

CODE HUNTER

BARRISTERS

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Alberta Energy & Utilities Board
1400, 640 – 5 Avenue SW
Calgary, Alberta
T2P 3G4

Attention: Douglas A. Larder, Q.C.

Dear Sir:

Re: Proceeding No. 1457147
9500-1406721 (EnCana Corporation / Devon Canada Corporation)
9500-1422781 (EnCana Corporation / Bearspaw Petroleum Ltd.)
9500-1439810 (EnCana Corporation / Bearspaw Petroleum Ltd.)

This letter is to provide EnCana's response to the Request for Intervener Status of Quicksilver Resources, the Freehold Owners Association and Centrica Canada for intervener status at the captioned hearing.

No response is made in respect of request for intervener status at Part 2 of the hearing on entitlement, as no Notice of Hearing has been issued setting out its nature.

Absent some understanding of the nature of the hearing on entitlement, there is no way that it can be said that anyone other than the participants would be directly and adversely affected.

As to the first part of the hearing, neither Quicksilver Resources nor the Freehold Owners Association are apparently entitled to intervener status on the basis of the reasons and materials provided.

Intervener status is permitted only where a party will be directly and adversely affected¹ or if they have relevant information to offer.²

Quicksilver Resources says no more than that it may be directly and adversely affected as it has CBM holdings in adjacent lands.

¹ *Energy Resources Conservation Act*, s.26(1) and *Alberta Energy and Utilities Board Rules of Practice*, AR 101/2001, r 23(3) and see *Dene Tha' First Nation v. Alberta (Energy and Utilities Board)* (2005) ABCA 68 at paras 9-10

² EUB Decision 2003-101 (December 16, 2003) re *Polaris Resources Ltd.*, at p. 3

The Freehold Owners Association similarly says no more than that it represents various and unidentified freeholders who “may collectively be impacted”.

Insofar as the Freehold Owners Association represents a freeholder with an actual ownership interest in the lands at issue who seeks to actively speak to the matter, there would likely be the requisite direct and adverse effect – but no such representation is asserted.

As the issue on Part 1 of the hearing is simply whether interim conditions should be imposed for the measurement and accounting for coalbed methane production in connection with wells licensed to the parties here, there is no direct and adverse effect on any other party.

The issue on this hearing is but to determine what is necessary to preserve the equities between the parties involved, and any requirements for measurement or accounting on these lands obviously cannot apply to other parties.

Devon and Bearspaw have each provided their written submissions, but yet neither of the applicants for intervener status refer to a single one as in any way showing the requisite direct and adverse effect on them.

Ownership of CBM on adjoining or other lands does not itself establish a direct and adverse effect, and if it did virtually any mineral owner could intervene in virtually every application for Board approval.

It is apparent that the Board chose not to make the first hearing an industry wide best practices hearing, and absent direct and adverse effect no intervention status is to be afforded as the issues are those parties alone.

If these parties make an agreement on the issue of whether and how production may be had pending the determination of entitlement, the hearing would and could not proceed – which alone shows the absence of the requisite direct and adverse effect necessary for intervention by Quicksilver Resources or the Freehold Owners Association.

Neither applicant for intervener status will be directly and adversely affected or has relevant information sufficient to permit their participation in the hearing.

Yours truly,

A handwritten signature in black ink, appearing to read 'C. Popowich', written in a cursive style.

Christian J. Popowich

CJP/kgw

- cc: Robert Donick, Luscar Ltd.
VIA FAX 780.420.5835
- cc: Allan McLarty, Q.C., Fraser Milner Casgrain LLP
VIA FAX 268.3100
- cc: Donald C. Edie, Q.C., Carscallen Lockwood LLP
VIA FAX 262.2952
- cc: William T. Corbett, Q.C., Field LLP
VIA FAX 264.7084
- cc: John Gruber, Thackray Burgess
VIA FAX 531.4720
- cc: Alan C. Reid, EnCana Corporation