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Headnote

Mutual Reliance Review System for Exemptive Relief Application – relief from registration and prospectus requirements in connection with certain trades of securities contemplated in an exempt take over bid – statutory exemptions not available for all the trades because of exchangeable share structure

Applicable British Columbia Provisions

Securities Act, R.S.B.C.1996, c. 418, ss. 34(1)(a), 48, 61 and 76

IN THE MATTER OF THE SECURITIES LEGISLATION OF ALBERTA AND BRITISH COLUMBIA

AND

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

AND

IN THE MATTER OF WELLCO ENERGY SERVICES TRUST, WELLCO ENERGY SERVICES INC., WESTCAMP CATERING (1981) LTD. AND BADGER OILFIELD RENTALS LTD.

MRRS DECISION DOCUMENT

1. WHEREAS the local securities regulatory authority or regulator (collectively, the “Decision Makers”) in each of Alberta and British Columbia (the “Jurisdictions”) has received an application from Wellco Energy Services Trust (the “Trust”) and Wellco Energy Services Inc. (the “Corporation”) for a decision under the securities legislation of the Jurisdictions (the “Legislation”) exempting certain trades from the Dealer Registration Requirements and Prospectus Requirements of the Legislation (collectively “Registration and Prospectus Requirements”) in connection with the acquisition of all of the outstanding shares of Westcamp Catering (1981) Ltd. and Badger Oilfield Rentals Ltd. by the Corporation in consideration of the issuance by the Corporation to Gordwin Management Ltd., 513259 Alberta Ltd. and Awesome Management Ltd. (the “Westcamp Vendors”) and to Stan Ross, Rachel Ross, Dave Ergang and Stan and Rachel Ross Holdings Ltd. (the “Badger Vendors”) (the Westcamp Vendors and the Badger Vendors collectively called the “Vendors”) of: (a) Exchangeable Shares, Series C of the Corporation (“Exchangeable Shares”), which are exchangeable into trust units of the Trust

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("Trust Units"); and (b) notes of the Corporation ("Notes") which will be exchanged into Trust Units immediately after the closing (collectively the "Acquisitions").

2. AND WHEREAS under 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 except as specifically defined herein, the capitalized terms used herein shall have the same meaning as ascribed to them in National Instrument 14-101 *Definitions*;
4. AND WHEREAS the Trust and the Corporation represented to the Decision Makers that:
 - 4.1 The Trust is an open-end unincorporated investment trust governed by the laws of the Province of Alberta and created pursuant to a Declaration of Trust dated as of May 28, 2002, amended and restated on June 26, 2002. Computershare Trust Company of Canada is the initial trustee of the Trust;
 - 4.2 The Trust was established to: (a) invest in securities of the Corporation; (b) acquire or invest in other securities of the Corporation, any other subsidiary of the Trust, or any other entity; (c) dispose of any part of the monies, properties and assets of the Trust; (d) temporarily hold cash and investments for the purposes of paying the expenses and liabilities of the Trust, making other permitted investments, paying amounts payable by the Trust in connection with the redemption of any Trust Units, and making distributions to holders of Trust Units; and (e) pay costs, fees and expenses associated with the foregoing purposes or incidental thereto;
 - 4.3 The head and principal offices of the Trust are located at 3100, 500 – 4th Avenue, S.W., Calgary, Alberta T2P 2V6;
 - 4.4 The Trust was established with nominal capitalization and currently has only nominal assets and no liabilities. The only activity which will initially be carried on by the Trust will be the holding of securities of the Corporation and any subsidiary of the Trust;
 - 4.5 The Trust is authorized to issue an unlimited number of Trust Units and an unlimited number of special voting rights;

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- 4.6 As of the date hereof, there are 4,898,022 Trust Units issued and outstanding. Before the closing of the Acquisitions, there will be a further 2,300,000 Trust Units issued pursuant to an arms-length private placement which will increase the issued and outstanding Trust Units to 7,198,022. Also, two special voting rights are outstanding in respect of an existing series of exchangeable shares of the Corporation called the Exchangeable Shares, Series A ("Series A Shares") and Exchangeable Shares, Series B ("Series B Shares");
- 4.7 The Trust Units are listed for trading on the Toronto Stock Exchange ("TSX");
- 4.8 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 Acquisitions subject to, among other things, completion of the Acquisitions. The Trust Units issuable from time to time in exchange for Exchangeable Shares will also be listed on the TSX, subject to receipt of final approval from the TSX;
- 4.9 The Trust has been a reporting issuer in the Provinces of Alberta, British Columbia, Saskatchewan and Ontario for more than 12 months, has filed all the information that it has been required to file as a reporting issuer in each of the Provinces of Alberta, Saskatchewan, British Columbia and Ontario and is not in default of the securities legislation in any of these jurisdictions;
- 4.10 The Corporation was incorporated pursuant to the *Company Act* (British Columbia) on July 29, 1981 under the name of Tomahawk Resources Ltd. It subsequently changed its name to Sartis Medical Systems Canada Inc. on August 23, 1993 and further changed its name to United Sartis Enterprises Inc. on December 5, 1995 and then changed its name to Wellco Energy Services Inc. on February 11, 1999. On August 16, 2000, the Corporation continued into the Province of Alberta pursuant to Articles of Continuance and on August 6, 2002 was amalgamated with Wellco Acquisition Inc.;
- 4.11 The head and principal offices of the Corporation are located at 3100, 500-4th Avenue, S.W., Calgary, Alberta T2P 2V7;
- 4.12 The Corporation's primary services to the oil and gas industry include directional and horizontal drilling, wellsite accommodation units rentals, drilling fluids and environmental services, rental of flare tanks and portable water and wastewater treatment facilities;

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- 4.13 The authorized capital of the Corporation presently consists of 50,000,000 Common shares, 50,000,000 Class "A" Preferred shares, 1,300,000 Series A Shares and an unlimited number of Series B Shares. Prior to closing of the Acquisitions, the Corporation will create the Exchangeable Shares;
- 4.14 As of the date hereof, the issued and outstanding capital of the Corporation is (a) ten common voting shares held by the Trust; and (b) 572,870 Series A Shares of which 70,534 of the Series A Shares are held by less than 10 shareholders who have the right to exchange these shares for Trust Units at the exchange ratio then in effect (current ratio is 1: 1.3036) and the remaining 502,336 Series A Shares are held by a related entity and are no longer able to be exchanged for Trust Units and may not be voted at any meeting of the holders of Trust Units; and (c) 377,500 Series B Shares held by two shareholders who have the right to exchange these shares for Trust Units at the exchange ratio then in effect (current ratio is 1: 1.0246);
- 4.15 The Corporation is a reporting issuer in the Provinces of Alberta, Saskatchewan, British Columbia and Ontario and has been for more than 12 months, the Corporation has filed all the information that it has been required to file as a reporting issuer in each of the Provinces of Alberta, Saskatchewan, British Columbia and Ontario and is not in default of the securities legislation in any of these jurisdictions;
- 4.16 Westcamp was continued pursuant to the *Business Corporation Act* (Alberta) on January 17, 1984;
- 4.17 The head and principal offices of Westcamp are located at 17221 106th Ave. N.W., Edmonton, Alberta T5S 1E7;
- 4.18 Westcamp is not a reporting issuer in any jurisdiction;
- 4.19 The Westcamp Vendors are residents of the Province of Alberta;
- 4.20 Badger was continued pursuant to the *Business Corporations Act* (Alberta) on June 22, 2000;
- 4.21 The head and principal offices of Badger are located at 9324 107th Avenue, Fort St. John, British Columbia, V1J 2P3;
- 4.22 Badger is not a reporting issuer in any jurisdiction;

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- 4.23 The Badger Vendors are residents of the Province of British Columbia;
- 4.24 Neither Westcamp nor the Westcamp Vendors are related to the Trust or the Corporation. Neither Badger nor the Badger Vendors are related to the Trust or the Corporation. Neither Westcamp nor the Westcamp Vendors are related to Badger or the Badger Vendors;
- 4.25 The Vendors have agreed to sell all of the issued and outstanding shares of Westcamp (the “Westcamp Shares”) and Badger (the “Badger Shares”) to the Corporation in consideration of the issuance by the Corporation to the Vendors of 504,000 Exchangeable Shares and 784,000 Notes which are exchangeable into Trust Units, subject to adjustment. Shortly after each closing date of purchase and sale of the Westcamp Shares and the Badger Shares, the Notes will be exchanged with the Trust for 784,000 Trust Units. It is possible that instead of the Corporation acquiring the Badger Shares held by Stan and Rachel Ross Holdings Ltd. the Corporation may acquire the shares of Stan and Rachel Ross Holdings Ltd. from its shareholders Roddy Ross and Maxine Ross, who are also residents of British Columbia, but the consideration of 384,000 Trust Units and 104,000 Exchangeable Shares for the Badger Shares will not change. If this occurs then those transactions will be considered part of the Acquisitions, the shares of Stan and Rachel Ross Holdings Ltd. will be considered part of the Badger Shares and Roddy Ross and Maxine Ross will be considered part of the Badger Vendors;
- 4.26 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;
- 4.27 The Exchangeable Shares are exchangeable by a holder thereof for Trust Units at any time at the option of such holder;
- 4.28 Under the terms of the Exchangeable Shares, the Trust or a subsidiary of the Trust other than the Corporation (an “ExchangeCo”) or the Corporation will be able to redeem, retract or acquire Exchangeable Shares in exchange for Trust Units in certain circumstances;
- 4.29 Prior to the closing of the Acquisitions, the Corporation, the Trust and Computershare Trust Company of Canada (the “Trustee”) will enter into a voting and exchange trust agreement (the “Voting and Exchange Trust Agreement”);

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- 4.30 Under the terms of the Voting Exchange Trust Agreement, upon the occurrence and during the continuance of certain events involving the bankruptcy, insolvency, dissolution or winding up of the Corporation, involuntarily or otherwise, a holder of Exchangeable Shares will be entitled to instruct the Trustee to exercise the rights granted by the Trust under the Voting and Exchange Trust Agreement with respect to any or all of the Exchangeable Shares held by such holder, thereby requiring the Trust or ExchangeCo, as the case may be, to purchase such Exchangeable Shares from the holders;
- 4.31 Upon the occurrence of certain events pertaining to the institution of voluntary liquidation, dissolution or winding-up proceedings in respect of the Trust or other distribution of the assets of the Trust for the purposes of winding up the affairs of the Trust or the threat or institution of proceedings with respect to the involuntary liquidation, dissolution or winding up of the Trust or to effect any other distribution of assets of the Trust for the purposes of winding up the affairs of the Trust, the Trust or ExchangeCo, as the case may be, will be deemed to have acquired each outstanding Exchangeable Share (other than Exchangeable Shares held by the Trust or its subsidiaries) and holders of Exchangeable Shares will be deemed to have exchanged the Exchangeable Shares held by them immediately prior to such Trust liquidation event;
- 4.32 The Trust will issue a special voting right ("Special Voting Right") to the Trustee which will effectively provide the holders of Exchangeable Shares with voting rights equivalent to those attached to the Trust Units. Pursuant to the Voting and Exchange Trust Agreement, the Special Voting Right will be held by the Trustee for the benefit of holders of Exchangeable Shares from time to time (other than the Trust and its subsidiaries) and each voting right attached thereto will be voted pursuant to the instructions of the holder of the related Exchangeable Shares to which the Special Voting Right pertains;
- 4.33 Prior to the closing of the Acquisitions, the Corporation and the Trust will enter into a support agreement (the "Support Agreement"). Under the Support Agreement, the Trust will agree that:
- 4.33.1 the Trust will take all actions and do all things necessary to ensure that the Corporation is able to pay to the holders of the Exchangeable Shares the liquidation amount in the event of a liquidation, dissolution or winding up of the Amalgamated Corporation, the retraction price in the event of the giving of a

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retraction request by a holder of Exchangeable Shares or the redemption price in the event of a redemption of Exchangeable Shares by the Corporation; and

- 4.33.2 the Trust will not vote or otherwise take any action or omit to take any action causing the liquidation, dissolution or winding up of the Corporation;
- 4.34 The steps under the Acquisitions, the terms of the Exchangeable Shares and the exercise of certain rights provided for in connection with the Exchangeable Shares involves or may involve a number of trades or potential trades of Exchangeable Shares, Notes, Trust Units and rights to acquire Trust Units under the Acquisitions (collectively, the “Acquisition Trades”);
- 4.35 Each of the Acquisition Trades, if effected, will be in connection with, incidental to or result from the Acquisitions;
- 4.36 There are no exemptions from the Registration and Prospectus Requirements available under the Legislation for certain of the Acquisition Trades;
- 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 of all of the Jurisdictions is that the Registration and Prospectus Requirements shall not apply to the Acquisition Trades provided that the first trade of Trust Units or Exchangeable Shares acquired by Vendors under this Decision, other than an Acquisition Trade, is deemed to be a distribution unless the applicable conditions in section 2.6 of MI 45-102 are satisfied.

DATED this 2nd day of February, 2004

Glenda A. Campbell, Q.C., Vice-Chair
Stephen R. Murison, Vice-Chair