

## 2003 BCSECCOM 672

### **Headnote**

Mutual Reliance Review System for Exemptive Relief Application - registration and prospectus relief for certain initial trades and first trades; relief from the requirement to have a current AIF filed on SEDAR in order to be a qualifying issuer under MI 45-102; relief from continuous disclosure requirements

### **Applicable British Columbia Provisions**

*Securities Act*, R.S.B.C.1996, c. 418, ss. 85(1), 91 and 119

*Securities Rules*, B.C. Reg. 194/97, ss. 144, 145, 149 and 184

Multilateral Instrument 45-102 *Resale of Securities*

**IN THE MATTER OF THE SECURITIES LEGISLATION OF ALBERTA,  
BRITISH COLUMBIA, SASKATCHEWAN, MANITOBA, ONTARIO,  
QUEBEC, NEW BRUNSWICK, PRINCE EDWARD ISLAND,  
NOVA SCOTIA AND NEWFOUNDLAND AND LABRADOR**

**AND**

**IN THE MATTER OF THE MUTUAL RELIANCE REVIEW SYSTEM  
FOR EXEMPTIVE RELIEF APPLICATIONS**

**AND**

**IN THE MATTER OF CRESCENT POINT ENERGY LTD.,  
TAPPIT RESOURCES LTD., STARPOINT ENERGY LTD.,  
CRESCENT POINT ENERGY TRUST,  
CRESCENT POINT ACQUISITION LTD.,  
AND CRESCENT POINT EXCHANGE LTD.**

### **MRRS DECISION DOCUMENT**

1. WHEREAS the local securities regulatory authority or regulator (collectively, the “Decision Makers”) in each of Alberta, British Columbia, Saskatchewan, Manitoba, Ontario, Québec, New Brunswick, Prince Edward Island, Nova Scotia and Newfoundland and Labrador (the “Jurisdictions”) has received an application from Crescent Point Energy Trust (the “Trust”), Crescent Point Energy Ltd. (“Crescent Point”), Tappit Resources Ltd., (“Tappit”), Crescent Point Acquisition Ltd. (“AcquisitionCo”), StarPoint Energy Ltd. (“ExploreCo”) and Crescent Point Exchange Ltd. (“ExchangeCo”) for a decision under the securities legislation of the Jurisdictions (the “Legislation”) that the requirements contained in the Legislation:

## 2003 BCSECCOM 672

- 1.1 to be registered to trade in a security (the “Registration Requirement”) and to file a preliminary prospectus and a prospectus and receive receipts therefor to distribute securities (the “Prospectus Requirement”) in the Jurisdictions, except in British Columbia (the “Registration and Prospectus Jurisdictions”), shall not apply to certain trades of securities to be made in connection with a proposed plan of arrangement (the “Arrangement”) under section 193 of the Business Corporations Act (Alberta) (the “ABCA”) and section 192 of the Canada Business Corporations Act (the “CBCA”) involving the Trust, AcquisitionCo, Crescent Point, Tappit, ExploreCo, ExchangeCo and the shareholders of Crescent Point and Tappit; and
  - 1.2 with respect to AcquisitionCo (or its successor on amalgamation with Crescent Point (“AmalgamationCo”)) in those Jurisdictions in which it becomes a reporting issuer or the equivalent under the Legislation, to issue a news release and file a report with the Jurisdictions upon the occurrence of a material change; file an annual report, where applicable; file interim financial statements and audited annual financial statements with the Jurisdictions and deliver such statements to the security holders; file and deliver an information circular or make an annual filing with the Jurisdictions in lieu of filing an information circular; file an annual information form; and provide management’s discussion and analysis of financial condition and results of operations (collectively, the “Continuous Disclosure Requirements”) shall not apply to AcquisitionCo or AmalgamationCo; and
  - 1.3 the requirement of ExploreCo to have a current annual information form filed on the System for Electronic Document Analysis and Retrieval (“SEDAR”) under Multilateral Instrument 45-102 Resale of Securities (“MI 45-102”) shall not apply;
2. AND WHEREAS pursuant to the Mutual Reliance Review System for Exemptive Relief Applications (the “System”) the Alberta Securities Commission is the principal regulator for this application;
3. AND WHEREAS, unless otherwise defined, the terms herein have the meaning set out in National Instrument 14-101 Definitions or in Québec Securities Commission Notice 14-101;
4. AND WHEREAS the Trust, Crescent Point, Tappit, AcquisitionCo, ExploreCo and ExchangeCo have represented to the Decision Makers that:

## 2003 BCSECCOM 672

- 4.1 Crescent Point was incorporated pursuant to the ABCA on June 20, 2001;
- 4.2 the head and principal offices of Crescent Point are located at Suite 1800, 500 – 4th Ave. S.W., Calgary, Alberta, T2P 2V6 and the registered office is located at Suite 3300, 421 – 7th Ave S.W., Calgary, Alberta, T2P 4K9;
- 4.3 Crescent Point is engaged in the exploration for, and the acquisition, development and production of, oil and natural gas in the provinces of Alberta, Saskatchewan and British Columbia;
- 4.4 the authorized capital of Crescent Point consists of an unlimited number of Class A Shares (“Crescent Point Class A Shares”), an unlimited number of Class B Shares (“Crescent Point Class B Shares” and together with the Crescent Point Class A Shares, “Crescent Point Shares”), and an unlimited number of preferred shares, issuable in series;
- 4.5 as at July 21, 2003, 26,373,757 Crescent Point Class A Shares, 808,830 Crescent Point Class B Shares and nil preferred shares were issued and outstanding, and options (“Crescent Point Options”) to purchase a total of 2,064,334 Crescent Point Class A Shares were outstanding;
- 4.6 the Crescent Point Class A Shares and Crescent Point Class B Shares are listed on the Toronto Stock Exchange (the “TSX”);
- 4.7 Crescent Point is a reporting issuer or the equivalent in the provinces of British Columbia, Alberta, Manitoba and Ontario and has been for more than 12 months;
- 4.8 Crescent Point has filed all the information that it has been required to file as a reporting issuer in each of the Provinces of British Columbia, Alberta, Manitoba and Ontario is not in default of the securities legislation in any of these jurisdictions;
- 4.9 Tappit was incorporated pursuant to the CBCA as 98941 Canada Ltd. on June 5, 1980. On July 31, 1980, Tappit changed its name to “Tappit Resources Ltd.”. On December 31, 1998, Tappit was amalgamated with its wholly-owned subsidiary Goal Energy Inc;
- 4.10 the registered and head office of Tappit is located at 704-2500 Victoria Avenue, Regina, Saskatchewan, S4P 3X2;

## 2003 BCSECCOM 672

- 4.11 Tappit is a junior oil and gas exploration, development and production company with operations focused on oil in southeast Saskatchewan and on natural gas in northeast Alberta;
- 4.12 the authorized capital of Tappit consists of an unlimited number of common shares ("Tappit Shares");
- 4.13 as at July 21, 2003, 19,085,871 Tappit Shares were issued and outstanding, and options ("Tappit Options") to purchase of 1,200,000 Tappit Shares were outstanding;
- 4.14 Tappit Shares are listed on the TSX;
- 4.15 Tappit is a reporting user or the equivalent thereof in the provinces of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, New Brunswick, Prince Edward Island, Nova Scotia and Newfoundland and Labrador and has been for more than 12 months;
- 4.16 Tappit has filed all the information that it has been required to file as a reporting issuer or the equivalent thereof in each of the provinces of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, New Brunswick, Prince Edward Island, Nova Scotia and Newfoundland and Labrador and is not in default of the securities legislation in any of these jurisdictions;
- 4.17 the Trust is an open end unincorporated investment trust governed by the laws of the Province of Alberta and created pursuant to a trust indenture dated July 22, 2003 between Crescent Point and Olympia Trust Company, as trustee;
- 4.18 the Trust was established for the purpose, inter alia, of: (a) investing in shares of AcquisitionCo and the unsecured, subordinate promissory note of AcquisitionCo (the "Note"); (b) acquiring the Crescent Point Shares and the Tappit Shares pursuant to the Arrangement; (c) investing in units of Crescent Point Commercial Trust and shares of Crescent Point General Partner Corp.; (d) acquiring royalties in respect of Canadian resource properties; (e) acquiring, holding, transferring disposing of, investing in and otherwise dealing with assets, securities and other interests or properties of AmalgamationCo or any other entity; (f) disposing of any part of the monies, properties and assets of the Trust; (g) issuing units of the Trust ("Trust Units") and other securities from time to time; (h) temporarily holding cash and

## 2003 BCSECCOM 672

investments for the purposes of paying the expenses and the liabilities of the Trust, paying amounts payable by the Trust in connection with the redemption of any Trust Units, and making distributions to holders of Trust Units (“Unitholders”); and (i) paying costs, fees and expenses associated with the foregoing purposes or incidental thereto;

- 4.19 the Trust was established with nominal capitalization and currently has only nominal assets and no liabilities and the only activity which will initially be carried on by the Trust will be the holding of securities of AmalgamationCo, Crescent Point ExchangeCo Ltd., Crescent Point Commercial Trust and Crescent Point General Partner Corp.;
- 4.20 the Trust is authorized to issue an unlimited number of Trust Units and an unlimited number of special voting rights (“Special Voting Rights”);
- 4.21 as of the date hereof, there is one Trust Unit issued and outstanding and owned by Crescent Point and no Special Voting Rights are outstanding;
- 4.22 the Trust has received conditional approval from the TSX for the listing on the TSX of the Trust Units to be issued in connection with the Arrangement subject to, among other things, completion of the Arrangement;
- 4.23 the Trust is not a reporting issuer in any of the Jurisdictions;
- 4.24 the Trust expects to make monthly distributions of distributable income, if any, to the Unitholders;
- 4.25 the Trust is not a “mutual fund” under the Legislation, as Unitholders are not entitled to receive on demand an amount computed by reference to the value of a proportionate interest in the whole or in part of the net assets of the Trust, as contemplated by the definition of “mutual fund” in the Legislation;
- 4.26 AcquisitionCo was incorporated pursuant to the ABCA on July 22, 2003;
- 4.27 AcquisitionCo was incorporated to participate in the Arrangement by acquiring Crescent Point Shares and Tappit Shares;
- 4.28 the head and principal office of AcquisitionCo is located at Suite 1800, 500 - 4th Ave. S.W., Calgary, Alberta, T2P 2V6 and the registered

## 2003 BCSECCOM 672

office is located at Suite 3300, 421 - 7th Ave S.W., Calgary, Alberta, T2P 4K9;

- 4.29 the authorized capital of AcquisitionCo currently consists of an unlimited number of common shares and an unlimited number of exchangeable shares, issuable in series. Prior to the Arrangement, the articles of AcquisitionCo will be amended to create an unlimited number of Series A exchangeable shares ("Exchangeable Shares") of which an unlimited number will be authorized and up to 2,000,000 Exchangeable Shares will be issued pursuant to the Arrangement;
- 4.30 as of July 21, 2003, one common share of AcquisitionCo was issued and outstanding and owned by the Trust;
- 4.31 AcquisitionCo is not a reporting issuer in any of the Jurisdictions;
- 4.32 ExploreCo was incorporated pursuant to the ABCA on July 22, 2003 and has not carried on any active business since incorporation;
- 4.33 the head and principal office of ExploreCo is located at Suite 1800, 500 - 4th Ave. S.W., Calgary, Alberta, T2P 2V6 and the registered office is located at Suite 3300, 421 - 7th Ave S.W., Calgary, Alberta, T2P 4K9;
- 4.34 pursuant to the Arrangement, ExploreCo will acquire, directly and indirectly, certain natural gas assets from Crescent Point and upon completion of the Arrangement, ExploreCo will be engaged in the exploration for, and acquisition, development and production of, oil and natural gas reserves, primarily in western Canada;
- 4.35 the authorized capital of ExploreCo consists of an unlimited number of common shares ("ExploreCo Shares") and an unlimited number of preferred shares, issuable in series.
- 4.36 as of July 22, 2003, one ExploreCo Share and no preferred shares were issued and outstanding. ExploreCo has also reserved a total of 2,546,964 ExploreCo Shares for issuance pursuant to outstanding stock options;
- 4.37 ExploreCo has made application for conditional approval to list the ExploreCo Shares on the TSX;
- 4.38 ExploreCo is not a reporting issuer in any of the Jurisdictions;

## 2003 BCSECCOM 672

- 4.39 the Arrangement will be effected by way of a plan of arrangement pursuant to section 193 of the ABCA (in respect of Crescent Point) and section 192 of the CBCA (in respect of Tappit) which will require: (i) approval by not less than two-thirds of the votes cast by the holders of Crescent Point Class A Shares and Crescent Point Class B Shares (present in person or represented by proxy), each voting separately as a class, at a special meeting of holders of Crescent Point Shares held on August 21, 2003, which approval was obtained, (ii) approval by not less than two-thirds of the votes cast by the holders of Tappit Shares (present in person or represented by proxy) at a special meeting of holders of Tappit Shares held on August 21, 2003, which approval was obtained; and (iii) approval of the Court of Queen's Bench of Alberta (the "Court"), which approval was obtained on August 22, 2003;
- 4.40 the joint management information circular (the "Information Circular") mailed to the holders of Crescent Point Shares and the holders of Tappit Shares (collectively, the "Shareholders") in connection with the shareholder meetings conforms with the ABCA, the CBCA, applicable securities laws and an interim order of the Court and contains prospectus-level disclosure concerning the respective business, affairs and securities of the Trust, Crescent Point, Tappit, AmalgamationCo and ExploreCo, and a detailed description of the Arrangement;
- 4.41 the Arrangement provides for a transaction where, commencing at the effective time of the Arrangement (the "Effective Time"), the events set out below shall be deemed to occur in the following order:
- 4.41.1 the shareholder rights plan of Tappit shall be terminated and all rights issued thereunder extinguished;
- 4.41.2 the Crescent Point Shares and Tappit Shares held by Shareholders who validly exercise their rights of dissent under section 191 of the ABCA or section 190 of the CBCA, as applicable, as modified by an interim order of the Court, shall, as of the Effective Time, be deemed to have been transferred to Crescent Point or Tappit, as the case may be, and be cancelled and cease to be outstanding, and as of the Effective Time, such dissenting Shareholders shall cease to have any rights as shareholders of Crescent Point or Tappit, as the case may be, other than the right to be paid the fair value of their Crescent Point Shares or their Tappit Shares;

## 2003 BCSECCOM 672

- 4.41.3 AcquisitionCo shall be granted by Crescent Point the right to acquire all ExploreCo Shares to be issued to Crescent Point on the exchange of certain natural gas assets (the “ExploreCo Assets”) for ExploreCo Shares referred to in paragraph 4.41.4 for an amount equal to the fair market value of such ExploreCo Shares as determined at the time of their issuance;
- 4.41.4 the conveyance of ExploreCo Assets from Crescent Point to ExploreCo will be effected, pursuant to which ExploreCo shall issue to Crescent Point as consideration for the ExploreCo Assets such number of Exploreco Shares which, shall be equal to the total number of ExploreCo Shares to be delivered to Crescent Point Shareholders and Tappit Shareholders pursuant to paragraph 4.41.10;
- 4.41.5 AcquisitionCo shall be deemed to exercise the right granted to it under paragraph 4.41.3 hereof and Crescent Point shall transfer all of the ExploreCo Shares owned by it to AcquisitionCo (free of all encumbrances) in exchange for an unsecured, demand promissory note of AcquisitionCo (the “Interim Note”);
- 4.41.6 the transactions set forth in this paragraph 4.41.6 shall occur simultaneously:
- a) AcquisitionCo agrees to purchase at the Completion Time, as defined below, each Crescent Point Class A Share (other than any such share previously held by a dissenting Shareholder and deemed to be cancelled pursuant to paragraph 4.41.2) from the holder thereof for consideration consisting of:
    - i) the delivery at the moment in time during the Arrangement immediately following the completion of steps in this paragraph 4.41.6 through paragraph 4.41.9 (the “Completion Time”) by AcquisitionCo to the holder of one-half (0.50) of one (1.00) ExploreCo Share; and
    - ii) in accordance with the election or deemed election of a Crescent Point Class A Shareholder in respect of a particular Crescent Point Class A Share, either:



## 2003 BCSECCOM 672

- A the payment at the Completion Time by AcquisitionCo to the holder of an amount equal to the fair market value of one-half (0.50) of one (1.00) Trust Unit which amount, if not paid by AcquisitionCo at the Completion Time, shall be payable on demand and bear interest at the rate of 14% per annum and which shall be assigned by the holder to subscribe for Trust Units under paragraph 4.41.6(b) or
  - B the issuance at the Completion Time by AcquisitionCo to the holder of one-half (0.50) of one (1.00) Exchangeable Share; and
- b) the holder of each Crescent Point Class A Share entitled to receive an amount at the Completion Time pursuant to paragraph 4.41.6(a)(ii)(A) agrees to subscribe for one-half (0.50) of one (1.00) Trust Unit and shall pay the subscription price by the absolute and irrevocable assignment by the holder to the Trust of the entire amount that is paid or may become payable at the Completion Time to the holder by AcquisitionCo pursuant to paragraph 4.41.6(a)(ii)(A) in respect of that Share, and the Trust agrees to accept such assignment in full and absolute payment of the subscription price of that one-half (0.50) of one (1.00) Trust Unit and to issue same to such holder at the Completion Time;

4.41.7 the transactions set forth in this paragraph 4.41.7 shall occur simultaneously:

- a) AcquisitionCo agrees to purchase at the Completion Time each Crescent Point Class B Share (other than any such share previously held by a dissenting Shareholder and deemed to be cancelled pursuant to paragraph 4.41.2) from the holder thereof for consideration consisting of:
  - i) the delivery at the Completion Time by AcquisitionCo to the holder of three-quarters (0.75) of one (1.00) ExploreCo Share; and

## 2003 BCSECCOM 672

ii) in accordance with the election or deemed election of a Crescent Point Class B Shareholder in respect of a particular Crescent Point Class B Share, either:

A the payment at the Completion Time by AcquisitionCo to the holder of an amount equal to the fair market value of three-quarters (0.75) of one (1.00) Trust Unit which amount, if not paid by AcquisitionCo at the Completion Time, shall be payable on demand and bear interest at the rate of 14% per annum and which shall be assigned by the holder to subscribe for Trust Units under paragraph 4.41.7(b); or

B the issuance at the Completion Time by AcquisitionCo to the holder of three-quarters (0.75) of one (1.00) Exchangeable Share; and

b) the holder of each Crescent Point Class B Share entitled to receive an amount at the Completion Time pursuant to paragraph 4.41.7(a)(ii)(A) agrees to subscribe for three-quarters (0.75) of one (1.00) Trust Unit and shall pay the subscription price by the absolute and irrevocable assignment by the holder to the Trust of the entire amount that is paid or may become payable at the Completion Time to the holder by AcquisitionCo pursuant to paragraph 4.41.7(a)(ii)(A) in respect of that Share, and the Trust agrees to accept such assignment in full and absolute payment of the subscription price of that three-quarters (0.75) of one (1.00) Trust Unit and to issue same to such holder at the Completion Time;

4.41.8 the transactions set forth in this paragraph 4.41.8 shall occur simultaneously:

a) AcquisitionCo agrees to purchase at the Completion Time each Tappit Share (other than any such share previously held by a dissenting Shareholder and deemed to be cancelled pursuant to subsection 4.41.2) from the holder thereof for consideration consisting of:

## 2003 BCSECCOM 672

- i) the delivery at the Completion Time by AcquisitionCo to the holder of one-tenth (0.10) of one (1.00) ExploreCo Share; and
- ii) in accordance with the election or deemed election of a Tappit Shareholder in respect of a particular Tappit Share, either:
  - A the payment at the Completion Time by AcquisitionCo to the holder of an amount equal to the fair market value of nineteen-one hundredths (0.19) of one (1.00) Trust Unit which amount, if not paid by AcquisitionCo at the Completion Time, shall be payable on demand and bear interest at the rate of 14% per annum and which shall be assigned by the holder to subscribe for Trust Units under paragraph 4.41.8(b); or
  - B the issuance at the Completion Time by AcquisitionCo to the holder of nineteen-one hundredths (0.19) of one (1.00) Exchangeable Share; and
- iii) 0.36 of cash; and

- b) the holder of each Tappit Share entitled to receive an amount at the Completion Time pursuant to paragraph 4.41.8(a)(ii)(A) agrees to subscribe for nineteen-one hundredths (0.19) of one (1.00) Trust Unit and shall pay the subscription price by the absolute and irrevocable assignment by the holder to the Trust of the entire amount that is paid or may become payable at the Completion Time to the holder by AcquisitionCo pursuant to paragraph 4.41.8(a)(ii)(A) in respect of that Share, and the Trust agrees to accept such assignment in full and absolute payment of the subscription price of that nineteen-one hundredths (0.19) of one (1.00) Trust Unit and to issue same to such holder at the Completion Time.

4.41.9 each Crescent Point Class A Shareholder, Crescent Point Class B Shareholder and Tappit Shareholder shall assign absolutely and irrevocably to the Trust the entire amount, if any, that will be payable at the Completion Time to such holder by

## 2003 BCSECCOM 672

AcquisitionCo pursuant to paragraphs 4.41.6(a)(ii)(A), 4.41.7(a)(ii)(A) and 4.41.8(a)(ii)(A), as the case may be, and the Trust shall accept such assignment in full and absolute payment of each such holder's obligation in respect of the subscription for Trust Units;

4.41.10 at the Completion Time, the following shall occur:

- a) each Crescent Point Class A Shareholder shall receive:
  - i) from AcquisitionCo:
    - A the number of ExploreCo Shares to which such holder is entitled pursuant to paragraph 4.41.6(a)(i); and
    - B the number of Exchangeable Shares to which such holder is entitled pursuant to paragraph 4.41.6(a)(ii)(B); and
  - ii) from the Trust, the number of Trust Units to which such holder is entitled pursuant to paragraph 4.41.6(b);
- b) each Crescent Point Class B Shareholder shall receive:
  - i) from AcquisitionCo:
    - A the number of ExploreCo Shares to which such holder is entitled pursuant to paragraph 4.41.7(a)(i); and
    - B the number of Exchangeable Shares to which such holder is entitled pursuant to paragraph 4.41.7(a)(ii)(B); and
  - ii) from the Trust, the number of Trust Units to which such holder is entitled pursuant to paragraph 4.41.7(b);
- c) each Tappit Shareholder shall receive:
  - i) from AcquisitionCo:

## 2003 BCSECCOM 672

- A the number of ExploreCo Shares to which such holder is entitled pursuant to paragraph 4.41.8(a)(i);
  - B the number of Exchangeable Shares to which such holder is entitled pursuant to paragraph 4.41.8(a)(ii)(B); and
  - C the cash consideration to which such holder is entitled pursuant to paragraph 4.41.8(a)(iii); and
- ii) from the Trust, the number of Trust Units to which such holder is entitled pursuant to paragraph 4.41.8(b); and
- d) AcquisitionCo will deliver to the Trust the demand promissory note of AcquisitionCo bearing interest at the rate of 14% per annum evidencing any unpaid aggregate balance of the purchase price owing by AcquisitionCo at the Completion Time under paragraphs 4.41.6(a)(ii)(A), 4.41.7(a)(ii)(A) and 4.41.8(a)(ii)(A);
- 4.41.11 all unexercised Crescent Point Options and all unexercised Tappit Options will be cancelled;
- 4.41.12 the aggregate stated capital of the Crescent Point Class A Shares, the Crescent Point Class B Shares and the Tappit Shares shall each be reduced without a return of capital or other distribution to the holders of shares of those classes by the amount that, in each case, shall result in the aggregate stated capital of all of the outstanding shares of each such class being reduced to \$1.00; and
- 4.41.13 Crescent Point and AcquisitionCo shall be amalgamated and continue as one corporation in accordance with the following:
- a) the Crescent Point Class A Shares and the Crescent Point Class B Shares acquired by AcquisitionCo pursuant to paragraph 4.41.7 and representing all issued and outstanding Crescent Point Shares shall be cancelled without any repayment of capital;

## 2003 BCSECCOM 672

- b) the articles of AmalgamationCo shall be the same as the articles of AcquisitionCo, and the name of the amalgamated corporation shall be "Crescent Point Resources Ltd.";
- c) no securities shall be issued by AcquisitionCo in connection with the amalgamation and for greater certainty, the common shares, the Note and Exchangeable Shares of AcquisitionCo shall survive and continue to be common shares, Note and Exchangeable Shares of AmalgamationCo without amendment;
- d) the property of each of the amalgamating corporations shall continue to be the property of AmalgamationCo;
- e) AmalgamationCo shall continue to be liable for the obligations of each of the amalgamating corporations, including the Note;
- f) any existing cause of action, claim or liability to prosecution of either of the amalgamating corporations shall be unaffected;
- g) any civil, criminal or administrative action or proceeding pending by or against either of the amalgamating corporations may be continued to be prosecuted by or against AmalgamationCo;

4.42 AmalgamationCo will become a reporting issuer under the Legislation in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Nova Scotia and Newfoundland and Labrador, and will be subject to the Continuous Disclosure Requirements in such jurisdictions;

4.43 the Trust will become a reporting issuer under the Legislation in British Columbia, Alberta, Saskatchewan and Ontario and will be subject to the Continuous Disclosure Requirements in such jurisdictions;

4.44 ExploreCo will become a reporting issuer under the Legislation in British Columbia, Alberta, Saskatchewan, Ontario, Nova Scotia and Newfoundland and Labrador, and will be subject to the Continuous Disclosure Requirements in such jurisdictions;

## 2003 BCSECCOM 672

- 4.45 the Exchangeable Shares will provide a holder with a security having economic, ownership and voting rights which are, as nearly as practicable, equivalent to those of the Trust Units;
- 4.46 Exchangeable Shares will not be issued to: (i) a person who is not a resident of Canada for the purposes of the Income Tax Act (Canada) (the “Tax Act”); (ii) a partnership that is not a Canadian partnership for the purposes of the Tax Act; (iii) a person who is exempt from tax under Part I of the Tax Act; or (iv) a U.S. person as defined in Rule 902(k) under Regulation S under the United States Securities Act of 1933, as amended. Any such person who elects to receive Exchangeable Shares will be deemed to have elected to receive Trust Units on completion of the Arrangement;
- 4.47 under the terms of the Exchangeable Shares and certain rights to be granted in connection with the Arrangement, holders of Exchangeable Shares will be able to exchange them at their option for Trust Units;
- 4.48 under the terms of the Exchangeable Shares and certain rights to be granted in connection with the Arrangement, the Trust, ExchangeCo or AmalgamationCo will redeem, retract or otherwise acquire Exchangeable Shares in exchange for Trust Units in certain circumstances;
- 4.49 in order to ensure that the Exchangeable Shares remain the voting and economic equivalent of the Trust Units prior to their exchange, redemption, retraction or other acquisition, the Arrangement provides for:
  - 4.49.1 a voting and exchange trust agreement to be entered into among the Trust, AcquisitionCo, ExchangeCo and Olympia Trust Company (the “Voting and Exchange Agreement Trustee”) which will, among other things, (i) grant to the Voting and Exchange Agreement Trustee, for the benefit of holders of Exchangeable Shares, the right to require the Trust or ExchangeCo to exchange the Exchangeable Shares for Trust Units, and (ii) trigger automatically the exchange of the Exchangeable Shares for Trust Units upon the occurrence of certain specified events;
  - 4.49.2 the deposit by the Trust of a Special Voting Right with the Voting and Exchange Agreement Trustee which will effectively

## 2003 BCSECCOM 672

provide the holders of Exchangeable Shares with voting rights equivalent to those attached to the Trust Units; and

- 4.49.3 a support agreement to be entered into between the Trust and AmalgamationCo which will, among other things, restrict the Trust from distributing additional Trust Units or rights to subscribe therefor or other property or assets to all or substantially all of the holders of Trust Units, or changing the rights, privileges or other terms of the Trust Units, unless the same or an economically equivalent change to the Exchangeable Shares (or in the rights of the holders thereof) is made simultaneously or approval of holders of Exchangeable Shares is obtained;
- 4.50 the steps under the Arrangement, the terms of the Exchangeable Shares and the exercise of certain rights provided for in connection with the Arrangement and the Exchangeable Shares involve a number of trades of potential trades in Crescent Point Class A Shares, Crescent Point Class B Shares, Tappit Shares, ExploreCo Shares, Trust Units, Exchangeable Shares, the Interim Note, the Note, the Special Voting Right, certain rights to acquire Trust Units and Exchangeable Shares under the Arrangement and rights to otherwise make a trade of a security that was derived from the Arrangement (collectively, the “Trades”);
- 4.51 there are no exemptions from the Registration Requirement or the Prospectus Requirement available under the Legislation of the Registration and Prospectus Jurisdictions for certain of the Trades;
- 4.52 the Information Circular discloses that the Trust, Crescent Point, AcquisitionCo, AmalgamationCo and ExploreCo will rely on exemptions, including discretionary exemptions, from the Registration Requirement and Prospectus Requirement with respect to the issuance of Trust Units, Exchangeable Shares and ExploreCo Shares pursuant to the Arrangement and discloses that application will be made to relieve AmalgamationCo from the Continuous Disclosure Requirements;
- 4.53 the Trust will concurrently send to holders of Exchangeable Shares resident in the Jurisdictions all disclosure material it sends to holders of Trust Units pursuant to the Legislation; and
- 4.54 the Information Circular provided to all Shareholders, and filed in all of the Jurisdictions, contains prospectus-level disclosure in respect of



## 2003 BCSECCOM 672

Crescent Point, ExploreCo, the Trust and AmalgamationCo and the Arrangement;

5. AND WHEREAS under the System, this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the “Decision”);
6. AND WHEREAS each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the Decision has been met;
7. THE DECISION of the Decision Makers under the Legislation is that:
  - 7.1 the Registration Requirement and Prospectus Requirement contained in the Legislation of the Registration and Prospectus Jurisdictions shall not apply to the Trades except that the first trade in securities acquired in a Trade shall be deemed to be a distribution or primary distribution to the public;
  - 7.2 the Prospectus Requirement contained in the Legislation of the Registration and Prospectus Jurisdictions shall not apply to the first trade in Trust Units, Exchangeable Shares or ExploreCo Shares acquired by shareholders of Crescent Point and Tappit under the Arrangement or the first trade of Trust Units acquired on the exercise of all rights, automatic or otherwise, under such Exchangeable Shares, provided that:
    - 7.2.1 except in Québec, the conditions in subsections (3) or (4), whichever is applicable, of section 2.6 of MI 45-102 are satisfied and, for the purposes of determining the period of time that the Trust or ExploreCo has been a reporting issuer under section 2.6 of MI 45-102, the period of time that Crescent Point was a reporting issuer in at least one of the jurisdictions listed in Appendix B of MI 45-102 immediately before the Arrangement may be included; and
    - 7.2.2 in Québec:
      - a) the Trust or ExploreCo, as applicable, is deemed to be a reporting issuer in Québec and the Commission des valeurs mobilières du Québec recognizes the period during which Crescent Point has been a reporting issuer in Alberta immediately before the Arrangement;

## 2003 BCSECCOM 672

- b) no unusual effort is made to prepare the market or create a demand for the securities that are the subject of the trade;
  - c) no extraordinary commission or consideration is paid to a person or company in respect of the trade; and
  - d) if the selling security holder is an insider or officer of the Trust, the selling security holder has no reasonable grounds to believe that the Trust is in default of securities legislation;
- 7.3 upon the Arrangement taking effect, the requirement contained in the Legislation to have a current AIF filed on SEDAR in order to be a qualifying issuer under MI 45-102 or pursuant to paragraph 1(e)(i) of decision no. 2003-C-0016 of the Commission des valeurs mobilières du Québec shall not apply to ExploreCo provided that:
  - 7.3.1 ExploreCo files a notice on SEDAR advising that the Information Circular has been filed as an alternate form of annual information form and identifying (i) the SEDAR Project Number under which the Information Circular was filed and (ii) Appendix K to the Information Circular as the portion of the Information Circular containing disclosure specific to ExploreCo;
  - 7.3.2 ExploreCo files a copy of Appendix K of the Information Circular under ExploreCo's SEDAR profile;
  - 7.3.3 ExploreCo files a Form 45-102F2 on or before the tenth day after the distribution day of any securities certifying that it is a qualifying issuer except for the requirement to have a current AIF;
  - 7.3.4 this section 7.3 shall cease to have effect 140 days after ExploreCo's financial year ended December 31, 2003; and
- 7.4 the Continuous Disclosure Requirements shall not apply to AmalgamationCo for so long as:
  - 7.4.1 the Trust is a reporting issuer in Québec and at least one of the jurisdictions listed in Appendix B of MI 45-102 and is an electronic filer under National Instrument 13-101;

## **2003 BCSECCOM 672**

- 7.4.2 the Trust sends to all holders of Exchangeable Shares resident in the Jurisdictions all disclosure material furnished to holders of Trust Units under the Continuous Disclosure Requirements;
- 7.4.3 the Trust complies with the requirements of the TSX, or such other market or exchange on which the Trust Units may be quoted or listed, in respect of making public disclosure of material information on a timely basis;
- 7.4.4 AmalgamationCo is in compliance with the requirements of the Legislation to issue a news release and file a report with the Jurisdictions upon the occurrence of a material change in respect of the affairs of AmalgamationCo that is not also a material change in the affairs of the Trust;
- 7.4.5 the Trust includes in all future mailings of proxy solicitation materials to holders of Exchangeable Shares a clear and concise statement on or appended to the front of such materials that the materials relate solely to a meeting of securityholders of the Trust, not to AmalgamationCo, describing the economic equivalency between the Exchangeable Shares and Trust Units and the right to direct voting at meetings of holders of Trust Units;
- 7.4.6 the Trust remains the direct or indirect beneficial owner of all of the issued and outstanding voting securities of AmalgamationCo; and
- 7.4.7 AmalgamationCo does not issue any preferred shares or debt obligations other than debt obligations issued to its affiliates or to banks, loan corporations, trust corporations, treasury branches, credit unions, insurance companies or other financial institutions.

DATED this 2<sup>nd</sup> day of September, 2003

Glenda A. Campbell, Q.C., Vice-Chair

Stephen R. Murison, Vice-Chair