

TURQUOISE HILL RESOURCES LTD.

Form 40-F/A

November 14, 2013

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

FORM 40-F/A
(Amendment No. 1)

- .. **Registration Statement pursuant to Section 12 of the Securities Exchange Act of 1934**
or
- b **Annual Report pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934.**
For the fiscal year ended December 31, 2012

Commission File Number: 001-32403

TURQUOISE HILL RESOURCES LTD.
(Exact name of Registrant as specified in its charter)

Yukon, Canada
(Province or other jurisdiction of

1000
(Primary Standard Industrial

Not Applicable

incorporation or organization) **Classification Code Number)** **(I.R.S. Employer Identification Number)**

Suite 354-200 Granville Street, Vancouver, British Columbia, Canada V6C 1S4, (604) 688-5755

(Address and telephone number of registrant's principal executive offices)

CT Corporation System

111 Eighth Avenue

New York, New York

10011

(212) 894-8700

(Name, address and telephone number of agent for service in the United States)

Securities registered or to be registered pursuant to Section 12(b) of the Act:

New York Stock Exchange

Common Shares without par value
(Title of Class)

Nasdaq
(Exchanges)

Securities registered or to be registered pursuant to Section 12(g) of the Act: **None**

Securities for which there is a reporting obligation pursuant to Section 15(d) of the Act: **None**

For annual reports, indicate by check mark the information filed with this Form:

☒ **Annual Information Form**

☐ **Audited Annual Financial Statements**

Indicate the number of outstanding shares of each of the issuer's classes of capital or common stock as of the close of the period covered by the annual report:

1,005,535,530 Common Shares outstanding as of December 31, 2012

Indicate by check mark whether the Registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Exchange Act during the preceding 12 months (or for such shorter period that the Registrant was required to file such reports) and (2) has been subject to such filing requirements for the past 90 days.

Yes ☐

No ☒

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Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the Registrant was required to submit and post such files).

Yes ☒

No ☐

The Annual Report on Form 40-F shall be incorporated by reference into, or as an exhibit to, as applicable, the Registrant's Registration Statements on Form S-8 (File Nos. 333-160783, 333-143550, 333-135595, 333-128205 and 333-113048) under the Securities Act of 1933, as amended.

EXPLANATORY NOTE

Turquoise Hill Resources Ltd. (the Company) is filing this Amendment No. 1 (this Amendment No. 1) to its Annual Report on Form 40-F for the fiscal year ended December 31, 2012 (the Original Filing), as originally filed with the Securities and Exchange Commission (the SEC) on March 25, 2013, for the purpose of filing restated Audited Consolidated Financial Statements of the Company as of and for the years ended December 31, 2012 and 2011 (the Financial Statements), including the Independent Auditor's Report and Report of Independent Registered Chartered Accountants with respect thereto. In addition, the Company is including in this Amendment No. 1 its amended and restated Management's Discussion and Analysis for the year ended December 31, 2012 (the MD&A).

The restated Financial Statements and amended and restated MD&A have been amended and restated to (a) correct errors related to the revenue recognition of SouthGobi Resources Ltd., a majority-owned subsidiary of the Company of (SouthGobi), (b) correct an error related to withholding taxes on intercompany interest and (c) reclassify the assets and liabilities of Inova Resources Limited (Inova) (formerly Ivanhoe Australia Limited) to assets and liabilities held for sale and present the results of operations of Inova as discontinued operations pursuant to the rules of the SEC. The impact on financial information and other affected information herein, including financial information pertaining to 2010 and selected quarterly data of 2012 and 2011, have been restated to give effect to the restatement. These matters are described in Note 28 to the restated Financial Statements and in the amended and restated MD&A.

In conjunction with the restatement described above, the Company's management has identified a material weakness in the Company's internal controls over financial reporting as of December 31, 2012, resulting in the failure to properly account for revenues in complex transactions. Specifically, the Company did not ensure that all aspects of sales arrangements were considered in the determination of the appropriate accounting for contracts in which the specified location of transfer of title in the contracts is the customer's stockpile in a stockyard located within SouthGobi's Ovoot Tolgoi mine's mining licence area. As a result of the material weakness, the Company's principal executive officer and principal financial officer have concluded that internal controls over financial reporting were not effective as of December 31, 2012. This control deficiency cannot be considered to be remediated until the applicable remedial controls operate for a sufficient period of time and management has concluded, through testing, that the controls are operating effectively. See Management's Report on Internal Controls Over Financial Reporting in the amended and restated MD&A.

As a result, by this Amendment No. 1, the Company is amending the Original Filing in order to amend and restate Exhibits 99.2 and 99.3 thereto. In addition, the Original Filing has been amended to include currently dated consents of our independent auditor and independent registered chartered accountants and currently dated certifications from our Chief Executive Officer and Chief Financial Officer, as required by Sections 302 and 906 of the Sarbanes-Oxley Act of 2002. The consents of our independent auditor and independent registered chartered accountants and the certifications of our Chief Executive Officer and Chief Financial Officer are included in this Amendment No. 1 as exhibits 99.4, 99.5, 99.12, 99.13, 99.14 and 99.15, respectively.

We have not amended and do not intend to amend our previously filed Annual Reports on Form 40-F for the years ended December 31, 2011 and December 31, 2010 or any quarterly reports furnished on Form 6-K. For this reason, the consolidated financial statements, auditors' reports and related financial information for the affected periods contained in any reports filed or furnished prior to November 14, 2013 should no longer be relied upon.

Other than as expressly set forth above, this Amendment No. 1 does not, and does not purport to, update or restate the information in the Original Filing, filed on March 25, 2013, or reflect any events that have occurred after the Original Filing was initially filed. Information regarding subsequent periods is contained in our third quarter report for the three and nine months ended September 30, 2013 furnished to the SEC on Form 6-K on November 14, 2013. This filing should be read and considered in conjunction with such report.

PRINCIPAL DOCUMENTS

The following documents have been filed as part of this Amendment No. 1:

A. Audited Annual Financial Statements

For the Company's restated Financial Statements, including the Independent Auditor's Report and Report of Independent Registered Chartered Accountants with respect thereto, see Exhibit 99.2 of this Amendment No. 1. The restated Financial Statements included in Exhibit 99.2 are incorporated by reference into this Amendment No. 1.

B. Management's Discussion and Analysis

For the Company's amended and restated MD&A, see Exhibit 99.3 of this Amendment No. 1. The amended and restated MD&A included as Exhibit 99.3 is incorporated by reference into this Amendment No. 1.

FORWARD-LOOKING STATEMENTS

Certain statements made herein, including statements relating to matters that are not historical facts and statements of our beliefs, intentions and expectations about developments, results and events which will or may occur in the future, constitute forward-looking information within the meaning of applicable Canadian securities legislation and forward-looking statements within the meaning of the safe harbor provisions of the United States Private Securities Litigation Reform Act of 1995. Forward-looking information and statements are typically identified by words such as anticipate, could, should, expect, seek, may, intend, likely, plan, estimate, will, believe, suggesting future outcomes or statements regarding an outlook. These include, but are not limited to, statements respecting anticipated business activities; planned expenditures; corporate strategies; proposed dispositions of assets; discussions with third parties respecting material agreements; mining plans for the Oyu Tolgoi Project (as defined in the section entitled Definitions in the Annual Information Form of the Company for the year ended December 31, 2012 (the AIF)) and the schedule for carrying out and completing development and construction of the Oyu Tolgoi Project, including all related infrastructure (with specific factors described in greater detail below); the estimated schedule and cost of bringing the Oyu Tolgoi Project into commercial production; the impact of, and financing commitments established under, the MOA (as defined in the section entitled Definitions in the AIF); the outcome of the discussions being held with the Government of Mongolia on the development and financing of the Oyu Tolgoi Project; anticipated future production and cash flows; the impact of amendments to the laws of Mongolia and other countries in which the Company carries on business, particularly with respect to taxation; the anticipated timing, cost and outcome of plans to continue the development of non-core projects unrelated to the Oyu Tolgoi Project; and other statements that are not historical facts.

With respect to specific forward looking information concerning the construction and development of the Oyu Tolgoi Project, the Company has based its assumptions and analyses on certain factors which are inherently uncertain. Uncertainties include among others:

the timing and cost of the construction of mining and processing facilities;

the impact of changes in, changes in interpretation to or changes in enforcement of, laws, regulations and government practices in Mongolia;

the availability and cost of skilled labour and transportation;

the annual usage costs for sand, aggregate and water;

the availability and cost of appropriate smelting and refining arrangements;

the obtaining of (and the timing of obtaining) necessary environmental and other government permits, and the timing of those permits;

the availability of funding on reasonable terms;

the timing and availability of a coal-fired power plant at the site of the Oyu Tolgoi Project;

projected gold and copper prices and demand;

initial production estimates and the anticipated yearly production of gold and copper at the Oyu Tolgoi Project; and

the development and concentrator nameplate capacity of the Oyu Tolgoi Project's second phase of development expansion and associated costs.

The cost, timing and complexities of mine construction and development are increased by the remote location of a property such as the Oyu Tolgoi Project. It is common in new mining operations to experience unexpected problems and delays during development, construction and mine start-up. In addition, delays in the commencement of mineral production often occur. Accordingly, there is no assurance that future development activities will result in profitable mining operations.

The Annual Report on Form 40-F also contains references to estimates of mineral reserves and mineral resources. The estimation of reserves and resources is inherently uncertain and involves subjective judgments about many relevant factors. The mineral resource estimates contained in the Annual Report on Form 40-F are inclusive of mineral reserves. Mineral resources that are not mineral reserves do not have demonstrated economic viability. The accuracy of any such estimates is a function of the quantity and quality of available data, and of the assumptions made and judgments used in engineering and geological interpretation (including future production from the Oyu Tolgoi Project, the anticipated tonnages and grades that will be achieved or the indicated level of recovery that will be realized), which may prove to be unreliable. There can be no assurance that these estimates will be accurate or that such mineral reserves and mineral resources can be mined or processed profitably. Such estimates and statements are, in large part, based on the following:

interpretations of geological data obtained from drill holes and other sampling techniques. Large scale continuity and character of the deposits will only be determined once significant additional drilling and sampling has been completed and analyzed. Actual mineralization or formations may be different from those predicted. It may also

take many years from the initial phase of drilling before production is possible, and during that time the economic feasibility of exploiting a deposit may change. Reserve and resource estimates are materially dependent on prevailing metal prices and the cost of recovering and processing minerals at the individual mine sites. Market fluctuations in the price of metals or increases in the costs to recover metals from the Company's mining projects may render mining of ore reserves uneconomic and affect the Company's operations in a materially adverse manner. Moreover, various short-term operating factors may cause a mining operation to be unprofitable in any particular accounting period;

assumptions relating to commodity prices and exchange rates during the expected life of production, mineralization of the area to be mined, the projected cost of mining, and the results of additional planned development work. Actual future production rates and amounts, revenues, taxes, operating expenses, environmental and regulatory compliance expenditures, development expenditures, and recovery rates may vary substantially from those assumed in the estimates. Any significant change in these assumptions, including changes that result from variances between projected and actual results, could result in material downward revision to current estimates;

assumptions relating to projected future metal prices. The prices used reflect organizational consensus pricing views and opinions in the financial modeling for the Oyu Tolgoi Project are subjective in nature. It should be expected that actual prices will be different than the prices used for such modelling (either higher or lower), and the differences could be significant; and

assumptions relating to the costs and availability of treatment and refining services for the metals mined from the Oyu Tolgoi Project, which require arrangements with third parties and involve the potential for fluctuating costs to transport the metals and fluctuating costs and availability of refining services. These costs can be significantly impacted by a variety of industry specific and also regional and global economic factors (including, among others, those which effect commodity prices). Many of these factors are beyond the Company's control.

All such forward-looking information and statements are based on certain assumptions and analyses made by the Company's management in light of their experience and perception of historical trends, current conditions and expected future developments, as well as other factors management believes are appropriate in the circumstances. These statements, however, are subject to a variety of risks and uncertainties and other factors that could cause actual events or results to differ materially from those projected in the forward-looking information or statements. Important factors that could cause actual results to differ from these forward-looking statements include those described under the heading "General Development of the Business" "Risk Factors" in the AIF. The reader is cautioned not to place undue reliance on forward-looking information or statements. Except as required by law, the Company does not assume the obligation to revise or update these forward-looking statements after the date of this document or to revise them to reflect the occurrence of future unanticipated events.

CAUTIONARY NOTE TO UNITED STATES INVESTORS

Unless otherwise indicated, all mineral reserve and resource estimates included in the Annual Report on Form 40-F have been prepared in accordance with Canadian National Instrument 43-101 "Standards of Disclosure for Mineral Projects" (NI 43-101), and the Canadian Institute of Mining, Metallurgy and Petroleum Definition Standards for Mineral Resources and Mineral Reserves. NI 43-101 is a rule developed by the Canadian Securities Authorities that establishes standards for all public disclosure an issuer makes of scientific and technical information concerning mineral projects.

Canadian standards, including NI 43-101, differ significantly from the requirements of the SEC, and reserve and resource information contained in the Annual Report on Form 40-F may not be comparable to similar information disclosed by U.S. companies. In particular, and without limiting the generality of the foregoing, the term "resource" does not equate to the term "reserve". Under U.S. standards, mineralization may not be classified as a "reserve" unless the determination has been made that the mineralization could be economically and legally produced or extracted at the time the reserve determination is made. The SEC's disclosure standards normally do not permit the inclusion of information concerning "measured mineral resources", "indicated mineral resources" or "inferred mineral resources" or other descriptions of the amount of mineralization in mineral deposits that do not constitute "reserves" by U.S. standards in documents filed with the SEC. U.S. investors should also understand that "inferred mineral resources" have an even greater amount of uncertainty as to their existence and an even greater uncertainty as to their economic and legal feasibility. It cannot be assumed that all or any part of an "inferred mineral resource" will ever be upgraded to a higher category. Under NI 43-101, estimated "inferred mineral resources" may not form the basis of feasibility or pre-feasibility studies except in rare cases. Investors are cautioned not to assume that all or any part of an "inferred mineral resource" exists or is economically or legally mineable. Disclosure of "contained pounds" or "contained ounces" of metal in

a resource is permitted disclosure under Canadian regulations; however, the SEC normally only permits issuers to report mineralization that does not constitute reserves by SEC standards as in-place tonnage and grade without reference to unit measures. The requirements of NI 43-101 for identification of reserves are also not the same as those of the SEC, and reserves reported by the Company in compliance with NI 43-101 may not qualify as reserves under SEC standards. Accordingly, information concerning mineral deposits set forth herein may not be comparable with information made public by companies that report in accordance with U.S. standards.

ADDITIONAL DISCLOSURE

CONTROLS AND PROCEDURES

Disclosure Controls and Procedures

Disclosure controls and procedures are designed to provide reasonable assurance that information required to be disclosed by the Company under applicable securities legislation is gathered and reported to senior management, including the Company's principal executive officer and principal financial officer, on a timely basis so that appropriate decisions can be made regarding public disclosure.

As of the end of the Company's fiscal year ended December 31, 2012, an evaluation of the effectiveness of the Company's disclosure controls and procedures (as such term is defined in Rules 13a-15(e) and 15d-15(e) of the Securities Exchange Act of 1934, as amended (the Exchange Act)) was carried out by the Company's management with the participation of the principal executive officer and principal financial officer. Based upon that evaluation, as originally filed on March 25, 2013, the Company's principal executive officer and principal financial officer concluded that as of the end of that fiscal year, the Company's disclosure controls and procedures were effective to ensure that information required to be disclosed by the Company in reports that it files or submits under the Exchange Act is: (i) recorded, processed, summarized and reported within the time periods specified in SEC rules and forms, and (ii) accumulated and communicated to the Company's management, including its principal executive officer and principal financial officer, to allow timely decisions regarding required disclosure. Subsequent to this evaluation and conclusion, the Company's principal executive officer and principal financial officer determined that the Company had identified a material weakness in internal control over financial reporting. As a result of the material weakness described in Management's Report on Internal Control over Financial Reporting, the principal executive officer and principal financial officer have concluded that the Company's disclosure controls and procedures were not effective as of December 31, 2012.

The Company's management, including the principal executive officer and principal financial officer, believe that any disclosure controls and procedures or internal control over financial reporting, no matter how well conceived and operated, can provide only a reasonable and not absolute assurance that the objectives of the control system are met. Further, the design of a control system reflects the fact that there are resource constraints, and the benefits of controls must be considered relative to their costs. Because of the inherent limitations in all control systems, they cannot provide absolute assurance that all control issues and instances of fraud, if any, within the Company have been prevented or detected. These inherent limitations include the realities that judgments in decision-making can be faulty, and that breakdowns can occur because of simple error or mistake. Additionally, controls can be circumvented by the individual acts of some persons, by collusion of two or more people, or by unauthorized override of the control. The design of any systems of controls is also based in part on certain assumptions about the likelihood of certain events, and there can be no assurance that any design can achieve its stated goals under all potential future conditions. Accordingly, because of the inherent limitations in a cost effective control system, misstatements due to error or fraud may occur and not be detected.

Management's Report on Internal Control over Financial Reporting

The required disclosure is included in the Company's amended and restated MD&A, contained in Exhibit 99.3 of this Amendment No. 1 and incorporated by reference herein.

Changes in Internal Control Over Financial Reporting

The required disclosure is included in the Company's amended and restated MD&A, under the heading "Management's Report on Internal Control Over Financial Reporting - Changes in internal control over financial reporting" contained in Exhibit 99.3 of this Amendment No. 1 and incorporated by reference herein.

ATTESTATION REPORT OF THE REGISTERED PUBLIC ACCOUNTING FIRM

PricewaterhouseCoopers LLP (PwC) has issued an adverse opinion on the Company's internal control over financial reporting which is included in the report of PwC on the Company's restated Audited Consolidated Financial Statements for the year ended December 31, 2012 contained in Exhibit 99.2 of this Amendment No. 1 and incorporated by reference herein.

UNDERTAKING AND CONSENT TO SERVICE OF PROCESS

Undertaking

The Company undertakes to make available, in person or by telephone, representatives to respond to inquiries made by the Commission staff, and to furnish promptly, when requested to do so by the Commission staff, information relating to: the securities registered pursuant to Form 40-F; the securities in relation to which the obligation to file an annual report on Form 40-F arises; or transactions in said securities.

Consent to Service of Process

The Company has previously filed an Appointment of Agent for Service of Process on Form F-X with respect to the class of securities in relation to which the obligation to file this Form 40-F arises.

Any change to the name or address of the agent for service of process of the registrant shall be communicated promptly to the SEC by an amendment to the Form F-X referencing the file number of the Company.

SIGNATURE

Pursuant to the requirements of the Exchange Act, the Company certifies that it meets all of the requirements for filing on Form 40-F and has duly caused this annual report to be signed on its behalf by the undersigned, thereto duly authorized.

Dated: November 14, 2013

TURQUOISE HILL RESOURCES LTD.

By: /s/ Dustin S. Isaacs

Name: Dustin S. Isaacs

Title: General Counsel and Corporate
Secretary

EXHIBIT INDEX

Exhibit Number	Document
99.1*	Annual Information Form for the year ended December 31, 2012.
99.2	Audited Consolidated Financial Statements of Turquoise Hill Resources Ltd. as of and for the years ended December 31, 2012 and 2011 (Restated), together with the reports thereon of the Independent Auditors and Independent Registered Chartered Accountants.
99.3	Management's Discussion and Analysis of Financial Condition and Results of Operations (Amended and Restated).
99.4	Consent of Deloitte LLP, Independent Registered Chartered Accountants.
99.5	Consent of PricewaterhouseCoopers LLP, Independent Auditor.
99.6*	Consent of Bernard Peters.
99.7*	Consent of Sharron Sylvester.
99.8*	Consent of Malcolm Bridges.
99.9*	Consent of Alan Riles.
99.10*	Consent of AMC Consultants Pty Ltd.
99.11*	Consent of Kendall Cole Rae.
99.12	Certification of the Chief Executive Officer pursuant to Rule 13a-14(a) or 15d-14(a) of the Securities Exchange Act of 1934.
99.13	Certification of the Chief Financial Officer pursuant to Rule 13a-14(a) or 15d-14(a) of the Securities Exchange Act of 1934.
99.14	Certification of the Chief Executive Officer pursuant to 18 U.S.C. Section 1350.
99.15	Certification of the Chief Financial Officer pursuant to 18 U.S.C. Section 1350.
101	Interactive Data File.

* Previously filed with the Securities and Exchange Commission.