

WHITING PETROLEUM CORP
Form PRER14A
October 06, 2014
Table of Contents

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

SCHEDULE 14A
Proxy Statement Pursuant to Section 14(a) of the
Securities Exchange Act of 1934
(Amendment No. 2)

Filed by the Registrant Filed by a Party other than the Registrant

Check the appropriate box:

- Preliminary Proxy Statement
- Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))**
- Definitive Proxy Statement
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Whiting Petroleum Corporation

(Name of Registrant as Specified In Its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

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Table of Contents

PRELIMINARY PROXY MATERIALS SUBJECT TO COMPLETION

ARRANGEMENT PROPOSED YOUR VOTE IS VERY IMPORTANT

Dear Stockholders of Whiting and Securityholders of Kodiak:

Whiting Petroleum Corporation and Kodiak Oil & Gas Corp. entered into an arrangement agreement on July 13, 2014, pursuant to which a wholly-owned subsidiary of Whiting will acquire all of the outstanding common stock of Kodiak, and Kodiak will become a wholly-owned subsidiary of Whiting (the arrangement). Because Kodiak is incorporated in the Yukon Territory, Canada, the acquisition is being effected through an arrangement instead of a merger.

If the arrangement is completed, Kodiak shareholders will receive 0.177 of a share (the exchange ratio) of Whiting common stock for each share of Kodiak common stock. Additionally, each holder of an outstanding Kodiak equity award (together with Kodiak shareholders, the Kodiak securityholders) will receive a substantially identical Whiting equity award based on the exchange ratio. Whiting stockholders will continue to own their existing shares, and the Whiting common stock will not be affected by the arrangement. Upon completion of the arrangement, it is expected Kodiak shareholders will own approximately 29% of the outstanding Whiting common stock, on a fully diluted basis, as of [], 2014.

The common stock of each of Whiting and Kodiak is listed on the New York Stock Exchange under the symbols WLL and KOG, respectively. Based on the closing sale price for Whiting common stock on July 11, 2014, the last trading day before the public announcement of the arrangement, the 0.177 exchange ratio represented approximately \$13.90 in value for each share of Kodiak. Based on the closing sale price of Whiting common stock on [], 2014, the latest practicable date before the date of this joint proxy statement/circular, the 0.177 exchange ratio represented approximately \$[] in value for each share of Kodiak common stock.

Whiting and Kodiak are holding special meetings on [], 2014 to obtain your vote on the proposals necessary to complete the arrangement. The arrangement cannot be completed unless Whiting stockholders approve the issuance of Whiting common stock in the arrangement and Kodiak shareholders approve the continuance of Kodiak into British Columbia, Canada and Kodiak securityholders approve the arrangement.

The Whiting board of directors recommends that Whiting stockholders vote FOR approval of the issuance of Whiting common stock in the arrangement.

The Kodiak board of directors recommends that Kodiak shareholders vote FOR approval of the continuance of Kodiak into British Columbia and that Kodiak securityholders vote FOR approval of the arrangement.

Your vote is very important. Whether or not you plan to attend your company's special meeting, please submit your proxy as soon as possible through one of the delivery methods described in the accompanying joint proxy statement/circular to make sure that your shares are represented at that meeting.

In addition, you should read carefully the accompanying joint proxy statement/circular (and the documents incorporated by reference into the accompanying joint proxy statement/circular), which includes important information about the arrangement agreement, the proposed arrangement, Whiting, Kodiak and the special meetings. **Please pay particular attention to the section titled Risk Factors in the accompanying joint proxy**

Table of Contents

NOTICE OF SPECIAL MEETING OF STOCKHOLDERS

TO BE HELD ON [], [], 2014

To the Stockholders of Whiting Petroleum Corporation:

A special meeting of stockholders of Whiting Petroleum Corporation (Whiting) will be held at [], [], [] on [], 2014, at [] [].m., Mountain Time, for the following purposes:

1. To approve the issuance of Whiting common stock, par value \$0.001 per share, pursuant to the Arrangement Agreement, dated as of July 13, 2014 (the arrangement agreement), by and among Whiting, 1007695 B.C. Ltd. and Kodiak Oil & Gas Corp., as the same may be amended from time to time, a copy of which is attached as Annex C to the joint proxy statement/circular accompanying this notice (the share issuance proposal); and
2. To approve any motion to adjourn the Whiting special meeting, if necessary or appropriate, to solicit additional proxies (the Whiting adjournment proposal).

Approval of the share issuance proposal is required to complete the arrangement.

Whiting will transact no other business at the special meeting, except for business properly brought before the special meeting or any adjournment or postponement thereof.

The accompanying joint proxy statement/circular further describes the matters to be considered at the Whiting special meeting.

The Whiting board of directors has set [], 2014 as the record date for the Whiting special meeting. Only holders of record of Whiting common stock at the close of business on [], 2014 will be entitled to notice of and to vote at the Whiting special meeting and any adjournments or postponements thereof. Any stockholder entitled to attend and vote at the Whiting special meeting is entitled to appoint a proxy to attend and vote on such stockholder s behalf. Such proxy need not be a holder of Whiting common stock.

Your vote is very important. To ensure your representation at the Whiting special meeting, please complete, execute and return the enclosed proxy card or submit your proxy by telephone or through the Internet. Please vote promptly whether or not you expect to attend the Whiting special meeting. Submitting a proxy now will not prevent you from being able to vote in person at the Whiting special meeting.

The Whiting board of directors has unanimously approved the arrangement agreement and the transactions contemplated thereby and recommends that you vote FOR the share issuance proposal and FOR the Whiting adjournment proposal.

By Order of the Board of Directors

WHITING PETROLEUM CORPORATION

Bruce R. DeBoer

Corporate Secretary

Table of Contents

NOTICE OF SPECIAL MEETING OF SECURITYHOLDERS

TO BE HELD ON [], [], 2014

To the Securityholders of Kodiak Oil & Gas Corp.:

A special meeting of securityholders of Kodiak Oil & Gas Corp. (Kodiak) will be held at [], [], [] on [], 2014, at [] [].m., Mountain Time, for the following purposes:

1. To approve a special resolution in respect of the continuance of Kodiak from the jurisdiction of the Yukon Territory to the jurisdiction of the Province of British Columbia, a copy of which is attached as Annex A to this joint proxy statement/circular (the continuance resolution);
2. To approve a special resolution in respect of the arrangement, a copy of which is attached as Annex B to this joint proxy statement/circular (the arrangement resolution);
3. To approve, on a non-binding, advisory basis, the compensation that may be paid or become payable to Kodiak s named executive officers in connection with the arrangement (the arrangement-related compensation proposal); and
4. To approve any motion to adjourn the Kodiak special meeting, if necessary or appropriate, to solicit additional proxies (the Kodiak adjournment proposal).

Approval of the continuance resolution and arrangement resolution are required to complete the arrangement.

Kodiak will transact no other business at the special meeting, except for business properly brought before the special meeting or any adjournment or postponement thereof.

The accompanying joint proxy statement/circular further describes the matters to be considered at the Kodiak special meeting.

The Kodiak board of directors has set [], 2014 as the record date for the Kodiak special meeting. Only holders of record of Kodiak securities entitled to vote at such meeting at the close of business on [], 2014 will be entitled to notice of and to vote at the Kodiak special meeting and any adjournments or postponements thereof. Any securityholder entitled to attend and vote at the Kodiak special meeting is entitled to appoint a proxy to attend and vote on such securityholder s behalf. Such proxy need not be a holder of Kodiak common stock.

Each registered Kodiak shareholder is entitled to the dissent rights set out in Section 193 of the *Business Corporations Act* (Yukon Territory) (the YBCA) in respect of the continuance resolution and to be paid the fair value of his, her or its common stock if such shareholder dissents to the continuance resolution in compliance with the provisions of the YBCA and the continuance becomes effective. The text of Section 193 of the YBCA is set out in Annex K of the accompanying joint proxy statement/circular. In order to dissent to the continuance resolution, a registered Kodiak shareholder must (a) send to Kodiak, at or before the special meeting, a written notice of objection to the continuance resolution, which notice, unless it is delivered to Kodiak at the special meeting, must be given by registered mail or by delivery addressed to Kodiak at 1625 Broadway, Suite 250, Denver, Colorado 80202, to the attention of the Secretary, and (b) have otherwise complied with the dissent procedures under the YBCA. Failure to strictly comply with the requirements set forth in Section 193 of the YBCA may result in the loss of any right to dissent.

Table of Contents

Each registered Kodiak shareholder has been granted the right to dissent in respect of the arrangement resolution and, if the arrangement becomes effective, to be paid the fair value of the shares of Kodiak common stock in respect of which such registered Kodiak shareholder dissents by 1007695 B.C. Ltd., a wholly-owned subsidiary of Whiting Petroleum Corporation, under the arrangement, in accordance with the provisions of Division 2 of Part 8 of the *Business Corporations Act* (British Columbia) (the BCBCA), as modified by the interim order and the final order of the Supreme Court of British Columbia relating to the arrangement, as provided for in the plan of arrangement, the full text of which is set out in Annex D to the accompanying joint proxy statement/circular. The text of Division 2 of Part 8 of the BCBCA is set out in Annex J of the accompanying joint proxy statement/circular. To exercise a right of dissent, (a) a written notice of dissent with respect to the arrangement resolution from the registered Kodiak shareholder must be received by Kodiak at 1625 Broadway, Suite 250, Denver, Colorado 80202, to the attention of the Secretary, by not later than 5:00 p.m. on [], 2014 or the business day (as defined in the plan of arrangement) that is five business days before any adjournment or postponement of the Kodiak special meeting, and (b) the registered Kodiak shareholder must have otherwise complied with the dissent procedures. Failure to strictly comply with the requirements set forth in Division 2 of Part 8 of the BCBCA, as modified by the interim order, as provided for in the plan of arrangement, may result in the loss of any right to dissent.

Your vote is very important. To ensure your representation at the Kodiak special meeting, please complete, execute and return the enclosed proxy card or submit your proxy by telephone or through the Internet. Please vote promptly whether or not you expect to attend the Kodiak special meeting. Submitting a proxy now will not prevent you from being able to vote in person at the Kodiak special meeting.

The Kodiak board of directors has unanimously approved the arrangement agreement and the transactions contemplated thereby and recommends that you vote FOR the continuance resolution, FOR the arrangement resolution, FOR the arrangement-related compensation proposal and FOR the Kodiak adjournment proposal.

By Order of the Board of Directors

KODIAK OIL & GAS CORP.

James P. Henderson

Secretary

Whiting and Kodiak are not incorporating the contents of the websites of the SEC, SEDAR, Whiting, Kodiak or any other entity into this joint proxy statement/circular. Whiting and Kodiak are providing the information about how you can obtain certain documents that are incorporated by reference into this joint proxy statement/circular at these websites only for your convenience.

ABOUT THIS JOINT PROXY STATEMENT/CIRCULAR

This joint proxy statement/circular constitutes a joint proxy statement under Section 14(a) of the Securities Exchange Act of 1934, as amended (the Exchange Act) and an information circular under National Instrument 51-102 Continuous Disclosure Obligations (NI 51-102). It also constitutes a notice of meeting with respect to the special meeting of Whiting stockholders and a notice of meeting with respect to the special meeting of Kodiak securityholders.

You should rely only on the information contained or incorporated by reference into this joint proxy statement/circular. No one has been authorized to provide you with information that is different from that contained in, or incorporated by reference into, this joint proxy statement/circular. This joint proxy statement/circular is dated [], 2014. You should not assume that the information contained in, or incorporated by reference into, this joint proxy statement/circular is accurate as of any date other than that date. Neither Whiting s and Kodiak s mailing of this joint proxy statement/circular to Whiting stockholders or Kodiak securityholders, nor the issuance by Whiting of common stock in connection with the arrangement will create any implication to the contrary.

Table of Contents

This joint proxy statement/circular does not constitute an offer to sell, or a solicitation of an offer to buy, any securities, or the solicitation of a proxy, in any jurisdiction to or from any person to whom it is unlawful to make any such offer or solicitation in such jurisdiction. Information contained in this joint proxy statement/circular regarding Whiting has been provided by Whiting and information contained in this joint proxy statement/circular regarding Kodiak has been provided by Kodiak.

Table of Contents

YOUR VOTE IS IMPORTANT!

WHETHER OR NOT YOU EXPECT TO ATTEND THE WHITING OR KODIAK SPECIAL MEETING IN PERSON, WHITING AND KODIAK URGE YOU TO SUBMIT YOUR PROXY AS PROMPTLY AS POSSIBLE (1) BY TELEPHONE, (2) VIA THE INTERNET OR (3) BY SIGNING AND RETURNING THE ENCLOSED PROXY CARD IN THE ENVELOPE PROVIDED. You may revoke your proxy or change your vote at any time before your respective company's special meeting. If your shares are held in the name of a broker, bank or other nominee, please follow the instructions provided by that institution to vote your shares.

Whiting and Kodiak urge you to read the joint proxy statement/circular, including all documents incorporated by reference into the joint proxy statement/circular, and its annexes carefully and in their entirety.

If you are a Whiting stockholder and have any questions concerning the arrangement or the joint proxy statement/circular, would like additional copies of the joint proxy statement/circular or need help voting, please contact Whiting's proxy solicitor:

Innisfree M&A Incorporated

501 Madison Avenue, 20th Floor

New York, New York 10022

Stockholders Toll-Free: 1 (877) 825-8964

Banks and Brokers Collect: 1 (212) 750-5833

If you are a Kodiak shareholder and have any questions concerning the arrangement or the joint proxy statement/circular, would like additional copies of the joint proxy statement/circular or need help voting, please contact Kodiak's proxy solicitor:

MacKenzie Partners, Inc.

105 Madison Avenue

New York, New York 10016

proxy@mackenziepartners.com

Call Collect: 1 (212) 929-5500

Toll-Free: 1 (800) 322-2885

Table of Contents**TABLE OF CONTENTS**

<u>QUESTIONS AND ANSWERS</u>	1
<u>SUMMARY</u>	9
<u>The Parties</u>	9
<u>The Arrangement</u>	10
<u>Consideration to be Received in the Arrangement by Kodiak Shareholders</u>	10
<u>Treatment of Equity Awards</u>	10
<u>Recommendations of the Whiting Board of Directors</u>	11
<u>Recommendations of the Kodiak Board of Directors</u>	11
<u>Opinion of J.P. Morgan Securities LLC to the Whiting Board</u>	11
<u>Opinion of Petrie Partners Securities, LLC to the Kodiak Board</u>	11
<u>Opinion of Credit Suisse Securities (USA) LLC to the Kodiak Board</u>	12
<u>Governance Following Completion of the Arrangement</u>	12
<u>Interests of Directors and Executive Officers of Kodiak in the Arrangement</u>	13
<u>Material U.S. Federal Income Tax Consequences</u>	13
<u>Material Canadian Federal Income Tax Consequences</u>	14
<u>Accounting Treatment of the Arrangement</u>	14
<u>Court Approval Required for the Arrangement</u>	14
<u>Regulatory Approvals Required for the Arrangement</u>	15
<u>Dissenters' Rights</u>	15
<u>Litigation Relating to the Arrangement</u>	15
<u>Conditions to Completion of the Arrangement</u>	16
<u>Timing of the Arrangement</u>	17
<u>No Solicitation of Other Offers</u>	17
<u>Termination of the Arrangement Agreement and Termination Fees</u>	17
<u>Matters to be Considered at the Special Meetings</u>	18
<u>Risk Factors</u>	19
<u>Whiting Selected Historical Financial Data</u>	20
<u>Whiting Historical Operating and Reserve Data</u>	22
<u>Kodiak Selected Historical Financial Data</u>	24
<u>Kodiak Historical Operating and Reserve Data</u>	25
<u>Selected Unaudited Pro Forma Combined Financial Information</u>	26
<u>Comparative Historical and Unaudited Pro Forma Combined Per Share Information</u>	27
<u>Market Prices</u>	28
<u>Dividend Data</u>	29
<u>RISK FACTORS</u>	30
<u>Risk Factors Relating to the Arrangement</u>	30
<u>Risk Factors Relating to Whiting Following the Arrangement</u>	35
<u>FORWARD-LOOKING STATEMENTS</u>	38
<u>NOTICE TO CANADIAN SECURITYHOLDERS</u>	40
<u>THE ARRANGEMENT</u>	42
<u>Background to the Arrangement</u>	42
<u>Whiting Recommendation and Reasons for the Arrangement</u>	51
<u>Kodiak Recommendation and Reasons for the Arrangement</u>	53
<u>Opinion of J.P. Morgan Securities LLC to the Whiting Board</u>	57

<u>Opinion of Petrie Partners Securities, LLC to the Kodiak Board</u>	69
<u>Opinion of Credit Suisse Securities (USA) LLC to the Kodiak Board</u>	84
<u>Certain Unaudited Internal Financial and Operating Forecasts</u>	95
<u>Governance Following Completion of the Arrangement</u>	98
<u>Interests of Directors and Executive Officers of Kodiak in the Arrangement</u>	98
<u>Quantification of Potential Payments to Kodiak's Named Executive Officers in Connection with Arrangement</u>	102
<u>Director and Officer Indemnification</u>	103
<u>Interest of Informed Persons in Material Transactions</u>	103

Table of Contents

<u>Accounting Treatment of the Arrangement</u>	103
<u>Court Approval of the Arrangement and Completion of the Arrangement</u>	104
<u>U.S. Securities Law Matters</u>	104
<u>Canadian Securities Law Matters</u>	105
<u>Regulatory Approvals Required for the Arrangement</u>	105
<u>Treatment of Kodiak Equity Awards</u>	105
<u>Appraisal / Dissenters' Rights</u>	106
<u>NYSE Listing of Whiting Common Stock; Delisting and Deregistration of Kodiak Common Stock</u>	110
<u>Litigation Relating to the Arrangement</u>	110
<u>THE ARRANGEMENT AGREEMENT</u>	112
<u>General</u>	112
<u>Consideration to be Received Pursuant to Arrangement</u>	112
<u>Dissenting Shares</u>	113
<u>Exchange of Shares Pursuant to Arrangement</u>	113
<u>Lost Certificates</u>	114
<u>Cancellation of Rights after Six Years</u>	114
<u>Closing Matters</u>	114
<u>Conditions</u>	114
<u>Implementation Steps Pursuant to the Arrangement</u>	115
<u>Covenants</u>	117
<u>Representations and Warranties</u>	123
<u>Termination of Arrangement Agreement</u>	124
<u>Amendments, Extensions and Waivers</u>	127
<u>Governing Law</u>	128
<u>INFORMATION ABOUT THE COMPANIES</u>	129
<u>Whiting</u>	129
<u>Kodiak</u>	129
<u>Whiting Canadian Sub</u>	129
<u>WHITING SPECIAL MEETING</u>	130
<u>Date, Time and Place of the Special Meeting</u>	130
<u>Matters to be Considered at the Whiting Special Meeting</u>	130
<u>Recommendations of the Whiting Board of Directors</u>	130
<u>Whiting Record Date; Shares Entitled to Vote</u>	130
<u>Quorum</u>	130
<u>Required Vote</u>	131
<u>Treatment of Abstentions; Failure to Vote</u>	131
<u>Voting of Proxies; Incomplete Proxies</u>	131
<u>Shares Held in Street Name</u>	132
<u>Revocability of Proxies and Changes to a Whiting Stockholder's Vote</u>	132
<u>Solicitation of Proxies</u>	132
<u>Voting by Whiting Directors and Executive Officers</u>	133
<u>Attending the Whiting Special Meeting</u>	133
<u>WHITING PROPOSALS</u>	134
<u>Item 1. The Share Issuance Proposal</u>	134
<u>Item 2. The Whiting Adjournment Proposal</u>	134
<u>Other Matters to Come Before the Meeting</u>	135
<u>KODIAK SPECIAL MEETING</u>	136
<u>Date, Time and Place of the Special Meeting</u>	136

<u>Matters to be Considered at the Kodiak Special Meeting</u>	136
<u>Recommendations of the Kodiak Board of Directors</u>	136
<u>Kodiak Record Date; Shares Entitled to Vote</u>	136
<u>Quorum</u>	137
<u>Required Vote</u>	137
<u>Treatment of Abstentions; Failure to Vote</u>	138

Table of Contents

<u>Voting of Proxies; Incomplete Proxies</u>	138
<u>Shares Held in Street Name</u>	139
<u>Revocability of Proxies and Changes to a Kodiak Securityholder's Vote</u>	139
<u>Solicitation of Proxies</u>	140
<u>Voting by Kodiak Directors and Executive Officers</u>	140
<u>Attending the Kodiak Special Meeting</u>	140
<u>KODIAK PROPOSALS</u>	141
<u>Item 1. Continuance Resolution</u>	141
<u>Item 2. Arrangement Resolution</u>	141
<u>Item 3. Arrangement-Related Compensation Proposal</u>	141
<u>Item 4. The Kodiak Adjournment Proposal</u>	142
<u>Other Matters to Come Before the Meeting</u>	143
<u>UNAUDITED PRO FORMA COMBINED FINANCIAL INFORMATION</u>	144
<u>DESCRIPTION OF WHITING CAPITAL STOCK</u>	155
<u>General</u>	155
<u>Common Stock</u>	155
<u>Preferred Stock</u>	155
<u>Preferred Share Purchase Rights</u>	155
<u>Delaware Anti-Takeover Law and Charter and By-law Provisions</u>	156
<u>Liability and Indemnification of Officers and Directors</u>	157
<u>COMPARISON OF RIGHTS OF SHAREHOLDERS OF WHITING AND KODIAK</u>	158
<u>CERTAIN INCOME TAX CONSEQUENCES</u>	174
<u>Material U.S. Federal Income Tax Consequences</u>	174
<u>Material Canadian Federal Income Tax Consequences</u>	184
<u>SHAREHOLDER PROPOSALS</u>	190
<u>Whiting</u>	190
<u>Kodiak</u>	190
<u>OTHER MATTERS</u>	190
<u>HOUSEHOLDING</u>	191
<u>WHERE YOU CAN FIND MORE INFORMATION</u>	192
<u>Whiting</u>	192
<u>Kodiak</u>	193
<u>GLOSSARY OF CERTAIN OIL AND NATURAL GAS DEFINITIONS</u>	194
<u>ANNEX A: FORM OF CONTINUANCE RESOLUTION</u>	
<u>ANNEX B: FORM OF ARRANGEMENT RESOLUTION</u>	
<u>ANNEX C: ARRANGEMENT AGREEMENT</u>	
<u>ANNEX D: PLAN OF ARRANGEMENT</u>	
<u>ANNEX E: INTERIM ORDER</u>	
<u>ANNEX F: NOTICE OF HEARING OF PETITION FOR FINAL ORDER</u>	
<u>ANNEX G: OPINION OF J.P. MORGAN SECURITIES LLC</u>	
<u>ANNEX H: OPINION OF PETRIE PARTNERS SECURITIES, LLC</u>	
<u>ANNEX I: OPINION OF CREDIT SUISSE SECURITIES (USA) LLC</u>	
<u>ANNEX J: DIVISION 2 OF PART 8 OF THE BCBCA</u>	
<u>ANNEX K: YBCA DISSENT PROCEDURES</u>	
<u>ANNEX L: FORM OF THE NEW NOTICE OF ARTICLES AND ARTICLES OF KODIAK</u>	
<u>ANNEX M: KODIAK DIRECTORS' APPROVAL</u>	

of the arrangement. Instead, where the aggregate number of Whiting common stock to be issued to a Kodiak shareholder as consideration would result in a fraction of securities of Whiting being issuable, the number of shares of Whiting common stock to be received by such Kodiak shareholder shall be rounded down to the nearest whole share of Whiting common stock. The exchange ratio is fixed and will not be adjusted to reflect changes in the stock price of either company before the arrangement is completed. Whiting stockholders will continue to own their existing shares of Whiting common stock, and the Whiting common stock will not be affected by the arrangement.

Q: When do Kodiak and Whiting expect to complete the arrangement?

A: Whiting and Kodiak are working to complete the arrangement as soon as practicable. Whiting and Kodiak currently expect that the arrangement will be completed in the fourth quarter of 2014. Neither Whiting nor Kodiak can predict, however, the actual date on which the arrangement will be completed because it is

Table of Contents

subject to conditions beyond each company's control, including Canadian court and U.S. federal regulatory approvals. See The Arrangement Agreement Conditions beginning on page 114.

Q: What am I being asked to vote on, and why is this approval necessary?

A: Whiting is asking its stockholders to vote on the following proposals:

1. to approve the issuance of Whiting common stock, par value \$0.001 per share, pursuant to the arrangement agreement (the share issuance proposal); and
2. to approve any motion to adjourn the Whiting special meeting, if necessary or appropriate, to solicit additional proxies (the Whiting adjournment proposal).