



FRASER MILNER CASGRAIN LLP

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By Fax and E-Mail

Alberta Energy and Utilities Board
640 - 5th Avenue, S.W.
Calgary, Alberta T2P 3G4

Attention: Mr. Douglas A. Larder, General Counsel

Dear Sir:

Subject: Review and Variance Applications
9500-1404564 (Luscar Ltd./Fairborne Energy Ltd.)
9500-1406894 (Luscar Ltd./Devon Canada Corporation)
9500-1424930 (Luscar Ltd./Glacier Energy Limited)
9500-1496721 (EnCana Corporation/Devon Canada Corporation)
9500-1422781 (EnCana Corporation/Bearspaw Petroleum Ltd.)
9500-1439810 (EnCana Corporation/Bearspaw Petroleum Ltd.)
Our file no: 507548-4

We have for reply your letter dated March 28, 2006 which requests feedback regarding a number of matters. Coincidentally, we had filed a letter the same day which addressed matters identified in your letter of March 9, 2006, and answers, in part, some of the matters listed in your letter of March 28, 2006. For ease of reference, earlier responses to any of the matters identified in your latest letter are repeated here. We do note, however, that the answers to some of the questions you pose depend to a significant degree on how the Board intends to proceed, and what issues are then before the Board.

Should the Board consider the issue of legal entitlement to coalbed methane or should the Board focus upon the issue of appropriate interim measures for tracking coalbed methane production?

Our clients, Devon Canada Corporation ("Devon") and Fairborne Energy Ltd. ("Fairborne"), are, as previously indicated, of the view that the question of legal entitlement need not be determined by the Board in the proposed hearing. The Board exercised the authority conferred on it in granting the licenses on the basis of the law as it is currently established. The Board is not obligated to undertake the task of making new law and, indeed, has no authority to do so, particularly on a collateral issue such as this. Although the Board has the

opportunity to undertake a consideration of that legal question, the proper and accepted venue to determine legal entitlement is the Alberta Courts. As a practical matter, given that the standard of review of the Board's determination of the issue would be correctness, it is not apparent how the Board's consideration of the matter would result in any greater certainty.

Devon and Fairborne submit that the focus of review of the Board's decision to grant the subject licenses should be on the tracking of volumes of natural gas from coal pending the final determination of the ownership question by the Alberta Courts. While our clients' preference would not be to unnecessarily expend the capital required to install additional measuring equipment on each well producing natural gas from coal, our clients would be willing install such equipment provided the coal owners are prepared to accept the obligation to pay for such equipment should it ultimately be found that the P&NG holders are entitled to this gas, . If the Board adopts this approach, it would be our expectation that the hearing process would be simplified and shortened considerably, as discussed in answer to the additional questions set out below.

If the Board considers both the issue of legal entitlement to coalbed methane and the issue of appropriate interim measures for tracking coalbed methane production, should these issues be heard together or separately? Do the parties place a priority on one particular issue?

Our clients consider the issue of any interim measures to be implemented, and the attendant responsibility for any associated costs, to be the one which should receive priority attention by the Board. To the extent that the Board might decide, in spite of the concerns expressed above, to consider both the issues of legal entitlement and interim measures, our clients would prefer that the issue of interim measures be dealt with first and that this matter be dealt with separately.

Should persons that are not parties to one of the above-referenced review files be allowed to participate in the review hearing?

The answer to this question depends largely on the nature and scope of the hearing. If the issue of legal entitlement is on the table, then, as previously noted, there are many other parties beyond those few directly involved in these review applications who will stand to be affected by the Board's decision and who, on that basis, are likely to seek intervener status. This would include similarly positioned parties from industry, as well as the lessors of the contested mineral rights. In that context, it is not readily apparent how the Board might intend to restrict participation in the hearing. Practically, the number of parties that would be interested and affected by the Board's decision and would therefore want and have a sound basis to intervene, particularly if the basis for establishing ownership of natural gas from coal is to be included, would likely give rise to a lengthy hearing process.

On the other hand, if the issue is, for all intents and purposes, restricted to interim measures for tracking, then it would seem that the scope for participation would be restricted to the parties in attendance at the January 31, 2006 review and variance meeting.

Should the decisions which form the subject matter of the requests for review be suspended pending completion of the review hearing?

Our clients' position is that the suspension of licenses is not warranted in any circumstances, regardless of the issues to be considered. Our clients have expended significant financial and human resources in reliance on the well licenses previously issued by the Board. Field plant design and construction have been undertaken based on these licenses. The concerns raised by the review applicants in support of their request for suspension of the licenses pending completion of a hearing can, if reasonably required, be managed. In any event, those concerns should not override the significant consequence that a suspension would have on the P&NG holders who have made investments based upon the Board having granted valid licenses.

Do the parties anticipate that the Board's Information Requests process, as set out in the Rules of Practice, would be helpful?

Again, the answer depends on the issues to be considered. To the extent the focus of the hearing would be on interim measures, then an information request process would not appear to be warranted, and would unnecessarily prolong the process. If, however, the question of legal entitlement is to be substantively considered, then it would seem appropriate to implement an information request process. While such a process would no doubt prolong the time required before the applications would be heard, it would afford the parties an opportunity to gain a better understanding regarding the case they are expected to meet.

Do the parties anticipate that a pre-hearing meeting would be helpful?

Yes, particularly if legal entitlement is to be at issue.

Do the parties anticipate being able to enter an agreed statement of facts to which party holds PNG rights and which party holds coal rights in a particular location?

It is not apparent to our clients that provision for entering into an agreed statement of facts would provide much assistance to the process. Indeed, it is possible that even the issue of claimed title may be contested in some circumstances, which would effectively make an agreed statement of facts impossible.

Yours truly,

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Lars H. Olthafer

cc: Mr. R. Donick - Luscar Ltd.
Mr. C.J. Popowich - Code Hunter LLP
Ms. Lisa Stebbins - EnCana Corporation
Ms. Velma Scott - Vermilion Resources Ltd.
Mr. W.T. Corbett - Field LLP