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Via Courier

Alberta Energy & Utilities Board
640 - 5th Ave SW
Calgary, AB T2P 3G4

Attention: Paul Ferenowicz
Energy Team Secretariat

Re: Proceeding No. 1457147
Our Reference: N:\KKS\ACL005 SUBMISSION.DOC

Pursuant to correspondence to the Alberta Energy and Utilities Board ("the Board") dated June 28, 2006, ARC Resources Ltd. ("ARC") requested intervener status in respect of Proceeding No. 1457147 ("the Proceeding").

After considering submissions of the other participants to the Proceeding, the Board granted ARC's request for participation on the basis that it would be directly and potentially adversely affected by the outcome of the Proceeding. ARC is a gas producer with significant land holdings in Alberta and has begun to develop coal bed methane ("CBM") on those lands. Specifically, ARC has made ten non-routine applications to the Board to establish holdings for the production of CBM from the Horseshoe Canyon Coals in the Mikwan field. As a result of the Proceeding, these applications are either being held in abeyance or cannot be submitted with the reasonable expectation of being processed.

It is ARC's submission that there are two main issues to be addressed in the Proceeding:

- (i) Does the Board have the jurisdiction to decide the issue of entitlement to CBM or does this issue fall within the exclusive jurisdiction of the courts?
 - (ii) In the alternative, if the Board does have the jurisdiction to decide the issue of entitlement to CBM, does CBM properly belong to the gas owner or the coal owner?
- (i) Does the Board have the jurisdiction to decide the issue of entitlement to CBM or does this issue fall within the exclusive jurisdiction of the courts?**

It is ARC's submission that the Board does not have any jurisdiction to decide the issue of entitlement to CBM and proper jurisdiction instead lies with the courts.

ARC adopts the submissions of the Applicant, Bearspaw Petroleum Ltd. ("Bearspaw"), in its Initial Submission dated May 19, 2006, that the Board lacks the jurisdiction to decide the matter on either an interim or final basis. Specifically, ARC agrees with Bearspaw and submits that that

- a. The Board has previously recognized that CBM is nothing other than natural gas;
- b. Once the Board determines that, pursuant to section 16(1) of the *Oil and Gas Conservation Act*, a party is entitled to the right to produce gas, it is not required to ask itself anything further with respect to the nature of the gas produced;
- c. Given the fact that the Board has determined that a gas producer is "entitled to the right to produce" CBM pursuant to section 16(1), it does not have the jurisdiction on either an interim or final basis to resolve what amounts to a private law property dispute between parties respecting legal ownership of CBM;
- d. Any purported exercise of such jurisdiction by the Board is inconsistent with its overriding public interest mandate for the development of energy resources in Alberta; and
- e. The determination of entitlement to CBM is within the exclusive jurisdiction of the courts.

(ii) In the alternative, if the Board does have the jurisdiction to decide the issue of entitlement to CBM, does CBM properly belong to the gas owner or the coal owner?

If the Board does have the jurisdiction to decide the issue of CBM ownership, on either an interim or final basis, which is not admitted and is expressly denied, it is ARC's submission that given the nature and character of CBM, entitlement to CBM properly lies with the gas producer.

As stated above, it is recognized that CBM is not distinct in composition or character from any other type of natural gas and therefore belongs to the gas owner as opposed to the coal owner. ARC adopts Centrica Canada Limited's ("Centrica") Submissions Regarding Request for Intervener Status dated July 4, 2006, wherein Centrica asserts that "CBM is a natural gas that is not distinct in composition or phase from any other type of natural gas, the production of which is governed by the ERCA [Energy Resources Conservation Act] and the Board" and that "common sense, the common law, the unique Alberta regulatory environment and a proper interpretation of the leases in question should guide the Board in reaching a decision" that legal entitlement to CBM lies with the gas owner.

ARC makes this submission in support of a determination by the Board that it lacks the jurisdiction to hear the issue of CBM entitlement on either an interim or final basis, or in the alternative, that entitlement to CBM lies with the gas owner.

Yours truly,
THACKRAY BURGESS



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