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March 31, 2008

Headnote

Mutual Reliance Review System for Exemptive Relief Applications

National Instrument 51-102 *Continuous Disclosure Obligations*, s. 13.1 – all continuous disclosure requirements - An issuer wants an exemption from having to file continuous disclosure documents to permit it to rely on the continuous disclosure documents of its parent issuer - The issuer is an exchangeable share issuer that complies with all of the conditions for continuous disclosure relief in section 13.3 of National Instrument 51-102 *Continuous Disclosure Obligations* except that its parent issuer is not a Canadian reporting or SEC issuer and it has issued securities other than those permitted in s. 13.3(2)(c) of NI 51-102; the parent issuer meets the definition of designated foreign issuer under NI 71-102; the issuer will comply with conditions that parallel those in section 13.3 of NI 51-102, except it will file its parent's documents that a designated foreign issuer is entitled to file under NI 71-102

Multilateral Instrument 52-109 *Certification of Disclosure in Issuers Annual and Interim Filings*, s.4.5 – certification requirements - An issuer wants relief from the requirements in Parts 2 and 3 of MI 52-109 to file annual and interim certificates - The issuer has applied for and received an exemption from filing interim and annual financial statements.

National Instrument 52-110 *Audit Committee Requirements* – audit committee requirements - An exchangeable share issuer wants an exemption from NI 52-110 *Audit Committees* - The issuer is an exchangeable share issuer; the issuer is exempt from continuous disclosure requirements provided it files the continuous disclosure of its parent; the parent meets the definition of designated foreign issuer under NI 71-102

Securities Act, s. 91 – insider reporting requirements - An issuer wants relief from the requirement to file insider reports for its insiders - The issuer is an exchangeable security issuer that cannot rely on the exemption in National Instrument 51-102 *Continuous Disclosure Obligations* because it does not comply with all of the conditions for continuous disclosure relief in NI 51-102; as a result, its insiders cannot rely on the insider reporting exemptions in NI 51-102; the issuer has been granted discretionary relief from NI 51-102 requirements

National Instrument 55-102 *System for Electronic Disclosure by Insiders*, s.6.1 – issuer SEDI requirements - An issuer wants relief from the requirement to file an

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issuer profile supplement and an issuer event report - The issuer has applied for and received an exemption from the requirement to file insider reports for all of its insiders

National Instrument 58-101 *Disclosure of Corporate Governance Practices*, s.3.1 – corporate governance disclosure requirements - An exchangeable share issuer wants an exemption from NI 58-101 - The issuer is an exchangeable share issuer; the issuer is exempt from continuous disclosure requirements provided it files the continuous disclosure of its parent; the parent meets the definition of designated foreign issuer under NI 71-102

Applicable British Columbia Provisions

Securities Act, R.S.B.C. 1996, c. 418, ss. 85, 87, 87.1 and 91

Securities Rules, ss. 144 and 145

National Instrument 51-102, s. 13.1 and 13.3

Multilateral Instrument 52-109, s.4.5

National Instrument 52-110, s. 8.1

National Instrument 55-102, s. 6.1

National Instrument 58-101, s. 3.1

National Instrument 71-102, Part 5

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

and

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

and

In the Matter of
Heritage Oil Corporation
(the Filer)

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 the Filer for a

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decision under the securities legislation of each of the Jurisdictions (the Legislation) that:

- (a) the requirements contained in National Instrument 51-102 *Continuous Disclosure Obligations* (NI 51-102) shall not apply to the Filer;
- (b) the requirements contained in Multilateral Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (MI 52-109) shall not apply to the Filer;
- (c) the requirements contained in National Instrument 52-110 *Audit Committees* (NI 52-110) shall not apply to the Filer;
- (d) the requirements contained in the Legislation with respect to "insider reporting requirements", as defined in section 1.1 of National Instrument 14-101 *Definitions*, shall not apply to any insider of the Filer in respect of the Filer;
- (e) the requirements contained in National Instrument 55-102 *System for Electronic Disclosure by Insiders (SEDI)* shall not apply to any insider of the Filer in respect of the Filer; and
- (f) the requirements contained in National Instrument 58-101 *Disclosure of Corporate Governance Practices* (NI 58-101) shall not apply to the Filer,

in each case provided that certain conditions are satisfied (the Requested Relief).

2. Under the Mutual Reliance Review System for Exemptive Relief Applications:

- (a) the Alberta Securities Commission is the principal regulator for this application; and
- (b) 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 as therein ascribed unless they are defined in this decision.

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Representations

4. This decision is based on the following facts represented by the Filer:

- (a) The Filer is incorporated under the *Business Corporations Act* (Alberta) (the ABCA), and has its head office and registered office located in Calgary, Alberta.
- (b) The Filer is a reporting issuer in the Jurisdictions.
- (c) The authorized share capital of the Filer consists of an unlimited number of common shares (Heritage Shares), of which approximately 25,487,749 Heritage Shares are issued and outstanding as of the date hereof.
- (d) The Heritage Shares are listed on the Toronto Stock Exchange (the TSX). The Heritage Shares are also listed for trading on the Frankfurt Stock Exchange without the consent of the Filer.
- (e) The Filer has issued 8% Senior Unsecured Convertible Bonds (the Bonds), which are convertible into Heritage Shares in accordance with the terms of the Bonds.
- (f) The Filer is an oil and gas exploration and production company, whose business consists of the exploration for, and development, production and acquisition of, foreign petroleum and natural gas interests.
- (g) Substantially all of the assets and all of the operating assets of the Filer are located outside of Canada.
- (h) The Chief Executive Officer and Chief Financial Officer of the Filer currently reside in Switzerland.
- (i) The Filer is contemplating a reorganization (the Reorganization) by way of a plan of arrangement under the ABCA that would effectively re-domicile the Filer from Alberta to Jersey, Channel Islands.
- (j) Pursuant to the Reorganization, Heritage Oil Limited, a Jersey, Channel Islands corporation (Heritage Jersey) will ultimately become the indirect holder of all of the Heritage Shares, and the Filer will create a new class of exchangeable shares (Exchangeable

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Shares). The Reorganization will not result in a substantive change in the underlying business of the Filer.

- (k) The Reorganization will include a share for share exchange pursuant to which holders of Heritage Shares who are non-residents of Canada for purposes of the *Income Tax Act* (Canada) will exchange their shares for ordinary shares of Heritage Jersey (Heritage Jersey Shares).
- (l) Holders of Heritage Shares who are residents of Canada for purposes of the *Income Tax Act* (Canada) will have the choice of exchanging their Heritage Shares for either Exchangeable Shares or Heritage Jersey Shares.
- (m) Upon the entering into of a voting and exchange trust agreement and a support agreement among the Filer, Heritage Jersey and certain of their affiliates, the Exchangeable Shares will provide holders of such shares with, as nearly as practicable, the same rights, privileges and restrictions as the holders of the Heritage Jersey Shares, and in addition, will provide the holders the right to exchange their Exchangeable Shares for Heritage Jersey Shares on a one for one basis.
- (n) The Exchangeable Share structure is being implemented to provide a tax efficient way for the Filer's Canadian resident shareholders to participate in the Reorganization.
- (o) Immediately following the completion of the Reorganization, the terms and conditions of the Bonds will be amended so that such bonds will be convertible into Heritage Jersey Shares.
- (p) In connection with the Reorganization, application will be made to admit the Heritage Jersey Shares to trading on the main market of the London Stock Exchange (LSE), and following the completion of the listing on the LSE, Heritage Jersey will be subject to the securities legislation and regulatory requirements of the United Kingdom including those of the United Kingdom Listing Authority (UKLA) and the LSE listing rules (collectively, the UK Rules).
- (q) In connection with the Reorganization, the Filer has made an application to have the Exchangeable Shares listed on the TSX, and the Heritage Shares delisted from the TSX. The TSX has provided conditional approval for the listing of the Exchangeable Shares.

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- (r) Management believes that Heritage Jersey will be a “designated foreign issuer” within the meaning of National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers* (NI 71-102) after the completion of the Reorganization as Heritage Jersey will be a reporting issuer in the Jurisdictions and:
 - (i) will not have a class of securities registered under section 12 of the 1934 Act and will not be required to file reports under section 15(d) of the 1934 Act;
 - (ii) will be subject to the foreign disclosure requirements of the UK Rules; and
 - (iii) the total number of equity securities owned, directly or indirectly, by residents of Canada will not exceed 10 per cent, on a fully-diluted basis, of the total number of equity securities outstanding of Heritage Jersey, calculated in accordance with sections 1.2 and 1.3 of NI 71-102.
- (s) Following the completion of the Reorganization, the Filer will be a reporting issuer in the Jurisdictions. However, the Filer will not fall within section 13.3 of NI 51-102, which provides an exemption from the application of NI 51-102 for certain exchangeable security issuers.
- (t) The relevant provisions of subsection 13.3(2) of NI 51-102 state:
 - “(2) Except as provided in this subsection, an exchangeable security issuer satisfies the requirements in this Instrument if:
 - (c) the exchangeable security issuer does not issue any securities, and does not have any securities outstanding, other than
 - (i) designated exchangeable securities;
 - (ii) securities issued to and held by the parent issuer or an affiliate of the parent issuer;
 - (iii) debt securities issued to and held by banks, loan corporations, loan and investment corporations,

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savings companies, trust corporations, treasury branches, savings or credit unions, financial services cooperatives, insurance companies or other financial institutions; or

- (iv) securities issued under exemptions from the registration requirement and prospectus requirement in section 2.35 of National Instrument 45-106 *Prospectus and Registration Exemptions*;
- (u) With respect to subparagraph 13.3(2)(c)(i), while the Bonds will be amended to be convertible into Heritage Jersey Shares, such bonds will not give the holder voting rights in Heritage Jersey and thus fall outside of the definition of 'designated exchangeable securities'.
- (v) With respect to subparagraph 13.3(2)(c)(ii), the Bonds will not be held by Heritage Jersey or an affiliate thereof.
- (w) With respect to subparagraph 13.3(2)(c)(iii), the Bonds will not be exclusively held by the types of institutions listed therein.
- (x) With respect to subparagraph 13.3(2)(c)(iv), the Bonds were not issued pursuant to the exemption in section 2.35 of National Instrument 45-106 *Prospectus and Registration Exemptions* (NI 45-106).
- (y) In addition, the Filer will not be eligible for relief from MI 52-109 pursuant to section 4.3, from NI 52-110 pursuant to section 1.2(f), or from NI 58-101 pursuant to section 1.3(c) because each of those sections specifically refer to section 13.3 of NI 51-102 as the applicable test.
- (z) Other than the Bonds, the Filer has not issued and will not issue any securities other than those referred to in Subsection 13.3(2)(c) of NI 51-102.

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.

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6. The decision of the Decision Makers under the Legislation is that the Requested Relief is granted provided that the following conditions are met:
- (a) Heritage Jersey is the direct or indirect beneficial owner of all of the issued and outstanding voting securities of the Filer;
 - (b) Heritage Jersey is a designated foreign issuer (as that term is defined in NI 71-102);
 - (c) the Filer does not issue any securities other than:
 - (i) Exchangeable Shares;
 - (ii) securities issued to, and held by, Heritage Jersey or an affiliate of Heritage Jersey;
 - (iii) debt securities issued to and held by banks, loan corporations, loan and investment corporations, savings companies, trust corporations, treasury branches, savings or credit unions, financial services cooperatives, insurance companies or other financial institutions; or
 - (iv) securities issued under exemptions from the registration requirement and prospectus requirement in section 2.35 of NI 45-106.
 - (d) the Filer files on SEDAR copies of all documents that Heritage Jersey is required to file with the LSE and UKLA at the same time as, or as soon as practicable after, the filing by Heritage Jersey of those documents with the LSE or UKLA;
 - (e) the Filer concurrently sends to all registered and beneficial holders of Exchangeable Shares, as well as all registered and beneficial holders of Bonds, all disclosure materials that are sent to the holders of Heritage Jersey Shares, in the manner and at the time required by the UK Rules and the requirements of the LSE and UKLA;
 - (f) Heritage Jersey complies with the UK Rules and the requirements of the LSE and UKLA in respect of making public disclosure of material information on a timely basis, and immediately issues in Canada and files on SEDAR any news release that discloses a material change in its affairs;

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- (g) the Filer complies with the requirements of the Legislation to issue a news release and file a material change report on SEDAR in accordance with Part 7 of NI 51-102 for all material changes in respect of the Filer's affairs that are not also material changes in Heritage Jersey's affairs;
- (h) Heritage Jersey includes in all mailings of proxy solicitation materials to registered and beneficial holders of Exchangeable Shares a clear and concise statement that:
 - (i) explains the reason the mailed material relates solely to Heritage Jersey;
 - (ii) indicates that the Exchangeable Shares are the economic equivalent to Heritage Jersey Shares; and
 - (ii) describes the voting rights associated with the Exchangeable Shares;
- (i) no insider of the Filer receives, in the ordinary course, information as to material facts or material changes concerning Heritage Jersey before the material facts or material changes are generally disclosed; and
- (j) no insider of the Filer is an insider of Heritage Jersey in any capacity other than by virtue of being an insider of the Filer.

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Alberta Securities Commission