

# 2002 BCSECCOM 411

## **Headnote**

Mutual Reliance Review System for Exemptive Relief Applications – Relief from the registration and prospectus requirements for trades made in connection with a spin-off and arrangement – Statutory exemptions not available for technical reasons – First trade relief granted for shares of resulting company

## **Applicable British Columbia Provisions**

*Securities Act*, R.S.B.C. 1996, c. 418, ss. 34(1)(a), 45(2)(9), 48, 61, 74(2)(a) and 76

## **IN THE MATTER OF THE SECURITIES LEGISLATION OF BRITISH COLUMBIA, ONTARIO, QUEBEC, NEW BRUNSWICK, NOVA SCOTIA AND PRINCE EDWARD ISLAND**

**AND**

## **IN THE MATTER OF THE MUTUAL RELIANCE REVIEW SYSTEM FOR EXEMPTIVE RELIEF APPLICATIONS**

**AND**

## **IN THE MATTER OF CORONA GOLD CORPORATION, BLUE ECHO VENTURES INC. AND UNISPHERE WASTE CONVERSION LTD.**

## **MRRS DECISION DOCUMENT**

WHEREAS the local securities regulatory authority or regulator (the “Decision Maker”) in each of British Columbia, Ontario, Quebec, New Brunswick, Nova Scotia and Prince Edward Island (the “Jurisdictions”) has received an application from Corona Gold Corporation (“Corona”), Blue Echo Ventures Inc. (“New Corona”) and Unisphere Waste Conversion Ltd. (“Unisphere”) (collectively, the “Filers”) for a decision under the securities legislation of the Jurisdictions (the “Legislation”) that certain trades made in connection with or subsequent to a proposed statutory plan of arrangement (the “Arrangement”) involving Corona, New Corona and Unisphere pursuant to section 182 of the *Business Corporations Act* (Ontario) (the “OBCA”) are exempt from the requirements to be registered to trade in a security and to file a preliminary prospectus and prospectus and to receive receipts therefor (collectively, the “Requirements”);

AND WHEREAS under the Mutual Reliance Review System for Exemptive Relief Applications (the “System”), the Ontario Securities Commission is the principal regulator for this application;

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AND WHEREAS the Filers have represented to the Decision Makers that:

1. Corona is a public company incorporated under the OBCA, has been a reporting issuer in the Provinces of British Columbia, Alberta and Ontario for more than twelve months and is not in default of any requirements of Legislation.
2. The authorized capital of Corona consists of an unlimited number of common shares ("Corona Common Shares") of which there are 12,641,287 Corona Common Shares outstanding.
3. Corona also has outstanding options ("Corona Options") to purchase an aggregate of 1,761,128 Corona Common Shares.
4. Corona is involved in the exploration of geologically attractive properties for precious and base metals and the Corona Common Shares are listed for trading on The Toronto Stock Exchange (the "TSE").
5. New Corona is an inactive, private, wholly owned subsidiary of Corona incorporated under the OBCA with no material assets other than approximately \$250,000 in cash and no liabilities.
6. The authorized capital of New Corona consists of an unlimited number of common shares ("New Corona Common Shares") of which 6,000,000 are issued and outstanding.
7. New Corona has a stock option plan (the "New Corona Plan") for directors, officers, employees and consultants of New Corona.
8. Unisphere is a private company incorporated under the OBCA formed for the purpose of introducing systems to process non-hazardous waste and industrial waste in an environmentally safe manner, principally through the thermochemical decomposition of scrap tires.
9. The authorized capital of Unisphere consists of 10,000,000 special shares and an unlimited number of common shares ("Unisphere Common Shares") of which there are no special shares and 7,707,549 Unisphere Common Shares outstanding.
10. Unisphere also has outstanding: (a) options ("Unisphere Options") to purchase an aggregate of 3,685,000 Unisphere Common Shares; and (b) warrants to purchase an aggregate of 666,664 Unisphere Common Shares. In addition,

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Unisphere has an agreement to grant warrants to purchase an aggregate of 501,803 Unisphere Common Shares immediately prior to the Arrangement.

11. Corona, New Corona and Unisphere have agreed, subject to the satisfaction of certain conditions precedent, to the Arrangement pursuant to which two separate publicly traded companies will be formed, being New Corona and the company resulting from the amalgamation of Corona and Unisphere (“New Unisphere”).
12. New Corona will conduct the mineral exploration operations previously carried on by Corona and New Unisphere will conduct the waste tire recycling business previously carried on by Unisphere.
13. Upon the Arrangement becoming effective (the “Effective Date”), Corona Common Shareholders will become holders of both New Corona Common Shares and common shares of New Unisphere (“New Unisphere Common Shares”) and Unisphere Common Shareholders will become holders of New Unisphere Common Shares.
14. The relevant steps of the Arrangement can be summarized as follows:
  - (a) the articles of Corona will be amended to create, and authorize Corona to issue an unlimited number of, pre-amalgamation common shares (“Pre-Amalgamation Common Shares”);
  - (b) Corona will transfer and assign to New Corona all of the non-cash assets of Corona (plus \$750,000 cash) at the fair market value thereof and issue to New Corona a warrant (the “Corona Warrant”) entitling New Corona to purchase an aggregate of 1,000,000 Corona Common Shares at a price of \$2.00 per share for a period of three years from the Effective Date in exchange for the issue by New Corona to Corona of 6,641,287 New Corona Common Shares;
  - (c) all right, title and interest of the Corona Shareholders in the Corona Common Shares will be surrendered to Corona for cancellation, and such shares will be cancelled by Corona, and in exchange therefor, each Corona Shareholder will receive from Corona one Pre-Amalgamation Common Share and one New Corona Common Share for each such Corona Common Share so surrendered and cancelled;
  - (d) Corona and Unisphere will amalgamate, pursuant to the provisions of the OBCA, and continue as New Unisphere;

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- (e) each holder of Pre-Amalgamation Common Shares will receive one New Unisphere Common Share for every one Pre-Amalgamation Common Share held and each holder of Unisphere Common Shares will receive 3.28 New Unisphere Common Shares for each Unisphere Common Share held;
  - (f) each Corona Option will be amended so that each holder of a Corona Option will be entitled to receive, on exercise of a Corona Option, one New Unisphere Common Share for each Corona Option held, on the same terms and conditions and at the same expiry date or dates as set forth therein notwithstanding the resignation, removal or termination of the holders;
  - (g) each Unisphere Option will be amended so that each holder of a Unisphere Option will be entitled to receive, on exercise of a Unisphere Option, one New Unisphere Common Share for each Unisphere Option held, on the same terms and conditions and at the same expiry date or dates as set forth therein; and
  - (h) the terms of the Corona Warrant will be amended to permit New Corona to purchase up to 1,000,000 New Unisphere Common Shares at a price of \$2.00 per share for a period of three years from the Effective Date.
15. The Arrangement has been approved by the holders of Corona Common Shares, the holders of Unisphere Common Shares and by the Superior Court of Justice (Ontario).
16. The Arrangement is also subject to certain conditions precedent, including:
- (i) the New Corona Common Shares and New Unisphere Common Shares shall be freely tradable in all of the Jurisdictions at the Effective Date;
  - (ii) Unisphere must have completed or received commitments on terms satisfactory to Corona for additional equity financing of not less than \$3.5 million; and
  - (iii) the New Corona Common Shares and the New Unisphere Common Shares must have been approved for listing by either the TSE or the Canadian Venture Exchange.
17. Prospectus-level disclosure relating to New Corona and New Unisphere, after giving effect to the Arrangement, and the securities to be distributed pursuant

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to the Arrangement, was included in the joint management proxy circular of Corona and Unisphere dated July 23, 2001.

18. Holders of Corona Common Shares and Unisphere Common Shares had the right to dissent from the Arrangement under section 185 of the OBCA, and the Circular disclosed full particulars of this right.
19. Exemptions from registration and prospectus requirements of the Legislation in respect of trades made in connection with the Arrangement, and exemptions from prospectus requirements of the Legislation in respect of the first trades in New Corona Common Shares and New Unisphere Common Shares acquired pursuant to the Arrangement or upon the exercise of stock options distributed prior to the Arrangement or the Corona Warrant distributed pursuant to the Arrangement, are not otherwise available in all Jurisdictions.
20. New Unisphere will be a reporting issuer in each of British Columbia, Alberta and Ontario upon the completion of the Arrangement. New Corona will be a reporting issuer in each of British Columbia and Alberta upon completion of the Arrangement. New Corona will be a reporting issuer in Ontario upon the listing of the New Corona Common Shares on the TSE.

AND WHEREAS under the System, this MRRS Document evidences the decision of each Decision Maker (collectively, the “Decision”);

AND WHEREAS each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the Decision has been met:

THE DECISION of the Decision Makers under the Legislation is that all trades in connection with the Arrangement, the exercise of the Corona Warrant distributed pursuant to the Arrangement, and the exercise of stock options distributed prior to the Arrangement shall not be subject to the Requirements provided that the first trade in New Unisphere Common Shares or New Corona Common Shares acquired pursuant to this Decision will be a distribution or primary distribution to the public unless:

- (i) except in Quebec, the conditions in subsections (3) or (4) of section 2.6 of Multilateral Instrument 45-102: Resale of Securities (“MI 45-102”) are satisfied, and for the purposes of determining the period of time that New Unisphere or New Corona has been a reporting issuer under section 2.6 or 2.8 of MI 45-102, the period of time that Corona was a reporting issuer immediately before the Arrangement may be included; and

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- (ii) in Quebec,
  - (a) the trade is executed through the facilities of an exchange,
  - (b) no unusual effort is made to prepare the market or to create a demand for the securities that are the subject of the trade,
  - (c) no unusual effort is made to prepare the market or to create a demand for the securities that are the subject of the trade,
  - (d) if the selling shareholder is an insider or officer of the issuer, the selling shareholder has no reasonable grounds to believe that the issuer is in default of securities legislation.

**DATED** this 3<sup>rd</sup> day of April, 2002.

Paul M. Moore

H. Lorne Morphy