

~~June 15, 2005~~

April 4/05

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

Attention: Karen Mather

Re: Non-Routine B140 Well License Application
Devon Wimborne 16-15-34-W4M

EnCana Corporation ("EnCana") is in receipt of correspondence dated January 11, 2005 from Devon Canada Corporation ("Devon") respecting the above referenced well license application (the "Application").

As acknowledged by Devon, significant legal uncertainty surrounds the ownership of the gas proposed to be produced from coal ("NGC"). The *Oil and Gas Conservation Act*, the *Oil and Gas Conservation Regulations* and *EUB Guide 56* contemplate that prior to submitting the Application, it is incumbent upon to Devon to be able to demonstrate that it holds the right to produce NGC. If, as Devon suggests, EnCana has no substantiated claim to NGC, it follows that Devon similarly has no substantiated claim to NGC. There cannot exist at the EUB a presumption that an allegation of ownership contained in an Application forms the basis for granting the Application. Insofar as a competing allegation of ownership arises out of the notification process, the Application cannot proceed until the conflicting allegations of ownership are resolved.

In circumstances where competing claims of ownership to hydrocarbon substances exist, the obligation rests upon the party submitting the Application to confirm prior to submission of the Application to the EUB, that the party submitting the Application is entitled, at law, to produce such hydrocarbon substances. The option of seeking a legal determination of the ownership of NGC has long been, and continues to be, available to Devon to attempt to substantiate a right to NGC. Devon has chosen not to avail themselves of this option and now simply wish to assert an unsubstantiated claim in a regulatory forum by submitting the Application without reference to the outstanding NGC ownership issue. An attempt to force development of NGC prior to a judicial determination without making any attempt to seek such a determination is, in our view, an inappropriate use of the regulatory process and constitutes a breach of the *Oil and Gas Conservation Act*, the *Oil and Gas Conservation Regulations* and *EUB Guide 56*.

EnCana requests that approval of the Application be delayed until such time as Devon can demonstrate that it is entitled to produce NGC. If you have any questions or concerns in respect of the foregoing please do not hesitate to contact the undersigned at 403.645.8356 or wayne.smith@encana.com. Thank you

Yours truly,

ENCANA CORPORATION

Mr. Wayne Smith

cc: Mr. Geoff Cain
Devon Canada Corporation