



**Part II Organizational Action** *(continued)*

**17** List the applicable Internal Revenue Code section(s) and subsection(s) upon which the tax treatment is based ▶ Code Sections 301, 305, 307, 358, 368(a)(1)(E), 1001, 1012, 1036 and 1221.

**18** Can any resulting loss be recognized? ▶ A Perpetual shareholder may recognize loss pursuant to the Arrangement to the extent such Perpetual shareholder's tax basis in the Perpetual common shares surrendered exceeds the fair market value of the consideration received in exchange therefor.

**19** Provide any other information necessary to implement the adjustment, such as the reportable tax year ▶ In general, any gain or loss should be reported by shareholders for the tax year which includes September 3, 2021 (e.g., a calendar year shareholder would report the transaction on his or her federal income tax return for the 2021 calendar year).

**Sign Here** Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge.

Signature ▶ /s/ Ryan Shay Date ▶ September 28, 2021

Print your name ▶ Ryan Shay Title ▶ Vice President, Finance and CFO

|                               |  |                                |                 |   |                  |
|-------------------------------|--|--------------------------------|-----------------|---|------------------|
| <b>Paid Preparer Use Only</b> | Print/Type preparer's name   | Preparer's signature           | Date            | Check <input type="checkbox"/> if self-employed | PTIN             |
|                               | <u>John Hollinrake</u>   | <u>/s/ John Hollinrake</u>     | <u>10/15/21</u> |   | <u>P01568530</u> |
|                               | Firm's name ▶ <u>Dorsey &amp; Whitney LLP</u>  | Firm's EIN ▶ <u>41-0223337</u> |                 | Phone no. <u>(206) 903-8812</u>                 |                  |
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**EXHIBIT A**  
**PERPETUAL ENERGY INC. IRS FORM 8937**  
**PERTAINING TO SECTION 14**

On September 3, 2021, Perpetual Energy Inc. ("Perpetual") and Rubellite Energy Inc. ("Rubellite") engaged in an arrangement pursuant to a Canadian statutory plan of arrangement (the "Arrangement"). Specifically, in the Arrangement, Perpetual undertook a reverse stock split (share consolidation) (the "Consolidation") whereby it consolidated every 1,000 existing common shares into one new common share (the "Ratio"). Perpetual common shareholders who owned a number of Perpetual common shares less than the Ratio were paid an amount in cash of U.S.\$0.2731 (as converted to U.S. dollars using the daily exchange rate published by the Bank of Canada on September 3, 2021) per common share. Following the Consolidation, Perpetual undertook a stock split, whereby each post-Consolidation Perpetual shareholder received 1,000 new Perpetual common shares for each post-Consolidation common share held (the "Stock Split"). Following the Stock Split, each Perpetual common shareholder exchanged 1/46th of a Perpetual common share for 1/46th of a Rubellite common share (the "Exchange"). Following the Exchange, each Perpetual common shareholder received twelve Rubellite warrants for each Rubellite common share received (the "Warrant Issuance"). Following the Warrant Issuance, the remaining fraction of each issued and outstanding Perpetual common share was changed into one common share, such that Perpetual common shareholders then held the same number of Perpetual common shares as they held prior to the Exchange.

The Arrangement is described in the Management Information Circular of Perpetual dated August 4, 2021 (the "Circular"), which is available at [www.sedar.com](http://www.sedar.com). Attached as Exhibit B is the "Certain United States Federal Income Tax Considerations" section of the Circular. Shareholders should review the Circular and consult their own tax advisors regarding the U.S. federal income tax consequences of the Arrangement.

**EXHIBIT B**  
**PERPETUAL ENERGY INC. IRS FORM 8937**

**Certain United States Federal Income Tax Considerations**

The following summarizes certain U.S. federal income tax considerations under the Code generally applicable to certain U.S. Holders (as defined below) in respect of the Arrangement, the acquisition, holding, and disposition of Rubellite Common Shares received pursuant to the Arrangement, and the exercise, disposition, and lapse of Rubellite Warrants received pursuant to the Arrangement. This discussion is based upon the provisions of the Code, Treasury Regulations, and current administrative rulings and court decisions and the Convention Between Canada and the United States of America with Respect to Taxes on Income and on Capital, signed September 26, 1980, as amended (the "**Treaty**"), all of which are subject to change, possibly with retroactive effect. Changes in these authorities may cause the U.S. federal income tax consequences to vary substantially from those described below. This summary does not address the U.S. federal alternative minimum, U.S. federal estate and gift, U.S. state or local, U.S. federal net investment income and non-U.S. tax consequences to U.S. Holders in respect of the Arrangement, the ownership and disposition of Rubellite Common Shares received pursuant to the Arrangement or the exercise, disposition, and lapse of Rubellite Warrants received pursuant to the Arrangement. Except as specifically set forth below, this summary does not discuss applicable tax filing and reporting requirements.

Neither Perpetual nor Rubellite has requested nor will they request a ruling from the IRS or opinion from legal counsel with respect to any of the U.S. federal income tax consequences described below. The IRS may disagree with and challenge any of the conclusions reached herein.

This discussion applies only to U.S. Holders that own Common Shares and will own Rubellite Common Shares and Rubellite Warrants as "capital assets" within the meaning of Section 1221 of the Code (generally, property held for investment), and does not comment on all aspects of U.S. federal income taxation that may be important to certain U.S. Holders in light of their particular circumstances, such as U.S. Holders subject to special tax rules (including, but not limited to, banks and other financial institutions, brokers, dealers or traders in securities or commodities, insurance companies, regulated investment companies, real estate investment trusts, traders that elect to mark-to-market their securities, certain expatriates or former long-term residents of the United States, personal holding companies, "S" corporations, partnerships or other flow-through entities, U.S. expatriates, tax-exempt organizations, tax-qualified retirement plans, persons that own directly, indirectly, or constructively 5% or more, by voting power or value, of Perpetual stock or will own 10% or more, by voting power or value, of Rubellite stock, persons who are subject to alternative minimum tax, persons who hold Common Shares, Rubellite Common Shares or Rubellite Warrants as a position in a "straddle" or as part of a "hedging", "conversion" or "integrated" transaction, persons that have a functional currency other than the U.S. dollar, persons subject to special tax accounting rules, persons subject to taxing jurisdictions other than, or in addition to, the United States, or persons who acquired Common Shares through the exercise of employee stock options or otherwise as compensation for services). U.S. Holders that are subject to special provisions under the Code, including holders described immediately above, are urged to consult their own tax advisors regarding the U.S. and non-U.S. tax consequences relating to the Arrangement, the ownership and disposition of Rubellite Common Shares received pursuant to the Arrangement, and the exercise, disposition, and lapse of Rubellite Warrants received pursuant to the Arrangement.

If a partnership (including any entity treated as a partnership for U.S. federal income tax purposes) is a U.S. Holder, the tax treatment of a partner in the partnership generally will depend upon the status of the partner and the activities of the partnership. Partnerships or partners in a partnership holding Common Shares are urged to consult their own tax advisors regarding the tax consequences of the Arrangement.

U.S. Holders are urged to also review the separate discussion concerning Canadian federal income tax consequences. See "*Certain Canadian Federal Income Tax Considerations*" above.

**This summary assumes that Perpetual is not, and has never been, a passive foreign investment company ("PFIC") for U.S. federal income tax purposes.** A foreign corporation is a PFIC for U.S. federal income tax purposes if either (A) at least 75% of its gross income in a taxable year, including its pro rata share of the gross income of any corporation in which it is considered to own at least 25% of the shares by value, is passive income, or (B) at least 50% of its assets in a taxable year, ordinarily determined based on fair market value and averaged quarterly over the year, including its pro rata share of the assets of any corporation in which it is considered to own at least 25% of the shares by value, are held for the production of or produce passive income. See "*Passive Foreign Investment Company Rules*" below for a more detailed discussion of the rules applicable to PFICs.

**THIS SUMMARY IS FOR GENERAL INFORMATION ONLY AND IS NOT INTENDED TO CONSTITUTE A COMPLETE DESCRIPTION OF ALL UNITED STATES TAX CONSEQUENCES RELATING TO THE ARRANGEMENT, HOLDING AND DISPOSING OF RUBELLITE COMMON SHARES RECEIVED PURSUANT TO THE ARRANGEMENT, AND THE EXERCISE, DISPOSITION, AND LAPSE OF RUBELLITE WARRANTS RECEIVED PURSUANT TO THE ARRANGEMENT. SHAREHOLDERS ARE URGED TO CONSULT THEIR OWN TAX ADVISORS REGARDING THE TAX CONSEQUENCES TO THEM (INCLUDING THE APPLICATION AND EFFECT OF ANY STATE, LOCAL AND NON-U.S. INCOME AND OTHER TAX LAWS) OF THE ARRANGEMENT.**

For purposes of this summary, a "**U.S. Holder**" is a beneficial owner of Common Shares that is: (i) a U.S. citizen or U.S. resident alien as determined for U.S. federal income tax purposes; (ii) a corporation, or other entity taxable as a corporation for U.S. federal income tax purposes, that was created or organized under the laws of the United States, any State thereof or the District of Columbia; (iii) an estate whose income is subject to U.S. federal income taxation regardless of its source; or (iv) a trust that either is subject to the supervision of a court within the United States and has one or more U.S. persons with authority to control all of its substantial decisions or has a valid election in effect under applicable Treasury Regulations to be treated as a U.S. person.

## **U.S. Federal Income Tax Consequences of the Arrangement**

### *Consolidation of Common Shares*

The Consolidation is intended to constitute a "recapitalization" within the meaning of Section 368(a)(1)(E) of the Code ("**Recapitalization**") for U.S. federal income tax purposes. Assuming the Consolidation qualifies as a Recapitalization, a U.S. Holder generally should not recognize gain or loss upon the receipt of the Post-Consolidation Common Shares in the Consolidation.

A U.S. Holder's aggregate tax basis in the Post-Consolidation Common Shares received pursuant to the Consolidation should equal the aggregate tax basis of the Common Shares surrendered, and such U.S. Holder's holding period in the Post-Consolidation Common Shares received should include the holding period in the Common Shares surrendered. Treasury Regulations provide detailed rules for allocating the tax basis and holding period of the Common Shares surrendered to the Post-Consolidation Common Shares received pursuant to the Consolidation. U.S. Holders of Common Shares acquired on different dates and at different prices should consult their own tax advisors regarding the allocation of the tax basis and holding period of such shares.

*Disposition of Fractional Post-Consolidation Common Shares by Consolidated Shareholders*

Following the Consolidation, any U.S. Holder of less than one Post-Consolidation Common Share will cease to hold Common Shares and will be entitled to be paid the Consolidation Consideration. Subject to the discussion below, U.S. Holders will generally recognize gain or loss on the disposition of the fractional Post-Consolidation Common Share for the Consolidation Consideration in an amount equal to the difference, if any, between (i) the U.S. dollar amount of the Consolidation Consideration received and (ii) the U.S. Holder's adjusted tax basis in the fractional Post-Consolidation Common Share exchanged therefor. Such gain or loss should be a capital gain or loss and treated as long-term capital gain or loss if the U.S. Holder held the Common Shares for more than one year. Long-term capital gains recognized by U.S. Holders that are not corporations generally are eligible for reduced rates of U.S. federal income taxation. The deductibility of capital losses is subject to limitations under the Code. U.S. Holders that are treated as constructively owning additional Post-Consolidation Common Shares within the meaning of Section 318 of the Code may be subject to different rules and should consult their own tax advisors. Under Section 318 of the Code, a U.S. Holder may be treated as constructively owning Post-Consolidation Common Shares that are actually owned, and in some cases constructively owned, by certain related individuals and certain entities in which the U.S. Holder has an interest or that have an interest in the U.S. Holder, as well as any Post-Consolidation Common Shares the U.S. Holder has a right to acquire by exercise of an option or by the conversion or exchange of a security.

*Split of Common Shares*

The Split is intended to constitute a Recapitalization for U.S. federal income tax purposes. Assuming the Split qualifies as a Recapitalization, a U.S. Holder generally should not recognize gain or loss upon the receipt of the Post-Split Common Shares in the Split. A U.S. Holder's aggregate tax basis in the Post-Split Common Shares received pursuant to the Split should equal the aggregate tax basis of the Post-Consolidation Common Shares surrendered, and such U.S. Holder's holding period in the Post-Split Common Shares received should include the holding period in the Post-Consolidation Common Shares surrendered. Treasury Regulations provide detailed rules for allocating the tax basis and holding period of the Post-Consolidation Common Shares surrendered to the Post-Split Common Shares received pursuant to the Split. U.S. Holders of Common Shares acquired on different dates and at different prices should consult their own tax advisors regarding the allocation of the tax basis and holding period of such shares.

*Fractions of Common Shares Exchanged for Rubellite Common Shares*

The U.S. federal income tax treatment of the exchange of a fraction of each Common Share for a fraction of a Rubellite Common Share (the "**Share Exchange**") and the issuance of Rubellite Warrants to U.S. Holders is not clear. Subject to the discussion below, U.S. Holders are intended to recognize gain or loss on the Share Exchange in an amount equal to the difference, if any, between (i) the fair market value of the fractional Rubellite Common Share received and (ii) the U.S. Holder's adjusted tax basis in the fractional Common Share exchanged therefor. Such gain or loss should be capital gain or loss and treated as long-term capital gain or loss if the U.S. Holder held the Common Shares for more than one year. Long-term capital gains recognized by U.S. Holders that are not corporations generally are eligible for reduced rates of U.S. federal income taxation. The deductibility of capital losses is subject to limitations under the Code. A U.S. Holder's initial aggregate tax basis in the Rubellite Common Shares received pursuant to such exchange will be equal to the fair market value of such shares (determined as of the Effective Date), and the U.S. Holder's holding period in the Rubellite Common Shares received should begin on the day after the Effective Date. Although not free from doubt, the issuance of the Rubellite Warrants to U.S. Holders is intended to be treated as part of a separate financing which includes the Standby Agreement and the Rubellite Warrants are not intended to be treated as part of the consideration paid by Rubellite in the Share Exchange. If the Rubellite Warrants are treated as part of the consideration in the Share Exchange, the fair market value of such warrants will be included in the consideration received by U.S. Holders under subparagraph (i) above and U.S. Holders will obtain a tax basis in such Rubellite Warrants equal to their fair market value at the time of issuance.

In the alternative, a U.S. Holder that receives Rubellite Common Shares and Rubellite Warrants pursuant to the Arrangement may be treated as receiving a distribution of property from Perpetual in an amount equal to the fair market value of the Rubellite Common

Shares and Rubellite Warrants received on the Effective Date (without reduction for any Canadian income or other tax withheld from such distribution). Such distribution would be taxable to the U.S. Holder as a dividend to the extent of Perpetual's current and accumulated earnings and profits as determined under U.S. federal income tax principles. To the extent the fair market value of the securities distributed exceeds Perpetual's deemed adjusted tax basis in such securities (as calculated for U.S. federal income tax purposes), the Arrangement can be expected to generate additional earnings and profits for Perpetual. Any such dividend generally will not be eligible for the "dividends received deduction" in the case of U.S. Holders that are corporations. To the extent that the fair market value of the Rubellite Common Shares and Rubellite Warrants exceeds the current and accumulated earnings and profits of Perpetual, the distribution of the Rubellite Common Shares and Rubellite Warrants pursuant to the Arrangement will be treated first as a non-taxable return of capital to the extent of a U.S. Holder's tax basis in the Common Shares, with any remaining amount being taxed as a capital gain. However, Perpetual may not maintain the calculations of earnings and profits in accordance with U.S. federal income tax principles, and each U.S. Holder should therefore assume that such distribution by Perpetual will constitute ordinary dividend income. Preferential tax rates apply to long-term capital gains of a U.S. Holder that is an individual, estate, or trust. There are currently no preferential tax rates for long-term capital gains of a U.S. Holder that is a corporation. Subject to applicable limitations and provided Perpetual is eligible for the benefits of the Treaty or the Common Shares are readily tradable on a U.S. securities market, dividends paid by Perpetual to non-corporate U.S. Holders, including individuals, generally will be eligible for the preferential tax rates applicable to long-term capital gains for dividends, provided certain holding period and other conditions are satisfied, including that Perpetual not be classified as a PFIC in the tax year of distribution or in the preceding tax year. If a U.S. Holder is not eligible for the preferential tax rates discussed above, a dividend paid by Perpetual to a U.S. Holder generally will be taxed at ordinary income tax rates (rather than the preferential tax rates applicable to long-term capital gains). The dividend rules are complex, and each U.S. Holder should consult its own tax advisors regarding the application of such rules.

The tax rules applicable to the Share Exchange and issuance of Rubellite Warrants are complex and each U.S. Holder is urged to consult its own tax advisor regarding the tax treatment of the Share Exchange and the issuance of Rubellite Warrants to U.S. Holders pursuant to the Arrangement.

#### *Issuance, Exercise, Disposition and Expiration of Rubellite Warrants*

Subject to the discussion above under "*Fractions of Common Shares Exchanged for Rubellite Common Shares*", the issuance of the Rubellite Warrants to U.S. Holders is intended to be a non-taxable distribution governed by Section 305(a) of the Code. Perpetual believes a U.S. Holder's tax basis in Rubellite Warrants received from Rubellite should be zero because, on the date of issuance, the fair market value of the Rubellite Warrants was less than 15% of the fair market value of the Rubellite Common Shares on which such Rubellite Warrants were distributed. However, under Section 307(b)(2) of the Code and the Treasury Regulations promulgated thereunder, a U.S. Holder may make an election to allocate a portion of the tax basis in the U.S. Holder's existing Rubellite Common Shares to the Rubellite Warrants with the U.S. Holder's timely filed U.S. federal income tax return for the taxable year in which the Rubellite Warrants were received.

A U.S. Holder that does not make an election under Section 307(b)(2) of the Code in connection with the receipt of the Rubellite Warrants should generally: (i) have a tax basis in the new Rubellite Common Shares received upon exercise of Rubellite Warrants (the "**Rubellite Warrant Shares**") equal to the exercise price paid in connection therewith; and (ii) have a tax basis in their existing Rubellite Common Shares equal to such U.S. Holder's tax basis in its existing Rubellite Common Shares immediately prior to the issuance of the Rubellite Warrants. It is unclear whether a U.S. Holder's holding period for the Rubellite Warrant Share received on the exercise of a Rubellite Warrant would commence on the date of exercise of the Rubellite Warrant or the day following the date of exercise of the Rubellite Warrant.

A U.S. Holder will recognize gain or loss on the sale or other taxable disposition of a Rubellite Warrant in an amount equal to the difference, if any, between (a) the amount of cash plus the fair market value of any property received and (b) such U.S. Holder's tax basis in the Rubellite Warrant sold or otherwise disposed of. Any such gain or loss generally will be a capital gain or loss, which will be a long-term capital gain or loss if the Rubellite Warrant is held for more than one year. Deductions for capital losses are subject to complex limitations under the Code.

Upon the lapse or expiration of a Rubellite Warrant, a U.S. Holder will recognize a loss in an amount equal to such U.S. Holder's tax basis in the Rubellite Warrant. Any such loss generally will be a capital loss and will be long-term capital loss if the Rubellite Warrants are held for more than one year. Deductions for capital losses are subject to complex limitations under the Code.

The foregoing discussion regarding the Rubellite Warrants and Rubellite Warrant Shares is subject to the discussion below under "Passive Foreign Investment Company Rules". U.S. Holders should consider their individual circumstances and consult their own tax advisors regarding the advisability of making the election under Section 307(b)(2) of the Code.

#### *Change to Remaining Common Shares*

The change of the Remaining Fraction of each Common Share to one (1) Common Share is intended to constitute a Recapitalization for U.S. federal income tax purposes. Assuming such change qualifies as a Recapitalization, a U.S. Holder generally should not recognize gain or loss upon the receipt of the increased Common Shares. A U.S. Holder's aggregate tax basis in the increased Common Shares received pursuant to such change should equal the aggregate tax basis of the Remaining Fraction surrendered, and such U.S. Holder's holding period in the increased Common Shares received should include the holding period in the Remaining Fraction surrendered. Treasury Regulations provide detailed rules for allocating the tax basis and holding period of the Remaining Fraction surrendered to the increased Common Shares received pursuant to such change. U.S. Holders of Common Shares acquired on different dates and at different prices should consult their own tax advisors regarding the allocation of the tax basis and holding period of such shares.

#### *Dissenting Shareholders*

A U.S. Holder that is a Dissenting Shareholder in the Arrangement and is paid cash in exchange for all of such U.S. Holder's Common Shares generally will recognize gain or loss in an amount equal to the difference, if any, between (i) the U.S. dollar value of the Canadian dollars received by such U.S. Holder in exchange for its Common Shares and (ii) the U.S. Holder's adjusted tax basis in the Common Shares. Such gain or loss generally will be capital gain or loss and will be long-term capital gain or loss if the Dissenting Shareholder held the Common Shares for more than one year. Long-term capital gains recognized by U.S. Holders that are not corporations generally are eligible for reduced rates of U.S. federal income taxation. The deductibility of capital losses is subject to limitations under the Code.