

APPENDIX III

EXPERT REPORT OF WILLIAM HAEGELE

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION**

—
CLEANUP AND ABATEMENT ORDER NO. R5-2014-XXXX

**ATLANTIC RICHFIELD COMPANY
UNITED STATES DEPARTMENT OF AGRICULTURE,
UNITED STATES FOREST SERVICE**

**WALKER MINE TAILINGS
PLUMAS COUNTY**

—
**CLEANUP AND ABATEMENT ORDER NO. R5-2014-YYYY
ATLANTIC RICHFIELD COMPANY**

**WALKER MINE
PLUMAS COUNTY**

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD,
CENTRAL VALLEY REGION, CLEANUP AND ABATEMENT ORDER NO.
R5-2014-XXXX AND ORDER NO. R5-2014-YYYY ISSUED TO ATLANTIC
RICHFIELD COMPANY, ET AL.**

EXPERT REPORT OF WILLIAM HAEGELE

**This report was prepared solely for the purposes of the above-referenced matter and is not
to be used or relied upon for any other purpose without the express written consent of
KPMG LLP and William Haegele.**

February 20, 2014

I. Introduction

I have been asked by counsel for Atlantic Richfield Company (“Counsel”) to evaluate the relationship and involvement of the Anaconda Copper Mining Company (“Anaconda,”), and Anaconda’s subsidiary International Smelting & Refining Company (“IS&R,” together with Anaconda, the “Anaconda Companies”), with respect to Walker Mining Company (“WMC”). Additionally, I have been asked to examine and consider the full set of historical documents provided to me for 1) fraud or fraudulent intent on the part of the Anaconda Companies, 2) whether WMC acted as anything other than a separate entity apart from IS&R and Anaconda, and 3) whether the involvement by the Anaconda Companies in the Walker Mine are outside of corporate norms.

II. Summary of Qualifications

I am a Forensic Partner in the San Francisco office of the audit, tax, and advisory firm KPMG LLP. I am a Certified Public Accountant (“CPA”) licensed to practice in California. Additionally, I am a Certified Insolvency and Restructuring Advisor (“CIRA”) and Certified in Financial Forensics (“CFF”). My practice focuses on distressed entities and creditors, corporate restructurings, mergers and acquisitions, forensic accounting, fraud investigations, and similar accounting services. I have specific experience evaluating and analyzing complex accounting and financial matters, including evaluating and advising on corporate restructurings, business combinations, acquisitions, bankruptcy, creditor and shareholder rights, fraudulent transfers, and insolvency. I have led SEC financial reporting investigations and restatement projects involving accounting irregularities. As a CPA, I have participated in financial statement audits. Finally, I was a Chief Financial Officer with overall responsibility for the accounting, finance, and legal functions of a retail company. A copy of my resume is included as Appendix A to this report.

III. Exhibits

For purposes of presenting my opinions and their bases, I may develop exhibits, including PowerPoint presentations, overheads, flip charts, and other summary graphics. I may also use certain demonstrative aids and illustrations to assist in presenting technical concepts.

IV. Compensation

KPMG’s compensation for preparing this report, including preparation for and testimony in any hearings, is based upon the actual time expended at the hourly rates for the individuals assigned to the engagement. In addition to professional fees, KPMG is reimbursed for any travel and out-of-pocket expenses. The hourly rate for KPMG professionals working on this engagement ranges between \$150 and \$490 per hour. My hourly rate is \$490 per hour.

V. Information Considered and Methodology

I have been provided by Counsel what has been represented to me to be the available historical documents, accounting records, and communications related to this matter. I reviewed, analyzed, and considered each of these documents including, but not limited to,

- WMC, Anaconda, and IS&R financial statements, tax returns and accounting records;
- WMC and Anaconda annual reports;
- WMC operational reports and similar documents;
- Corporate governance records;
- Correspondence;
- Bankruptcy Court records; and
- Other historical documents provided.

Utilizing my experience in accounting, business combinations, fraud, forensic investigations, bankruptcy, and auditing, I analyzed these documents in an effort to understand the relationship between the Anaconda Companies and WMC, including the Anaconda Companies' involvement in the operations of WMC. In doing so, I analyzed whether WMC operated as a standalone corporate entity, the financial relationship between the parties, and the involvement of the Anaconda Companies in WMC's activities and operations, among other things. The results of my review and analysis are described in detail in the following sections of this report.

I understand that discovery and depositions may not be completed. To the extent that the record is supplemented, I reserve the right to issue an amended report.

A complete list of documents cited in this report is included as Appendix B.

VI. Summary of Opinions

After review, consideration, and analysis of the information provided, I have reached the following opinions:

- WMC was a standalone, publicly traded corporation with a separate corporate, financial, and accounting existence from IS&R and Anaconda. I did not find any indication of fraud in the interactions and transactions between WMC, IS&R, and Anaconda.
- The Anaconda Companies provided typical investor monitoring and oversight of their investment, in this case WMC.
- The Anaconda Companies' involvement in the Walker Mine was limited to certain administrative and procurement services and the provision of expertise. The provision of

these services and expertise is consistent with normal involvement on the part of a majority investor. The Anaconda Companies did not manage the Walker Mine.

These summary opinions are discussed in greater detail in the ensuing sections of this report.

VII. Background

Walker Mining Company was incorporated in 1913 in the State of Arizona.¹ The company was headed by President J.R. Walker and had offices in Salt Lake City, Utah and Phoenix, Arizona.² WMC owned the Walker Mine, a copper mine located in Plumas County, California.³ The Walker Mine produced copper ore until 1941; however, mining and milling operations were suspended from 1920 to 1922 and 1932 to 1935 due to unfavorable market conditions.⁴ The mine and mill closed permanently in 1941 due to rising production costs and the low price of copper.⁵

In 1918, International Smelting & Refining Company exercised an option to purchase 630,000 shares of WMC, resulting in an ownership interest of 50.4%.⁶ IS&R was a wholly owned subsidiary of Anaconda Copper Mining Company.⁷

The Walker Mine closed permanently in October 1941 and in June 1944, WMC filed for reorganization under Chapter 10 of an act of Congress of the United States entitled “An Act to Establish a Uniform System of Bankruptcy throughout the United States.”⁸

In February 1945, the Bankruptcy Court found that WMC’s business and affairs were at all times conducted in a manner consistent with a corporation that is free from domination or control by others, and that WMC was not at any time the alter ego of the Anaconda Companies. The Court also found that WMC “greatly benefited” from its relationship with the Anaconda Companies and that the minority shareholders were treated fairly.⁹

¹ Articles of Incorporation of the Walker Mining Company, as Amended to February 3, 1930 (Ex. 61).

² Articles of Incorporation of the Walker Mining Company, as Amended to February 3, 1930 (Ex. 61).

³ Moodys Manual of Railroads and Corporation Securities, 1920, p. 2236 (Ex. 29).

⁴ Report of Walker Mining Company at the Special Stockholders’ Meeting, May 3, 1923 (Ex. 34); Report of State Mineralogist, undated, p. 102 (Ex. 133).

⁵ “Ceiling on Copper Price Forces Big Producer to Close,” October 26, 1941 (Ex. 120).

⁶ At the time of the stock purchase, IS&R was known as International Smelting Co. See Moodys Manual of Railroads and Corporation Securities, 1920, p. 2236 (Ex. 29). WMC’s authorized shares increased from 1,250,000 to 1,750,000 and IS&R’s share increased from 630,000 to 882,000. IS&R’s ownership interest remained the same at 50.4%. See untitled document containing WMC corporate information (Ex. 2) and letter from E.O. Sowerwine to Rom Warburton, September 27, 1944 (Ex. 129).

⁷ Report of the Anaconda Copper Mining Company For the Year Ended December 31st, 1932 (Ex. 73).

⁸ Letter from Ernest W. Ramspeck to Rom Warburton, July 19, 1944 (Ex. 128).

⁹ Memo Decision in the Matter of Walker Mining Company, Debtor, by Special Master T.D. Lewis, January 15, 1945 (Ex. 130).

Specifically, Judge Tillman D. Johnson adopted the findings of the Special Master and decreed, in part, the following:

“That Debtor [WMC] is not and has never at any time been an alter ego or instrument or department of Anaconda Copper Mining Company or of International Smelting and Refining Company...

That Debtor’s business and affairs have at all times been carried on and conducted in the manner and according to the methods and practice usually employed by corporations free of any domination or control by others.

That no act or omission of said Anaconda Copper Mining Company or of said Claimant [IS&R], their officers, agents and employees, or any of them, established by any evidence, constitutes or proves any domination or control by them or any of them over Debtor or any of Debtor’s acts, business or affairs, or constituted fraud, or occasioned damage or prejudice to or violated any right of Debtor or any of its stockholders.”¹⁰

VIII. Observations, Analyses, and Opinions

A. WMC was a standalone, publicly traded corporation with a separate corporate, financial, and accounting existence from IS&R and Anaconda. I did not find any indication of fraud in the interactions and transactions between WMC, IS&R, and Anaconda.

During my review and analysis of the historical documents, I did not find any indication of fraud on the part of the Anaconda Companies in their interactions with WMC. Further, I did not find any documents that contradict the Bankruptcy Court and Special Master findings, including that WMC was not at any time the alter ego of the Anaconda Companies, and that WMC shareholders were treated fairly.

Additionally, as a result of my examination and analysis of the available documents, I found that WMC was a publicly traded company and observed corporate formalities, including holding regular shareholder meetings, maintaining separate accounting records, and preparing financial statements and tax returns. Additionally, significant contracts and other business dealings with the Anaconda Companies were negotiated and approved independently and benefited WMC and its minority shareholders.

Finally, the Anaconda Companies could have divested some or all of their stock in WMC and WMC would have continued to exist as a standalone entity.

¹⁰ Decree in the Matter of Walker Mining Company, Debtor, by Judge Tillman D. Johnson, February 10, 1945 (Ex. 131).

1. Corporate Formalities

WMC and Anaconda were separate publicly traded companies, each with its own board of directors.¹¹ J.R. Walker served as WMC President and served on the WMC Board from inception through bankruptcy in 1944.¹² In 1918, Anaconda, through its wholly owned subsidiary IS&R, purchased stock representing a 50.4% equity interest in WMC.¹³ The Walker family and other minority shareholders held the remaining 49.6% of outstanding shares.¹⁴ WMC and Anaconda existed as separate corporate entities before and after Anaconda's investment in WMC.

The WMC Board of Directors remained active and was kept informed of mine operations.¹⁵ For example, in May 1940, Reno H. Sales and Clyde E. Weed, Anaconda Geologist and Manager of Mines, respectively, prepared a report regarding the status of the Walker Mine for the WMC Board.¹⁶ WMC also held annual shareholder meetings and special shareholder meetings when necessary.¹⁷

WMC paid dividends to all shareholders, including the Anaconda Companies. On March 7, 1930 WMC paid its first dividend in the amount of \$131,198.10 and on December 23, 1937, WMC paid its second and last dividend in the amount of \$87,465.40.¹⁸

2. Anaconda's Accounting for WMC

Based on my review and analysis of Anaconda's accounting records, I observed that Anaconda and IS&R accounted for its interest in WMC as an investment and did not consolidate or otherwise report WMC's operating results in its financial statements.¹⁹ This accounting treatment was consistently applied until Anaconda and IS&R wrote off the investment as a result of WMC's bankruptcy filing.²⁰

The Notes to Anaconda's Consolidated Balance Sheet state, "Accounts of subsidiaries in which the Company's interest is less than 75% of the issued stock are not consolidated and the shares

¹¹ Annual reports of the Walker Mining Company between fiscal years 1924 and 1943 (Ex. 37, 46, 52, 54, 59, 63, 67, 71, 72, 75, 78, 79, 83, 88, 98, 106, 117, 122, 123, and 126). Annual reports of the Anaconda Copper Mining Company between fiscal years 1932 and 1941 (Ex. 73, 76, 77, 80, 82, 87, 97, 107, 116, and 121).

¹² Annual reports of the Walker Mining Company between fiscal years 1924 and 1943.

¹³ Report of the Anaconda Copper Mining Company For the Year Ended December 31st, 1918 (Ex. 13).

¹⁴ "Analysis of Facts and History of the Walker Mining Company, Subsidiary of the Anaconda Copper Mining Company," November 24, 1922 (Ex. 33).

¹⁵ Annual reports of the Walker Mining Company between fiscal years 1924 and 1943; correspondence between C.E. Weed and Reno H. Sales, May and June, 1940 (Ex. 108, 109, and 110).

¹⁶ Correspondence between C.E. Weed and Reno H. Sales, May and June, 1940 (Ex. 108, 109, and 110).

¹⁷ By-laws of the Walker Mining Company, as amended February 3, 1930 (Ex. 62); Report of Walker Mining Company at the Special Stockholders' Meeting, May 3, 1923 (Ex. 34).

¹⁸ Report of the Walker Mining Company For the Year Ending December 31, 1930 (Ex. 67); Statement 1937, Walker Mining Company (Ex. 88).

¹⁹ Annual reports of the Anaconda Copper Mining Company, 1918, 1919, and 1920 (Ex. 13, 23, and 57).

²⁰ Annual Report, Anaconda Copper Mining Company, 1941 (Ex. 121).

owned in these subsidiaries are carried as investments in the Consolidated Balance Sheet.”²¹ The Anaconda Companies held a 50.4% interest in WMC, and as such, WMC was not reflected as a consolidated subsidiary of Anaconda.

3. WMC’s Books and Records

WMC maintained its own books and records, prepared standalone financial statements,²² tax returns,²³ and filed annual reports (Form 10-K) with the SEC.²⁴ WMC’s financial statements were subject to audits conducted in accordance with Generally Accepted Auditing Standards (“GAAS”) by an independent accounting firm.²⁵

Based on my review and analysis of the available accounting records, I observed that WMC’s assets, expenses, and results of operations were accounted for separately from the Anaconda Companies. For example, WMC’s results of operations were recorded only in the financial statements of WMC. Further, WMC entered into various debt agreements with the Anaconda Companies, which were recorded on WMC’s balance sheet as “indebtedness to International Smelting and Refining Company.” WMC also recorded the interest expense associated with its debt to IS&R on its profit and loss statement.²⁶

WMC filed individual, unconsolidated tax returns with the U.S. Internal Revenue Service.²⁷

4. Significant Business Dealings

WMC and the Anaconda Companies entered into various agreements relating to the delivery and sale of copper ore. These agreements appear to have been negotiated and approved independently. Moreover, WMC’s business dealings with the Anaconda Companies do not appear to favor the Anaconda Companies to the detriment of WMC.

In June 1921, WMC and IS&R entered into an agreement under which WMC would sell to IS&R copper ore and copper concentrates mined from the Walker Mine (or from any other mining properties operated by WMC) for a five year period (the “1921 Smelting Agreement”).²⁸ The 1921 Smelting Agreement was approved separately by IS&R and WMC. In June 1921, the

²¹ Anaconda Copper Mining Company, Notes to Consolidated Balance Sheet – December 31st 1940 (Ex. 114).

²² Annual reports of the Walker Mining Company between fiscal years 1924 and 1943.

²³ WMC Corporate Income Tax Returns for 1923 and 1924 (Ex. 6 and 42).

²⁴ Form 10-K for Walker Mining Company, For Fiscal Years Ended December 31, 1942 and December 31, 1943 (Ex. 124 and 127).

²⁵ Opinion letters issued by Pogson, Peloubet & Co., Certified Public Accountants (Ex. 124 and 127).

²⁶ WMC Balance Sheet and Profit and Loss Statement (Ex. 124 and 127).

²⁷ WMC Corporate Income Tax Returns for 1923 and 1924 (Ex. 6 and 42).

²⁸ Agreement between Walker Mining Company and International Smelting Company, June 7, 1921 (Ex. 53).

IS&R Board of Directors ratified the execution of the agreement during a regular meeting of the board of directors.²⁹ The agreement was executed by J.R. Walker as President of WMC.

In April 1937, WMC cancelled its contract with IS&R for the sale of ore and concentrates and entered into a new contract under the terms of which the recoverable copper was returned to WMC (the “1937 Smelting Agreement”).³⁰

These agreements do not appear to favor the financial interests of the Anaconda Companies to the detriment of WMC. The Notes to Anaconda’s Consolidated Profit and Loss Statement state,

“The principal transactions with unconsolidated subsidiaries consist of sales of copper and other metals to Anaconda Wire and Cable Company and smelting and refining on toll of ores and concentrates produced by Mountain City Copper Company and Walker Mining Company...Smelting and refining tolls are charged on the same basis as those charged to outside customers.”³¹

Additionally, overlapping officers and directors appear to have acted in a manner to safeguard the interests of WMC with respect to the various agreements described above. For example, J.O. Elton wrote to Anaconda officer B.B. Thayer, “Since I am a director and vice-president of the Walker Mining Company, I did not think it would be right for me to sign this contract for the International Smelting Company.”³²

5. WMC and its Minority Shareholders

WMC’s business dealings with the Anaconda Companies also benefited WMC’s minority shareholders. WMC President, J.R. Walker, stated,

“The conduct of the affairs of the Walker Mining company [sic] by the Anaconda company [sic] has always been for the best interests of all the stockholders. Minority stockholders have always had a square deal.”³³

As discussed above, WMC entered into various agreements with IS&R relating to copper ore. The 1921 Smelting Agreement was extended in 1928 (the “1928 Smelting Agreement”), with the approval of WMC’s minority shareholders. J.O. Elton described the 1928 Smelting Agreement in a letter to Anaconda officer B.B. Thayer as follows:

²⁹ Minutes of a Regular Meeting of the Board of Directors of the International Smelting Company, June 23, 1921 (Ex. 30).

³⁰ Statement 1937, Walker Mining Company (Ex. 88).

³¹ Anaconda Copper Mining Company and Subsidiary Companies Notes to Consolidated Profit and Loss Statement, undated (Ex. 134).

³² Letter from J.O. Elton to B.B. Thayer, April 12, 1928 (Ex. 55).

³³ “Analysis of Facts and History of the Walker Mining Company, Subsidiary of the Anaconda Copper Mining Company,” November 24, 1922 (Ex. 33).

“For some little time Mr. Walker...has been endeavoring to get the minority directors to petition for a five-year’s extension of the Walker Mining Company’s notes held by the International Smelting Company...Messrs Baglin and Storey, two of the minority directors objected to a renewal of the contract, saying that they considered the contract was not fair. After considerable investigation carried on independently by George Baglin, he found that it was impossible to get rates on copper ores from the other smelters that were materially lower than the International Smelting Company rates...We are all of the opinion that it is good business to do as requested by the minority directors, that is, to extend the notes and write a new contract...The rates as contained in the contract are in line with other contract rates being offered at this time in this district”³⁴ (emphasis added).

The documents further indicate that the Anaconda Companies, as the majority shareholder, did not act in their own self interest to the detriment of minority shareholders. In an August 1941 letter, Clyde E. Weed, Anaconda Manager of Mines wrote to Anaconda President J.R. Hobbins regarding the potential closure of the Walker Mine, stating,

“If this property was entirely owned by the Anaconda Copper Mining Company we would have a different situation than we have to face at present. However, as we own only 51% of the stock of the Company we have minority stockholders to consider.”³⁵

B. The Anaconda Companies provided typical investor monitoring and oversight of their investment, in this case WMC.

Based on my review of the documentation, analyses performed, and my experience, the Anaconda Companies’ interactions with WMC were within the bounds of corporate norms and typical oversight of a majority equity investor.

1. Corporate Governance and Oversight

It is common for a significant investor to obtain and retain positions on the board of directors. I observed that both the minority shareholders and the Anaconda Companies were represented on WMC’s Board. Specifically, individuals affiliated with the Anaconda Companies, including J.O. Elton, John F. Dugan, William Wraith, and others served as directors, and the minority shareholders were represented by J.R. Walker, W.R Walker, W.M. Story, and Geo Baglin.³⁶

As is also common, the Anaconda Companies and WMC shared certain overlapping officers and other personnel, including the aforementioned individuals.³⁷ I have seen no documents indicating

³⁴ Letter from J.O. Elton to B.B. Thayer, April 12, 1928 (Ex. 55).

³⁵ Letter from C.E. Weed to J.R. Hobbins, August 21, 1941 (Ex. 119).

³⁶ Annual reports of the Walker Mining Company between fiscal years 1924 and 1943.

³⁷ J.O. Elton, William Wraith, and J.F. Dugan held various positions with the Anaconda Companies (and their subsidiaries) and served as officers and/or directors of WMC.

that these officers and directors behaved in a manner that would be detrimental to WMC for the benefit of the Anaconda Companies.

Additionally, during times of significant business expansion or financial instability it is common for a majority investor to increase oversight, receive additional reporting, conduct independent evaluations, and if merited, provide financial assistance. Between 1913 and 1941, WMC at times expanded operations and at other times ceased operations, either partially or in totality.³⁸ During such times, the Anaconda Companies appropriately sought information on the status of WMC's activities and operations, as described by the following examples.

- Leading up to the Walker Mine closure in 1941, WMC experienced instability due to low copper prices and lack of available ore. In 1938, J.O. Elton provided a “report of operations” from the Walker Mine to Anaconda Vice President, Robert E. Dwyer.³⁹
- In 1939, John F. Dugan wrote to J.O. Elton to report on operations at the Walker Mine, specifically relating to operating losses. Dugan referred to an “inspection trip” and wrote, “Of course, the question is a financial one, as the International Company will have to finance the set-up...I earnestly recommend that Walker be allowed to operate and vigorously push its development work.”⁴⁰

These documents demonstrate that the Anaconda Companies monitored WMC's operations. These interactions represent a typical level of oversight by a majority investor.

2. Financial Assistance

It is not uncommon for a majority investor to provide financial assistance to its investment if warranted. The documents indicate that the Anaconda Companies provided financial assistance to WMC during times of expansion, and also during times of instability. Frederick Laist, Vice President of IS&R, explained in a letter to the WMC Board of Directors that IS&R made advances to WMC “from time to time to increase the mill capacity to handle lower grade ore and to make possible vigorous exploration work...in an effort to develop pay ore in the mine and to keep the mine operating under unfavorable conditions.”⁴¹

For example, in May 1923, WMC's Directors prepared a report for a special stockholders' meeting regarding a proposed increase in capitalization “for the purpose of building a new mill,

³⁸ Mining and milling operations at Walker Mine were suspended from 1920 - 1922 and 1932 - 1935, and the Walker Mine closed permanently in October 1941. Report of Walker Mining Company at the Special Stockholders' Meeting, May 3, 1923 (Ex. 34); Report of State Mineralogist, undated, p. 102 (Ex. 133); “Ceiling on Copper Price Forces Big Producer to Close,” October 26, 1941 (Ex. 120).

³⁹ Letter from J.O. Elton to R.E. Dwyer, May 26, 1938, with enclosures, including a report of operations at the Walker Mine (Ex. 94, 93, 90, 92, and 91).

⁴⁰ Letter from J.F. Dugan to J.O. Elton, June 19, 1939 (Ex. 100).

⁴¹ Letter from Frederick Laist to The Board of Directors of WMC, January 11, 1944 (Ex. 125).

and for adding to the mine and camp equipment.” WMC estimated the cost of these improvements to be \$382,942.⁴² In August 1923, WMC issued a note to IS&R in exchange for \$333,133.24.⁴³ These transactions were accounted for separately in the books and records of both WMC and IS&R.

The financial assistance provided by the Anaconda Companies represents typical involvement by a majority investor, and benefited WMC and its shareholders.

C. The Anaconda Companies’ involvement in the Walker Mine was limited to certain administrative and procurement services and the provision of expertise. The provision of these services and expertise is consistent with normal involvement on the part of a majority investor. The Anaconda Companies did not manage the Walker Mine.

Based on my review of the documents, analyses performed, and my experience, the Anaconda Companies’ involvement in the Walker Mine appears to have been limited to providing office space and administrative services; expertise, particularly with respect to geological and development work; and assisting with the procurement of supplies and equipment. Both the type and the amount of services provided appear to be consistent with a normal level of involvement by a majority investor.

1. Services and Related Expenses

WMC recorded liabilities and payments to the Anaconda Companies.⁴⁴ Similarly, IS&R recorded the amounts it charged to affiliated companies, including WMC.⁴⁵ The documents indicate that these services benefited WMC, were charged at cost, and that WMC reimbursed the Anaconda Companies for the services it received. The Notes to Anaconda’s Consolidated Profit and Loss Statement illustrate this point:

“Other transactions with unconsolidated subsidiaries not material in amount include sales of miscellaneous products and supplies which are made on the same basis as those to outside customers and furnishing of various services, principally of a technical nature, which are charged for at cost or approximate cost.”⁴⁶

As stated above, WMC tracked and accounted for expenses associated with services provided by the Anaconda Companies. I performed an analysis of the available accounting and tax records

⁴² Report of Walker Mining Company at the Special Stockholders’ Meeting, May 3, 1923 (Ex. 34).

⁴³ Handwritten document outlining the terms of the note, undated (Ex. 58).

⁴⁴ WMC Statement of Amounts Paid to Affiliated Companies and Statement of Amounts Shown as Liabilities to Affiliated Companies, 1923 (Ex. 35); WMC Balance Sheet as of September 30, 1931 (Ex. 68).

⁴⁵ International Smelting Company Statement of Charges to Affiliated Companies, 1924. (Ex. 43).

⁴⁶ Anaconda Copper Mining Company and Subsidiary Companies Notes to Consolidated Profit and Loss Statement, undated (Ex. 134).

for WMC, IS&R, and Anaconda and was able to identify detailed expense records associated with these services for 1923 and 1924.⁴⁷

I observed that the expenses shown in these accounting records were consistent with the services described in various communications contained throughout the historical documents. Both the accounting records and historical documents demonstrate that these expenses relate to utilization of office space and administrative services, salary and expenses of individuals, and WMC's proportional share of the costs associated with the Anaconda Companies' geological department.

Further analysis of the accounting records indicates that these costs amounted to \$29,883 and \$20,330, representing 3.7% and 1.7% of total WMC sales in calendar years 1923 and 1924, respectively. This represents a modest portion of WMC's overall operations.

2. Procurement of Supplies and Equipment

In addition to the services discussed above, the documents indicate that it was not unusual for WMC to utilize the Anaconda Companies procurement capabilities to obtain equipment and supplies. For example, WMC requested that Anaconda procure wood preservative and stated, "We are sending the order to you as we are of the opinion that you may be able to obtain a better price than we could."⁴⁸ These purchases were recorded and accounted for in WMC's books and records.⁴⁹

3. Geological Expertise

Included in the expenses identified in section C.1 are costs associated with services provided by the Anaconda Companies' geological department. These costs are consistent with my review of the documents which, when taken as a whole, indicate that the primary involvement of the Anaconda Companies was the provision of geological expertise.

This geological support from Anaconda is not surprising. An important consideration for an investor is whether value can be created and a premium can be realized by way of synergies between the company and the investor (or the investor's subsidiaries). Upon making the investment, it is common for the investor to collaborate and share expertise with its investment, and otherwise take advantage of such synergies.

The Anaconda Companies had access to skilled personnel and a deep knowledge base, particularly with regards to its geological department. Paul Billingsley, Geologist with the Anaconda Companies, wrote in an article for the *Mining and Scientific Press*:

⁴⁷ Records containing sufficient detail to analyze expenses associated with the Anaconda Companies could only be located for 1923 and 1924.

⁴⁸ Letter to the Anaconda purchasing department, June 27, 1928 (Ex. 56).

⁴⁹ International Smelting Company Statement of Charges to Affiliated Companies, 1924 (Ex. 43).

“The Anaconda Copper Mining Co., of Butte, has developed its geological department into an important branch of its organization.”

“The geological department has thus from its formation kept for its prime objective the helping of the mine foremen and superintendents through a knowledge of the structure of the ground. Its members have realized that the geologist should be the servant of the man who is responsible for the work of the mine.”⁵⁰

As expected, WMC availed itself of this valuable expertise. I observed various “recommendation sheets” which show that the Anaconda Companies’ Geological Department provided WMC with recommendations for development work. Paul Billingsley wrote,

“In order to transmit to the proper officers the geologic conclusions reached, a system of ‘recommendation sheets’ is employed. These sheets are made out by each geologist as he reaches his conclusions...The recommendations...are forwarded to the mine-foremen for execution.”⁵¹

And in October 1924, Reno Sales, Anaconda Chief Geologist, wrote to William Wraith, “We wish to give the Walker management as much assistance as possible, we have always done so and hope to continue to the best of our ability.”⁵² Wraith, replied, “the work of the geological department at the Walker is highly appreciated.”⁵³

The Anaconda Companies also provided valuable geological training. In October 1940, John F. Dugan wrote to M.H. Gidel, Assistant Chief Geologist at Anaconda, to request training for Seth K. Droubay, Geologist at the Walker Mine.⁵⁴ Droubay wrote about this training in a letter to Dugan, stating,

“The trip was very educational to me, and I feel that I learned many things that will help our work here at Walker...[I] will recommend certain changes in our sampling methods, which I am quite sure will be of material benefit to the Company.”⁵⁵

The documents I observed support the findings of the Bankruptcy Court Special Master that, “the Walker Mining Company has been greatly benefited through exercising the available

⁵⁰ “Some Features of the Geological Department of the Anaconda Copper Mining Company,” by Paul Billingsley, June 19, 1920 (Ex. 25).

⁵¹ “Some Features of the Geological Department of the Anaconda Copper Mining Company,” by Paul Billingsley, June 19, 1920 (Ex. 25). See also “Recommendation Sheets” dated January 20, 1939 and August 1941 (Ex. 96 and 118, respectively).

⁵² Letter from Reno H. Sales to William Wraith, October 25, 1924 (Ex. 38).

⁵³ Letter from William Wraith to Reno H. Sales, November 17, 1924 (Ex. 40).

⁵⁴ Letter from J.F. Dugan to M.H. Gidel, October 12, 1940 (Ex. 112).

⁵⁵ Letter from S.K. Droubay to J.F. Dugan, November 5, 1940 (Ex. 113).

organization of the claimant [IS&R] for necessary services of experts and for office facilities furnished by the claimant corporation.”⁵⁶

It should be noted that while the documents demonstrate the involvement of the Anaconda Companies’ procurement and geological departments in certain aspects of the Walker Mine, there is a relative absence of communication with the Anaconda Companies regarding the day-to-day operations and activities of WMC.

4. Operation of the Walker Mine

The documents demonstrate that WMC maintained responsibility for the overall operation of the Walker Mine. For example, WMC employed a mine manager to oversee operations. The mine manager directed the day-to-day activities of the Walker Mine,⁵⁷ and directly interacted with third parties relating to its operations.

The mine manager reported to WMC President J.R. Walker and regularly prepared progress reports which were provided to Mr. Walker. These reports appear to have been prepared as often as weekly and include detailed descriptions of activities at the Walker Mine, including the amount of available ore and corresponding copper percentage; operating status and amount of material processed by the mill; progress on raising the tailing dam; results of a new tailing flume; the state of various ongoing improvements; and the health status of the mine camp.⁵⁸

The mine manager’s oversight of operations at the Walker Mine included routine management activities, mining activities, and management of local operating costs, as exemplified by the following:

- In January 1931, mine manager Geisendorfer authored an “Outline of Operations,” which describes mining activities relating to the different orebodies at the Walker Mine.⁵⁹
- In a 1932 letter, mine manager Geisendorfer directed Assistant Manager J.H. Cooper to update third period reports, clarify staffing cuts with mine personnel, and install coils in the furnace and hot water tank at the boardinghouse.⁶⁰
- In 1941, Reno Sales, Anaconda Geologist, wrote, “...that is the mine management’s job, to develop the vein and at the same time have a satisfactory haulage way.”⁶¹

⁵⁶ Memo Decision in the Matter of Walker Mining Company, Debtor, by Special Master T.D. Lewis, January 15, 1945 (Ex. 130).

⁵⁷ H.A. Geisendorfer, WMC mine manager, signed a notarized affidavit stating that he was in charge of operation of the Walker Mine, May 31, 1933 (Ex. 74).

⁵⁸ See for example, report from V.A. Hart to J.R. Walker, June 20, 1926 (Ex. 51); report from H.A. Geisendorfer to J.R. Walker, September 19, 1929 (Ex. 60); report from H.A. Geisendorfer to J.R. Walker, January 6, 1931 (Ex. 65); report from L.F. Bayer to J.R. Walker, March 13, 1937 (Ex. 81).

⁵⁹ Outline of Operations, by H.A. Geisendorfer, January 10, 1931 (Ex. 66).

⁶⁰ Letter from H.A. Geisendorfer to J.H. Cooper, January 30, 1932 (Ex. 70).

Additionally, WMC directly interacted with third parties regarding WMC's operations, including government agencies with respect to land use, construction projects, and land exchanges. For example, the documents show that WMC submitted applications with the U.S. Forest Service for right-of-way for a tram road and a tailings pond. WMC also submitted an application with the U.S. Department of the Interior for right-of-way for a tailings reservoir within the Plumas National Forest.⁶²

IX. Conclusion

Based on my experience, analyses performed, and review of the documents provided, it is my opinion that the relationship between WMC and the Anaconda Companies was consistent with the relationship of a majority shareholder in its investment and followed the appropriate corporate governance, accounting, and record keeping norms of distinct and separate entities. The Anaconda Companies provided oversight, financial assistance, and certain administrative and procurement services. In addition, the Anaconda Companies provided expertise, primarily in the form of geological services to the Walker Mine. The type and amount of services and support provided were typical of a majority shareholder and do not demonstrate that the Anaconda Companies managed the Walker Mine.

Respectfully Submitted,



William Haegele

February 20, 2014

⁶¹ Letter from Reno H. Sales to S.K. Doubray, January 9, 1941 (Ex. 115)

⁶² I observed numerous correspondences between WMC personnel and government agencies. In one instance, Walker mine manager V.A. Hart authored a letter to the U.S. Forest Service which was written on International Smelting Company letterhead. However, Hart signed the letter as a representative of WMC. Subsequent correspondence from Hart utilized WMC letterhead and correspondence received from government agencies clearly and consistently identified WMC as the responsible party. See for example, letter from V.A. Hart to D.R. Rogers, Forest Supervisor, February 7, 1919 (Ex. 8); letter from the Department of the Interior Commissioner, July 30, 1920 (Ex. 27); letter from the Department of the Interior Commissioner, May 26, 1926 (Ex. 48); letter from J.B. Whitehill to the Department of the Interior, June 12, 1926 (Ex. 50); Forms for Filing Evidence of Construction signed by J.O. Elton, June 7, 1926 (Ex. 49); and others.

APPENDIX A

William Haegele, CPA, CFF, CIRA Partner

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Position

William Haegele is a Partner in KPMG LLP's Forensic Services Practice and serves as the Lead for the Restructuring Services in the West.

Qualifications

- Certified Public Accountant
- Certified Insolvency and Restructuring Advisor
- Certified in Financial Forensics

Experience

Mr. Haegele has nineteen years of accounting and finance experience, both domestic and international, in various industries including retail, manufacturing, financial services, technology, hospitality, and telecommunications.

Mr. Haegele has assisted distressed companies with the development and implementation of profit enhancement, corporate and debt restructuring, and asset disposition solutions. He has served clients as the Financial Advisor planning for and filing for protection under Chapter 11.

Mr. Haegele has provided forensic accounting services in multiple matters involving fraud and accounting irregularities. He has served clients and their audit committees during investigations by the Securities and Exchange Commission, and has led SEC financial reporting investigations and in matters involving earnings management and accounting irregularities.

Mr. Haegele has provided litigation support in matters involving complex accounting matters, bankruptcy, finance and solvency. Services have included review and analysis of accounting and auditing records, interpretation of supporting documents preparation of expert reports.

Mr. Haegele has experience providing merger and acquisition services including financial and accounting due diligence and the evaluation of enterprise value. In addition, Mr. Haegele has served as the sole arbitrator in a purchase price dispute.

In addition to Mr. Haegele's professional services experience, he served as the Chief Financial Officer of a retail company with overall responsibility for accounting, finance and legal functions.

Previous Experience

Advisory and Restructuring Services, Deloitte & Touche LLP

Chief Financial Officer, Devon Convenience Holdings

Mergers and Acquisition Services Group, Deloitte & Touche LLP

Audit Services, Deloitte & Touche LLP

Audit, Coopers & Lybrand LLC

William Haegele, CPA, CFF,
CIRA
Partner
KPMG LLP

Professional Affiliations

American Institute of Certified Public Accountants
Association of Fraud Examiners
Association of Insolvency and Restructuring Advisors
California Society of Certified Public Accountants
American Bankruptcy Institute

Education

B.S. in Business Administration, San Diego State University

Deposition and Trial Testimony

Howard M. Ehrenberg, Chapter 7 Trustee v. BDO Seidman LLP
Deposition October 2010 – Arbitration before the American Arbitration
Association

United States of America v Marmon Holdings, Inc. and Marmon Wire &
Cable, Inc. Deposition and Trial Testimony December 2012 - U.S District
Court, District of Idaho

Settlers' Housing Services Inc., Debtor – Case No. 13-28022
Trial Testimony December 2013 – U.S. Bankruptcy Court, Northern
District of Illinois Eastern Division

Speaking Engagements

Institute of Internal Auditors Conference, Feb 2008

Financial Executives International Business Seminar, May 2008

KPMG Legal CLE Program, July 2009

KPMG Distressed Mergers and Acquisition Conference, June 2010

Appendix B

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, CENTRAL VALLEY REGION, CLEANUP AND ABATEMENT ORDER NO. R5-2014-XXXX AND ORDER NO. R5-2014-YYYY ISSUED TO ATLANTIC RICHFIELD COMPANY, ET AL.

The following is a listing of documents cited in the Expert Report of William Haegele.

<u>Document Description</u>	<u>Exhibit #</u>
Untitled document containing WMC corporate information	2
WMC Corporate Income Tax Return for 1923	6
Letter from V.A. Hart to D.R. Rogers, Forest Supervisor, February 7, 1919	8
Report of the Anaconda Copper Mining Company For the Year Ended December 31st, 1918	13
Report of the Anaconda Copper Mining Company For the Year Ended December 31st, 1919	23
"Some Features of the Geological Department of the Anaconda Copper Mining Company," by Paul Billingsley, June 19, 1920	25
Letter from the Department of the Interior Commissioner, July 30, 1920	27
Moodys Manual of Railroads and Corporation Securities, 1920, p. 2236	29
Minutes of a Regular Meeting of the Board of Directors of the International Smelting Company, June 23, 1921	30
"Analysis of Facts and History of the Walker Mining Company, Subsidiary of the Anaconda Copper Mining Company," November 24, 1922	33
Report of Walker Mining Company at the Special Stockholders' Meeting, May 3, 1923	34
WMC Statement of Amounts Paid to Affiliated Companies and Statement of Amounts Shown as Liabilities to Affiliated Companies, 1923	35
Report of the Walker Mining Company For the Year Ending July 31, 1924	37
Letter from Reno H. Sales to William Wraith, October 25, 1924	38
Letter from William Wraith to Reno H. Sales, November 17, 1924	40
WMC Corporate Income Tax Return for 1924	42
International Smelting Company Statement of Charges to Affiliated Companies, 1924	43
Report of the Walker Mining Company For the Year Ending July 31, 1925	46
Letter from the Department of the Interior Commissioner, May 26, 1926	48
Forms for Filing Evidence of Construction signed by J.O. Elton, June 1926	49
Letter from J.B Whitehill to the Department of the Interior, June 12, 1926	50
Report from V.A. Hart to J.R. Walker, June 20, 1926	51
Report of the Walker Mining Company For the Year Ending December 31, 1926	52
Agreement between Walker Mining Company and International Smelting Company, June 7, 1921	53
Report of the Walker Mining Company For the Year Ending December 31, 1927	54
Letter from J.O. Elton to B.B. Thayer, April 12, 1928	55
Letter to the Anaconda purchasing department, June 27, 1928	56
Report of the Anaconda Copper Mining Company For the Year Ended December 31st, 1920	57
Handwritten document outlining the terms of the note, undated	58
Report of the Walker Mining Company For the Year Ending December 31, 1928	59
Report from H.A. Geisendorfer to J.R. Walker, September 19, 1929	60
Articles of Incorporation of the Walker Mining Company, as Amended to February 3, 1930	61
By-laws of the Walker Mining Company, as amended February 3, 1930	62
Report of the Walker Mining Company For the Year Ending December 31, 1929	63
Report from H.A. Geisendorfer to J.R. Walker, January 6, 1931	65
Outline of Operations, by H.A. Geisenforfer, January 10, 1931	66
Report of the Walker Mining Company For the Year Ending December 31, 1930	67
WMC Balance Sheet as of September 30, 1931	68
Letter from H.A. Geisendorfer to J.H. Cooper, January 30, 1932	70

<u>Document Description</u>	<u>Exhibit #</u>
Statement 1931, Walker Mining Company	71
Statement 1932, Walker Mining Company	72
Report of the Anaconda Copper Mining Company For the Year Ended December 31st, 1932	73
Notarized affidavit, May 31, 1933	74
Statement 1933, Walker Mining Company	75
Report of the Anaconda Copper Mining Company For the Year Ended December 31st, 1933	76
Report of the Anaconda Copper Mining Company For the Year Ended December 31st, 1934	77
Statement 1934, Walker Mining Company	78
Statement 1935, Walker Mining Company	79
Report of the Anaconda Copper Mining Company For the Year Ended December 31st, 1935	80
Report from L.F. Bayer to J.R. Walker, March 13, 1937	81
Anaconda Copper Mining Company Report For the Year Ended December 31, 1936	82
Statement 1936, Walker Mining Company	83
Anaconda Copper Mining Company Report For the Year Ended December 31, 1937	87
Statement 1937, Walker Mining Company	88
Illegible Title (enclosure to letter from J.O. Elton to R.E. Dwyer, May 26, 1938)	90
Untitled document (enclosure to letter from J.O. Elton to R.E. Dwyer, May 26, 1938)	91
Recapitulation of Advancements for the Period, May 9, to 15, 1938, Inc.	92
Letter from J.F. Dugan to J.O. Elton, May 25, 1938	93
Letter from J.O. Elton to R.E. Dwyer, May 26, 1938	94
Recommendation for Development Work, January 20, 1939	96
Anaconda Copper Mining Company Report For the Year Ended December 31, 1938	97
Statement 1938, Walker Mining Company	98
Letter from J.F. Dugan to J.O. Elton, June 19, 1939	100
Statement 1939, Walker Mining Company	106
Anaconda Copper Mining Company Report For the Year Ended December 31, 1939	107
Letter from C.E. Weed to Reno H. Sales, May 9, 1940	108
Letter from Reno H. Sales to C.E. Weed, May 15, 1940	109
Report Covering Present Conditions At The Walker Mine, June 15, 1940	110
Letter from J.F. Dugan to M.H. Gidel, October 12, 1940	112
Letter from S.K. Droubay to J.F. Dugan, November 5, 1940	113
Anaconda Copper Mining Company, Notes to Consolidated Balance Sheet – December 31st 1940	114
Letter from Reno H. Sales to S.K. Doubray, January 9, 1941	115
Annual Report, Anaconda Copper Mining Company, 1940	116
Statement 1940, Walker Mining Company	117
Recommendation for Development Work, August, 1941	118
Letter from C.E. Weed to J.R. Hobbins, August 21, 1941	119
"Ceiling on Copper Price Forces Big Producer to Close," October 26, 1941	120
Annual Report, Anaconda Copper Mining Company, 1941	121
Statement 1941, Walker Mining Company	122
Statement 1942, Walker Mining Company	123
Form 10-K for Walker Mining Company, For Fiscal Year Ended December 31, 1942	124
Letter from Frederick Laist to The Board of Directors of WMC, January 11, 1944	125
Statement 1943, Walker Mining Company	126
Form 10-K for Walker Mining Company, For Fiscal Year Ended December 31, 1943	127
Letter from Ernest W. Ramspeck to Rom Warburton, July 19, 1944	128
Letter from E.O. Sowerwine to Rom Warburton, September 27, 1944	129
Memo Decision in the Matter of Walker Mining Company, Debtor, by Special Master T.D. Lewis, January 15, 1945	130
Decree in the Matter of Walker Mining Company, Debtor, by Judge Tillman D. Johnson, February 10, 1945	131

Document Description

Report of State Mineralogist, undated, p. 102

Anaconda Copper Mining Company and Subsidiary Companies Notes to Consolidated Profit and Loss Statement, undated

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