) receives deposits of certain revenues, capital contributions, loan proceeds, and other amounts payable to or received by NCI. Transfers from the Proceeds Account to the NCI Disbursement Account (Operating Account) (as defined in the Martin Declaration) are made in order for the Debtors, among other things, to be able to pay for operating and construction costs. Transfers from the Proceeds Account to the NCU Concentration Account

and Disbursement Accounts (each as defined in the Martin Declaration) are made in order for the Debtors, among other things, to be able to pay for costs disbursed from NCU.

- 4.21 The NCU Concentration Account holds funds for NCU, from which NCU disburses funds directly to vendors or through to NCU's disbursement accounts for operating costs (the "**NCU Disbursement Accounts**"). The two NCU Disbursement Accounts are used for respective payments on account of: (i) Canadian payroll and related flexible spending and health saving accounts; and (ii) operational costs. NCU also has an inactive account at BMO.
- 4.22 In the ordinary course of business, the Debtors enter into intercompany transactions with each other through the operation of their Cash Management System in order to manage their resources in the most efficient manner (the "**Intercompany Transactions**").
- 4.23 NCI partly relies on NCU for raising funds through the issuance of equity capital in the Canadian capital markets or through private raises of capital and loans, including loans and equity raised from NCU's largest shareholder, Pala. These funds, less a small holdback that NCU uses to fund its expenses (such as payroll, taxes, miscellaneous fees, and other operating costs in Canada), typically are transferred in turn to NCI in the form of equity or debt contributions. Currently, NCU relies on NCI for funding of day to day operations. When funds are transferred from NCI to NCU, they are either advanced as new loans or as repayment of the existing intercompany loans.

Sale Process

- 4.24 The Proposed Information Officer understands that, prior to the Petition Date, the Company explored various strategic alternatives, including refinancings, recapitalizations, and asset sales.

Among other things, the Company engaged Citigroup Global Markets and launched a marketing process for the sale of substantially all of the Company's assets (the "**Sale Process**").

4.25 As part of the Sale Process, the Debtors contacted over 30 parties, and ultimately received four proposals from potential purchasers interested in acquiring substantially all or a portion of the Debtors' business. After considering the proposals received, the Debtors entered into two separate exclusivity agreements with the Primary Prospective Purchasers (as defined in the Martin Affidavit) regarding a proposal for additional financing and/or a potential sale of the Debtors' business. Ultimately, the Debtors could not agree to terms with either of the Primary Prospective Purchasers that would allow the Debtors to consummate a sale that would close on the timeline required for the Debtors to meet their funding needs.

4.26 In the absence of a sale agreement on a viable timeline, and diminishing financial support from its lenders, the Debtors determined it was necessary to file the Chapter 11 Cases to provide additional time to continue pursuing the Sale Process under the protections provided by the Bankruptcy Code.

5.0 CENTRE OF MAIN INTEREST

5.1 The Debtors, including the Canadian Debtors, are managed as an integrated group from a corporate, strategic and management perspective.

5.2 The Martin Affidavit describes the Debtors' integrated business. The Canadian Debtors are wholly dependent on NCI, located in the United States, for key leadership and managerial, accounting, finance and other critical functions typically performed by a corporate head office.

- 5.3 The Debtors other than NCU have no business operations or material assets in Canada. NCU, the Canadian parent company, has no independent business operations or material assets other than its wholly-owned interest in NCI, a Nevada-based company, and intercompany loans payable by NCI.
- 5.4 The Canadian Debtors have only three employees, and only one member of the Debtors' key management resides in Canada. Other than accounting and finance, the Canadian Debtors do not employ personnel for any key management function that it would require if they were to operate on a standalone basis.
- 5.5 Substantially all of the creditors of the Debtors are located in the United States and interact with the Debtors in connection with the Debtors' U.S. based operations. The Martin Affidavit confirms that substantially all of the Debtors' assets have been pledged to support the obligations under the the Prepetition Credit Facilities.
- 5.6 Based on the foregoing, the Proposed Information Officer is of the view that it would be appropriate to recognize the Chapter 11 Cases as "foreign main proceedings" pursuant to the CCAA.

6.0 DIP FACILITY

- 6.1 As set out in the Martin Affidavit, the Company lacks the funding required to maintain its operations or administer the Chapter 11 Cases and the Recognition Proceedings. Without access to debtor-in-possession financing and the ability to use cash collateral, the Company would be unable to, among other things, meet employee payroll obligations, maintain business relationships with vendors, suppliers, marketing partners and satisfy working capital and operational needs.

- 6.2 In advance of the Petition Date, the Debtors entered into a debtor-in-possession financing agreement (the “**DIP Credit Agreement**”) extended by two affiliates of Elliott Investment Management L.P. (“**Elliott**”) (together, the “**DIP Lenders**”).
- 6.3 The Proposed Information Officer understands that before entering into the DIP Facility, the Debtors’ investment advisor, Moelis & Company LLC (“**Moelis**”) assisted the Debtors with the strategic evaluation of postpetition financing alternatives. The Debtors have been unsuccessful in identifying any party willing to provide debtor-in-possession financing on a junior basis to the prepetition secured lenders.
- 6.4 Further, the Debtors’ capital structure contains significant amounts of multi-tiered secured indebtedness, governed by certain Intercreditor Agreements described in the Martin Affidavit. As such, obtaining any postpetition financing would require consent, or a priming fight at the outset of the case, which would be value destructive to the estate. For this reason, the initial focus on the part of the Debtors, with the assistance of Moelis, was to obtain financing from parties for whom consent has been obtained, primarily from existing lenders or their affiliates.
- 6.5 Ultimately, the Debtors identified Elliott, an affiliate of Triple Flag and TF Canada, as the best source of DIP financing. Following several rounds of negotiations between the Debtors, their advisors and the DIP Lenders, the principal terms and conditions of the DIP Credit Agreement were agreed upon. With Elliott already having the consent of Triple Flag, Concord, and Pala, pursuant to the Intercreditor Agreements, the remaining required consent was provided by KfW, on the condition that KfW receive adequate protection as outlined in the Interim DIP Order, attached as an exhibit to the Martin Affidavit.

- 6.6 The Debtors, with the assistance of Moelis, contacted 13 third parties to explore alternative postpetition financing options on similar or better terms than the DIP Lenders, but have not yet received any actionable proposals to date.
- 6.7 The DIP Lenders agreed on the principle terms and conditions of a senior secured superpriority debtor-in-possession term loan that provides the Company with up to \$60.0 million of new money financing (the “**DIP Facility**”) comprised of: (i) an initial new money term loan in the aggregate principal amount of \$20 million; and (ii) a new money delayed draw term loan, subject to entry of a final order approving the DIP Facility, in the aggregate principal amount of \$40 million.
- 6.8 The DIP Facility is secured by all of the Debtors’ assets except for the APA Collateral, provided that upon the repayment of all obligations under the Advance Payment Agreement, the DIP Facility shall automatically include a first-priority lien on all collateral that currently constitutes APA Collateral.
- 6.9 The DIP Credit Agreement is described in further detail in the Martin Affidavit, and certain key terms and components are summarized and attached hereto in **Appendix “A”**. The DIP Credit Agreement requires that the Foreign Representative obtain an order of this Court recognizing the Interim DIP Order on or before June 28, 2024.
- 6.10 The Proposed Information Officer has compared the pricing and other financial terms of the DIP Facility to other similar DIP facilities (i.e. working capital revolving facilities) approved by the Canadian courts in previous CCAA proceedings. Based on the Proposed Information Officer’s review, the cost of the proposed DIP Facility is consistent with other similar recently approved DIP facilities.

DIP Lender's Charge

- 6.11 The proposed Supplemental Order contemplates the granting of a court-ordered charge (the “**DIP Lender's Charge**”) in favour of the DIP Lenders on the present and future assets, property and undertakings of the Canadian Debtors, subject to the initial exception regarding the APA Collateral as discussed in paragraph 6.8 above (the “**Canadian Collateral**”) to secure the obligations outstanding from time to time under the DIP Facility.
- 6.12 In connection with Prepetition Credit Facilities, the Canadian Debtors have previously granted security over substantially all of the Canadian Collateral to secure the obligations to the Prepetition Secured Parties (as defined in the Interim DIP Order), who have consented to the DIP Facility on the terms set out in the Interim DIP Order.
- 6.13 Accordingly, the Foreign Representative, requests that the Court grant the DIP Lender's Charge over the Canadian Collateral, which would be subordinate to the proposed Administration Charge, and rank in priority to all other encumbrances, except to the extent the Interim DIP Order provides that any such encumbrance ranks in priority to or *pari passu* with the liens granted in favour of the DIP Lenders pursuant to the Interim DIP Order.
- 6.14 Based on the foregoing, the Proposed Information Officer believes that the Court's recognition of the Interim DIP Order and granting the DIP Lender's Charge is reasonable and appropriate in the circumstances.

7.0 ADDITIONAL ORDERS FOR WHICH RECOGNITION IS BEING SOUGHT

- 7.1 In addition to the Interim DIP Order, the Foreign Representative is seeking recognition of several of the other First Day Orders, each of which are customary in Chapter 11 proceedings.
- 7.2 The Proposed Information Officer, together with its legal counsel, have reviewed the terms of each of the First Day Orders that the Foreign Representative is seeking recognition of, and supports the recognition of such First Day Orders by this Court.
- 7.3 Each of the orders for which recognition is being sought in the Recognition Proceedings is defined and further described in the Martin Affidavit and copies are attached as Exhibits thereto.

8.0 COURT ORDERED CHARGES SOUGHT IN THE SUPPLEMENTAL ORDER

- 8.1 In addition to the DIP Lender's Charge discussed above, pursuant to the proposed Supplemental Order, the Debtors are also seeking to establish the Administration Charge.
- 8.2 The priorities of the Administration Charge and the DIP Lender's Charge, as among them, is proposed to be as follows:
- (a) First – Administration Charge (to the maximum amount of C\$500,000); and
 - (b) Second – DIP Lender's Charge.

Administration Charge

- 8.3 The proposed Supplemental Order provides for an administration charge on the Canadian Collateral in the maximum amount of C\$500,000 (the “**Administration Charge**”), securing the professional

fees of Debtors' Canadian counsel, the Information Officer and legal counsel to the Information Officer.

- 8.4 The Administration Charge is a customary protection provided to professionals assisting with insolvency proceedings. The Proposed Information Officer has reviewed the quantum of the proposed Administration Charge in this case and believes it is reasonable and appropriate in the circumstances having considered the complexity of the Recognition Proceedings, the work that has been completed to date, the engagement terms and anticipated work levels of the Proposed Information Officer, the Proposed Information Officer's counsel, and the Debtors' Canadian counsel, and the size of court-ordered administration charges approved in comparable insolvency proceedings.

9.0 PROPOSED INITIAL ACTIVITIES OF THE INFORMATION OFFICER

- 9.1 The Supplemental Order proposes that following its appointment, the initial activities of the Information Officer will include:

- (a) establishing a website at <https://www.alvarezandmarsal.com/nevadacopper/> to make available copies of the Orders granted in the Recognition Proceedings, as well as other relevant motion materials, reports and information;
- (b) responding to creditor inquiries regarding the Restructuring Proceedings;
- (c) providing such assistance to the Foreign Representative in the performance of its duties as the Foreign Representative may reasonably request;

- (d) providing the Court with periodic reports on the status of the Chapter 11 Cases and the Debtors' Part IV proceedings, which reports may include information relating to the property and the business of the Debtors or such other matters as may be relevant to these proceedings; and
- (e) engaging with Cassels in respect of the exercise of its powers and the performance of its obligations.


10.0 RECOMMENDATIONS

10.1 The Proposed Information Officer has reviewed the terms of the proposed Initial Recognition Order and the Supplemental Order, and believe that the relief sought by the Foreign Representative, as set out in the form of orders submitted to the Court for approval, are fair and reasonable in the circumstances, having regard to the current status of the Debtors. The Proposed Information Officer believes that the terms of the Supplemental Order relating to its role as information officer are fair and reasonable, and consistent with the terms of appointments of information officers in other recognition proceedings under the CCAA.

10.2 Based on the foregoing, the Proposed Information Officer respectfully recommends that this Court grant the relief requested by the Foreign Representative in the Initial Recognition Order and the Supplemental Order.

All of which is respectfully submitted to the Court this ____20th__ day of June, 2024.

**ALVAREZ & MARSAL CANADA INC.,
Proposed Information Officer of the Debtors
and not in its personal or corporate capacity**

Per: 
Alan J. Hutchens
Senior Vice-President

**APPENDIX “A”
SUMMARY OF DIP FACILITY**

| DIP Facility³ | |
|----------------------------------|--|
| Summary of Material Terms | |
| Borrowers and Guarantors | <ul style="list-style-type: none"> • The Debtors |
| Lender | <ul style="list-style-type: none"> • Manchester Securities Corp • Ziwa Investments Limited |
| Committed Financing | <ul style="list-style-type: none"> • Aggregate principal amount of \$60 million of new money financing, consisting of: • Initial new money term loan of \$20 million; and • Subject to entry of final order, a new money delayed draw term loan of \$40 million. |
| Maturity Date | <ul style="list-style-type: none"> • The earlier of (i) four (4) months after the Petition Date, (ii) forty-five (45) calendar days after the Petition Date if the Final Order has not been entered by the Bankruptcy Court, (iii) fourteen (14) days after the Petition Date if the Recognition Order has not been entered by the Canadian Court, (iv) consummation of a sale of all or substantially all of the Debtors’ assets, (v) the date of “substantial consummation” (as defined in section 1101 of the Bankruptcy Code) of a plan of reorganization filed in the Chapter 11 Cases confirmed pursuant to a court order by the Bankruptcy Court, (vi) the date of entry of an order by the Bankruptcy Court approving a motion seeking conversion or dismissal of any or all of the Chapter 11 Cases or seeking appointment of a trustee, (vii) the date the Bankruptcy Court orders the conversion of the bankruptcy case of any of the Debtors to a liquidation pursuant to chapter 7 of the Bankruptcy Code, and (viii) the date of acceleration of all or any portion of the Loans and termination of the Commitments on the occurrence of an Event of Default. |

³ Capitalized terms used and not defined herein have the meanings given to them in the DIP Credit Agreement.

| | |
|-------------------------|---|
| Interest Rates and Fees | <ul style="list-style-type: none"> • Interest Rate: Aggregate of (i) Term SOFR for such Interest Period; (ii) Credit Spread Adjustment; and (iii) the Applicable Margin of 9% • Upfront Fee: 5% of the total DIP Commitments • Unused Line Fee: 1.0% per annum times the average daily portion of all DIP Commitments that have not yet been drawn after the entry of the Interim DIP Order • Exit Fee: 1.0% due and payable upon repayment of any portion of the DIP Facility • Agency Fee: Per Agency Fee Letter |
| Use of DIP Facility | <ul style="list-style-type: none"> • The proceeds of the DIP Facility can be used in accordance with the Approved Budget (subject to such variances as permitted in the DIP Credit Agreement) as permitted in the DIP Agreement the other Loan Documents and the Interim DIP Order, including, among other things, for: <ul style="list-style-type: none"> (a) working capital costs and general corporate purposes; (b) costs and expenses in connection with the Chapter 11 Cases (including costs and expenses with the Recognition Proceedings); (c) amounts owing under or in connection with the Finance Documents; and (d) other purposes permitted by the Approved Budget. |
| Milestones | <ul style="list-style-type: none"> • No later than five (5) business days following the Petition Date: the Bankruptcy Court shall have entered the Interim DIP Order; • No later than fourteen (14) days following the entry of the Interim DIP Order, the Canadian Court shall have entered an order recognizing the Interim DIP Order; • No later than ten (10) days following the Petition Date, the Debtors shall have filed the Bidding Procedures motion; • No later than forty-five (45) days following the Petition Date, the Bankruptcy Court shall have (i) entered the Final DIP Order; and (ii) entered an order approving the Bidding Procedures; • No later than fourteen (14) days following entry of the Final DIP Order and the Bidding Procedures Order, the Canadian Court shall have entered an order recognizing the Final DIP Order and the Bidding Procedures Order; • No later than one hundred and eight (108) days following the Petition Date, entry of an order approving of a sale transaction; • No later than fourteen (14) days following entry of order approving the sale, the Canadian Court shall recognize the order; and • No later than one hundred twenty (120) days following the Petition Date, the Debtors shall have consummated a sale of the Debtors' business. |

APPENDIX “B”

**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 NEVADA COPPER, INC., NEVADA COPPER CORP.,
0607792 B.C. LTD., LION IRON CORP., NC FARMS LLC AND NC DITCH COMPANY
LLC**

**APPLICATION OF NEVADA COPPER, INC. UNDER SECTION 46 OF THE
COMPANIES CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36 AMENDED**

Applicant

CONSENT TO ACT AS INFORMATION OFFICER

ALVAREZ & MARSAL CANADA INC. hereby consents to act as the information officer in respect of the above-captioned proceedings pursuant to the terms of the Supplemental Order (Foreign Main Proceeding) contained in the Applicant's Application Record.

Dated at Toronto, Ontario this 20th day of June, 2024

ALVAREZ & MARSAL CANADA INC.

Per: 

Name: Alan Hutchens

Title: Senior Vice-President

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

AND IN THE MATTER OF NEVADA COPPER, INC., NEVADA COPPER CORP., 0607792 B.C. LTD., LION IRON
CORP., NC FARMS LLC AND NC DITCH COMPANY LLC

APPLICATION OF NEVADA COPPER, INC. UNDER SECTION 46 OF THE COMPANIES' CREDITORS
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

Court File No. CV-24-00722252-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

**REPORT OF THE PROPOSED INFORMATION
OFFICER**

Cassels Brock & Blackwell LLP

Suite 3200, Bay Adelaide Centre – North Tower
40 Temperance St.
Toronto, ON M5H 0B4

Ryan Jacobs LSO#: 59510J

Tel: 416. 860.6465
rjacobs@cassels.com

Natalie E. Levine LSO#: 64908K

Tel: 416. 860.6568
nlevine@cassels.com

Stephanie Fernandes LSO#: 85819M

Tel: 416.860.6481
sfernandes@cassels.com

Lawyers for the Proposed Information Officer