

# 2006 BCSECCOM 357

May 12, 2006

## **Headnote**

Mutual Reliance Review System for Exemptive Relief Applications - Securities Act s. 114(2) Takeover Bids - Exemption from the formal take over bid requirements in Part 13 of the Act - Disclosure - Issuer needs relief from certain disclosure requirements for the takeover bid circular required by Item 15 of BC Form 62-902F - The issuer has announced a share exchange offer to acquire all outstanding shares of another company; the issuer previously acquired certain properties that constitute a significant acquisition for the issuer under the prospectus requirements; the issuer is therefore required to include in the circular audited financial statements for the acquired properties; under the test in section 8.3 of National Instrument 51-102, the previous acquisition would not constitute a significant acquisition for the issuer, so the issuer would not be required to file a business acquisition report or prepare the financial statements specified in section 8.5 of NI 51-102

## **Applicable British Columbia Provisions**

*Securities Act*, R.S.B.C. 1996, c. 418, s. 114(2), Item 15 of BC Form 62-902F

In the Matter of  
the Securities Legislation of  
British Columbia and Alberta  
(the Jurisdictions)

and

In the Matter of  
the Mutual Reliance Review System for Exemptive Relief Applications

and

In the Matter of  
Pearl Exploration and Production Ltd.  
(Pearl)

MRRS Decision Document

### **Background**

1. The local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions has received an application from Pearl for a decision under the securities legislation of the Jurisdictions (the Legislation) that Pearl be exempt from the requirement to include three years of audited financial statements in a take-over bid circular with respect to a significant acquisition completed in the current financial year of Pearl (the Requested Relief).
2. Under the Mutual Reliance Review System for Exemptive Relief Applications:
  - 2.1 the Alberta Securities Commission is the principal regulator for this application;
  - 2.2 this MRRS decision document evidences the decision of each Decision Maker.

### **Interpretation**

3. Defined terms contained in National Instrument 14-101 *Definitions* have the same meaning in this decision unless they are defined in this decision.

### **Representations**

4. This decision is based on the following facts represented by Pearl:
  - 4.1 Pearl was incorporated under the laws of Alberta and Pearl's head office is located in Calgary, Alberta.
  - 4.2 The common shares of Pearl are listed and posted for trading on the TSX Venture Exchange under the trading symbol PXX.
  - 4.3 Pearl is a reporting issuer in Alberta and British Columbia.
  - 4.4 To its knowledge, Pearl is not in default of any of its obligations as a reporting issuer pursuant to the applicable securities legislation in any of the provinces in which it is a reporting issuer.
  - 4.5 On January 23, 2006, Pearl acquired a one third membership interest in Rincon Energy Partners LLC (Rincon). Contemporaneously with this acquisition, Pearl acquired both the general partner and the sole limited partner of a limited partnership called Valkyries Texas Gas Ltd. (the Partnership). The purchase of the membership interest in Rincon

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together with the purchase of the general partner and sole limited partner of the Partnership are hereinafter referred to as the Acquisition.

- 4.6 On March 27, 2006, Pearl announced that it intends to make an Offer (the Offer) to acquire all of the outstanding shares of SignalEnergy Inc. (Signal). Full details of the Offer will be included in either a takeover bid circular or an information circular that is expected to be mailed to Signal shareholders on or about May 15, 2006 (the Circular).
- 4.7 In accordance with applicable regulatory requirements, the Circular will contain disclosure concerning the business and affairs of Pearl in accordance with the form of prospectus appropriate for Pearl, being Ontario Securities Commission Rule 41-501 (OSC Rule 41-501).
- 4.8 Because the Acquisition is a “significant acquisition” under OSC Rule 41-501, Pearl is required to include certain annual financial statement disclosure in the Circular in respect of the Acquisition, including audited annual financial statements for the three most recently completed financial years of Rincon and the Partnership (the Pearl Disclosure Requirements).
- 4.9 Pursuant to Canadian Securities Administrators (CSA) Staff Notice 42-303 (the Staff Notice), an issuer may submit an application to the provincial and territorial securities regulatory authorities requesting relief from certain requirements of the prospectus rules that are not consistent with National Instrument 51-102 *Continuous Disclosure Obligations* (NI 51-102).
- 4.10 Pursuant to the Staff Notice, the CSA have indicated that they are generally prepared to recommend that relief be granted from the significance tests for determining if a business acquisition is significant and the financial statements required to be included in a prospectus on the condition that the issuer applies the significance tests set out in section 8.3 of NI 51-102 and provides the financial statements specified in section 8.5 of NI 51-102.
- 4.11 The Acquisition is not significant within the meaning of that term pursuant to section 8.3 of NI 51-102. As a result, Pearl is not required to file a business acquisition report for the Acquisition or prepare the financial statements specified in section 8.5 of NI 51-102.

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### **Decision**

5. 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.
6. The decision of the Decision Makers under the Legislation is that the Requested Relief is granted.

Mavis Legg  
Manager, Corporate Finance  
Alberta Securities Commission