

**ALBERTA ENERGY AND UTILITIES BOARD**

IN THE MATTER OF THE ENERGY RESOURCES  
CONSERVATION ACT, Ch. E-10 OF THE REVISED  
STATUTES OF ALBERTA 2000;

AND IN THE MATTER OF PROCEEDING NO. 1457147  
RESPECTING A REVIEW HEARING IN CONNECTION  
WITH THE ISSUANCE OF CERTAIN WELL LICENSES,  
AND COMPULSORY POOLING AND SPECIAL SPACING  
ORDERS IN THE CLIVE, EWING LAKE, STETTLER AND  
WIMBORNE FIELDS

**PART 1**

SUBMISSION OF CARBON DEVELOPMENT PARTNERSHIP ("CDP"),  
successor in interest to PRAIRIE MINES AND ROYALTY LTD. ("PRAIRIE"),  
formerly known as LUSCAR LTD. ("LUSCAR")

June 9, 2006

## PART 1

### SUBMISSION OF CARBON DEVELOPMENT PARTNERSHIP ("CDP"), successor in interest to PRAIRIE MINES AND ROYALTY LTD. ("PRAIRIE"), formerly known as LUSCAR LTD. ("LUSCAR")

#### INTRODUCTION

1. CDP (which for the purposes of this submission shall include Prairie or Luscar as the context requires) is an affected party pursuant to Section 40 (1) of the *Energy Resources Conservation Act* (the ERCA) in relation to twelve well licence applications and a holding application submitted by Devon Canada Corporation ("Devon") in the Wimborne Field on March 9, 2006 particulars of which applications are as follows:

Application No.	Location or Unique Well Identifier	Subject of Application
1383132	02/06-08-034-26W4	B140 Category Well Licence targeting coalbed methane in the Edmonton Group
1383134	02/08-08-034-26W4	B140 Category Well Licence targeting coalbed methane in the Edmonton Group
1383136	02/14-08-034-26W4	B140 Category Well Licence targeting coalbed methane in the Edmonton Group
1383137	02/16-08-034-26W4	B140 Category Well Licence targeting coalbed methane in the Edmonton Group
1383138	02/06-17-034-26W4	B140 Category Well Licence targeting coalbed methane in the Edmonton Group
1383139	00/08-17-34-026W4	B140 Category Well Licence targeting coalbed methane in the Edmonton Group
1383140	00/14-17-34-026W4	B140 Category Well Licence targeting coalbed methane in the Edmonton Group
1383141	00/16-17-34-026W4	B140 Category Well Licence targeting coalbed methane in the Edmonton Group
1380005	03/06-09-34-026W4	B140 Category Well Licence targeting coalbed methane in the Edmonton Group

1380010	02/08-09-34-026W4	B140 Category Well Licence targeting coalbed methane in the Edmonton Group
1380013	00/14-09-34-026W4	B140 Category Well Licence targeting coalbed methane in the Edmonton Group
1380014	00/16-09-34-026W4	B140 Category Well Licence targeting coal bed methane in the Edmonton Group
1377141	Section 36-33-26 W4M, and Sections 1, 2, 3, 8, 9, 10, 11, 14, 16, 17 of 34-26 W4M	Holdings for the production of gas from the Edmonton (coals and sands) Wimborne Area

(hereinafter referred to as the "Devon Application Properties")

2. In previous filings made with the Alberta Energy and Utilities Board (the "Board") in respect of its request for review hearings, CDP has:
  - a. identified the difficulty, if not impossibility, of demonstrating after the fact what percentage of production from co-mingled wells constituted coalbed methane ("CBM") production;
  - b. pointed out that such information would be critical should CDP ultimately be successful in an action to quiet title and, in particular, on the issue of damages; and
  - c. requested that the Board suspend, under Section 40 (4) of the ERCA, the Board's orders or approvals granted with respect to the Devon applications;
3. It is CDP's understanding that its request pursuant to Section 40 (4) of the ERCA will be addressed during Part 1 of Proceeding No. 1457147.

## II FACTS

4. Since making its initial submissions with respect to production from the Devon Application Properties wherein CDP requested that the Board prohibit co-mingled production and that there be separate metering and reporting of CBM production, CDP has met with Devon and been apprised of Devon's current and planned operating procedures in connection with the Devon Application Properties.

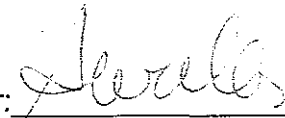
5. On April 27, 2006 CDP indicated to the Board and to Devon that subject to being satisfied that CBM production from the Devon Application Properties has been and will continue to be monitored in a fashion satisfactory to CDP, that CDP would consider suspending its request under Section 40 (4) of the ERCA, if Devon would be prepared to acknowledge that any such suspension would be without prejudice to and would not be relied upon by Devon as a basis for resisting a claim by CDP for restitutionary damages, including challenging the quantum of such damages, and any claim brought by CDP against Devon.
6. Such acknowledgement has now been provided by Devon and a copy of such acknowledgment is attached hereto as Schedule "A".

iii **CDP's SUBMISSION RESPECTING INTERIM MEASURES**

7. As long as there is no co-mingling of production from the Devon Application Properties and the production regime described in the Devon submission of May 19, 2006 continues, CDP is satisfied that such production has been and will be adequately measured.
8. The production regime described in the Devon submission of May 19, 2006 should continue until resolution of the CBM ownership issue by agreement between Devon and CDP, or by a final court determination of such issue.
9. The production data collected by Devon should be provided to CDP on a regular basis and all records relating thereto should be maintained until the issue of CBM ownership has been resolved by agreement or by final court determination.
10. CDP is prepared to suspend its request under Section 40 (4) of the ERCA based on Devon's acknowledgment in Schedule "A".

All of which is respectfully submitted this 8<sup>th</sup> day of June, 2006.

Field LLP

Per:   
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SCHEDULE "A"

June 7, 2006

Our File: 43173 1

Your File: 507548-4

**FRASER MILNER CASGRAIN LLP**  
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ATTENTION: A.L. McLarty, Q.C.

Re: **Proceeding 1457147**  
**Review and Variance Applications**  
**9500-1406894 (Prairie Mines and Royalty Ltd. / Devon Canada Corporation)**  
**9500-1404564 (Prairie Mines and Royalty Ltd. / Fairborne Energy Ltd.)**  
**9500-1456814 (Prairie Mines and Royalty Ltd. / Fairborne Energy Ltd.)**

Further to our recent telephone conversations, Prairie Mines and Royalty Ltd. ("PMR"), on its own behalf and on behalf of its successor in interest, Carbon Development Partnership ("CDP"), and CDP are prepared to suspend requests made by PMR under Section 40(4) of the *Energy Resources Conservation Act* (ERCA) that well licences and holding orders made by the Energy Resources Conservation Board ("EUB" or the "Board") be suspended pending the hearing of such applications if Devon Canada Corporation ("Devon") and Fairborne Energy Ltd ("Fairborne") are prepared to acknowledge that any such suspension would be without prejudice to and would not be relied upon by Devon or Fairborne as a basis for resisting a claim by PMR or CDP, or any of their respective assigns, for restitutionary damages, including challenging the quantum of such damages, and any claim brought by PMR or CDP or any of their respective assigns against Devon and Fairborne

If your clients are prepared to provide such an acknowledgment, would you please execute the enclosed copy of this letter in the place provided, and return the original to our offices.

Yours truly,

**FIELD LLP**

  
W. T. Corbett

WTC/cp

Acknowledged and Agreed To  
this 7th day of June, 2006

**FRASER MILNER CASGRAIN LLP**

Per: 

A.L. McLARTY, counsel for and  
on behalf of Devon Canada Corporation  
and Fairborne Energy Ltd.