

Headnote

National Instrument 43-101 *Standards of Disclosure for Mineral Projects*, ss. 5.3(1)(a) and 9.1 - The issuer became a reporting issuer as a result of an arrangement involving a spin-off transaction. The issuer's business is a continuation of the business of its parent company and the issuer's shareholders are not receiving interests in new mineral properties. There are current technical reports for the properties filed by the parent company but which were not required to be prepared by independent qualified persons.

Securities Act, ss. 11 and 169 – *Confidentiality* - An applicant wants to keep an application and order confidential for a limited amount of time after the order is granted - The record provides intimate financial, personal or other information. The disclosure of the information before a specific transaction would be detrimental to the person affected; the information will be made available after a specific date

Applicable Legislative Provisions

National Instrument 43-101 *Standards of Disclosure for Mineral Projects*, ss. 5.3(1)(a) and 9.1
Securities Act, R.S.B.C. 1996, c. 418, s. 169

February 24, 2023

In the Matter of
the Securities Legislation of
British Columbia and Ontario
(the Jurisdictions)

and

In the Matter of
the Process for Exemptive Relief in Multiple Jurisdictions

and

In the Matter of
Teck Resources Limited
(Teck)

and

In the Matter of
Elk Valley Resources Ltd.
(NewCo)

(collectively, the Filers)

Decision

Background

- ¶ 1 The securities regulatory authority or regulator in each of the Jurisdictions (the Decision Maker) has received an application from the Filers in connection with a potential Spin-Out (as defined below), for a decision under the securities legislation of the Jurisdictions (the Legislation) exempting NewCo from the requirement in Section 5.3(1)(a) of National Instrument 43-101 *Standards of Disclosure for Mineral Projects* (NI 43-101) to file technical reports for the Properties (as defined below) upon completion of the Arrangement (as defined below) that have been prepared by or under the supervision of, one or more qualified persons that are, at the effective and filing dates of the technical reports, all independent of NewCo (the Requested Exemptive Relief).

Furthermore, the Decision Makers have received an application from the Filers for a decision (the Confidentiality Relief) that the application, any decision granted, and all supporting materials or other information submitted in connection therewith remain confidential and not be made public until the earlier of

- (a) the public announcement of the Spin-Out by Teck; and
- (b) 90 calendar days after the effective date of the decision granting the Requested Exemptive Relief.

Under the Process of Exemptive Relief Applications in Multiple Jurisdictions (for a dual application):

- (a) the British Columbia Securities Commission is the principal regulator for this application;
- (b) the Filers have provided notice that Section 4.7(1)(c) of Multilateral Instrument 11-102 *Passport System* (MI 11-102) is intended to be relied upon in Alberta, Saskatchewan, Manitoba, Quebec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, the Yukon Territory, the Northwest Territories and Nunavut; and
- (c) the decision is the decision of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

Interpretation

- ¶ 2 Terms defined in National Instrument 14-101 *Definitions* or MI 11-102 have the same meaning if used in this decision, unless otherwise defined.

Representations

- ¶ 3 The decision is based on the following facts represented by the Filers:

1. Teck is a company continued under the *Canada Business Corporations Act* (the CBCA) with its registered and principal offices located at Suite 3300, 550 Burrard Street, Vancouver, British Columbia;
2. Teck is a diversified resource company committed to responsible mining and mineral development with major business units focused on copper, zinc and steelmaking coal; Teck has interests in mining and processing operations in Canada, the United States, Peru and Chile, including four operating steelmaking coal mines, all of which are located in British Columbia, Canada;
3. Teck is a reporting issuer or its equivalent in each of the provinces and territories of Canada and is not in default of securities legislation in any of those jurisdictions;
4. Teck is planning and preparing for a potential transaction whereby it would spin-out substantially all of its operating steelmaking coal assets (the Assets) into NewCo and distribute the common shares of NewCo held by Teck to Teck's shareholders (the Spin-Out);
5. the Spin-Out would be completed through a shareholder and court approved plan of arrangement under the CBCA (the Arrangement) that would result in the transfer of the Assets to NewCo in consideration for a royalty, as well as preferred shares and common shares of NewCo; one or more third parties could potentially acquire an interest in the common shares of NewCo in connection with the Spin-Out, but under the Arrangement all of the common shares of NewCo held by Teck would be distributed to Teck's shareholders, which are expected to represent at least a majority of the outstanding common shares of NewCo on completion of the Arrangement;
6. the Filers currently intend to apply to have the common shares of NewCo listed only on the Toronto Stock Exchange, and expect that as a result of the completion of the Arrangement, NewCo will become a reporting issuer or its equivalent in each of the provinces and territories of Canada;
7. it is currently expected that the Assets would include the following mineral properties, all of which are located in the Elk Valley in British Columbia, Canada:
 - (a) the Elkview mine;
 - (b) the Fording River mine;
 - (c) the Greenhills mine; and
 - (d) the Line Creek mine;
8. Teck currently owns 100% of each of the Fording River mine and the Line Creek mine and has controlling interests in the Elkview mine and the Greenhills mine; Teck currently considers the Elkview mine, the Fording River mine and the Greenhills mine (each a Property, and collectively the Properties) to be "material" for purposes of NI 43-101;

9. Teck has publicly filed technical reports for each of the Properties (collectively, the Technical Reports);
10. it is currently expected that, on completion of the Arrangement, each of the Properties will be “material” to NewCo for purposes of NI 43-101 and will be the only mineral properties material to NewCo;
11. as prescribed by Section 4.1(1) of NI 43-101, NewCo intends to file a new technical report addressed to it and prepared in accordance with NI 43-101 for each of the Properties upon completion of the Arrangement;
12. in accordance with Section 5.3(1)(a) of NI 43-101, a technical report required pursuant to Section 4.1(1) of NI 43-101 must be prepared by or under the supervision of one or more qualified persons that are, at the effective and filing dates of such technical report, all independent of the issuer;
13. Section 5.3(2) of NI 43-101 provides an exemption so that a technical report required to be filed by a “producing issuer” by virtue of Section 4.1 is not required to be prepared by or under the supervision of an independent qualified person if the securities of the issuer trade on a “specified exchange” as defined in Section 1.1 of NI 43-101;
14. Teck is and has been at all relevant times a “producing issuer” as defined in section 1.1 of NI 43-101; the Class B subordinate voting shares of Teck are listed for trading on New York Stock Exchange, which is a “specified exchange”; therefore, Teck is eligible to use the independence exemption in Section 5.3(2) of NI 43-101; Teck currently relies on internal qualified persons for the scientific and technical information that it discloses concerning the Properties; all but one of the Technical Reports were prepared by Teck’s internal qualified persons at the time of filing; if it were to retain outside third parties to prepare new technical reports then this would result in a substantial additional cost, as well as significant delay;
15. NewCo will be a successor to a business that, on a stand-alone basis, qualifies as a “producing issuer” for purposes of NI 43-101; the management information circular that Teck will prepare for the Arrangement will include prospectus-level disclosure, three years of audited historical “carve-out” financial statements for the Assets and pro forma financial statements for NewCo; it is expected that these historical carve-out financial statements will show over approximately \$10 billion in gross revenue from mining operations for the year ended December 31, 2022, and over approximately \$19 billion in aggregate gross revenue from mining operations over the three most recently completed years;
16. NewCo, however, will not have any securities listed for trading on a “specified exchange”; therefore, NewCo would not be able to use the same independence exemption that Teck could rely on;
17. the Properties are not part of a speculative or new exploration area; they have been producing mines for years; the Elkview and Fording River mines have been in operation for more than 50 years, and the Greenhills mine has been in operation for almost 40 years; the Elkview

mine, Fording River mine and Greenhills mine are projected to support mining for a further 39, 42 and 37 years, respectively;

18. NewCo will become a reporting issuer as a result of the Spin-Out, which will be approved by Teck's shareholders, who, as a result, will become shareholders of NewCo at the effective time of the Arrangement; these shareholders of NewCo would have already held an indirect interest in the Assets in light of their shareholdings in Teck;
19. the Assets comprise almost all the assets and operations included in Teck's steelmaking coal reportable segment, and as a result there is already a significant public disclosure record of the Assets and business to be operated by NewCo; and
20. although NewCo will become a new reporting issuer upon completion of the Arrangement, it will, in effect, be a successor to the Assets.

Decision

- ¶ 4 Each of the Decision Makers is satisfied that the exemptive relief application meets the tests set out in the Legislation for the Decision Maker to make the decision.

The decision of the Decision Makers under the Legislation is that the Requested Exemptive Relief is granted.

Furthermore, the decision of the Decision Makers is that the Confidentiality Relief is granted.

Gordon Smith
Acting Director, Corporate Finance
British Columbia Securities Commission