

## **2004 BCSECCOM 628**

### **Headnote**

Mutual Reliance Review System for Exemptive Relief Applications - National Instrument 51-102, s. 13.1 - Continuous Disclosure Obligations - An issuer wants relief from the requirement to include prospectus-level disclosure in an information circular to be circulated in connection with an arrangement, reorganization or acquisition. - Alternate financial information will be provided about the issuer that is consistent with the financial information required in the continuous disclosure context for significant acquisitions; information will be provided about the parties to the transaction sufficient for shareholders to assess the transaction as a whole.

### **Applicable British Columbia Provisions**

National Instrument 51-102 *Continuous Disclosure Obligations*, s. 13.1

**IN THE MATTER OF THE SECURITIES LEGISLATION OF ALBERTA,  
BRITISH COLUMBIA, SASKATCHEWAN & ONTARIO  
(THE JURISDICTIONS)**

**AND**

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

**AND**

**IN THE MATTER OF BUFFALO OIL COMPANY LIMITED  
(THE FILER)**

### **MRRS DECISION DOCUMENT**

### **Background**

The local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) for relief from the requirement to include in a joint information circular and proxy statement (the Information Circular) of the Filer and Fogo Resources Inc. (Fogo) with respect to a proposed amalgamation of Fogo and a wholly-owned subsidiary of the Filer (the Amalgamation), certain financial statements and information regarding Judelle Resources Inc. (Judelle).

Under the Mutual Reliance Review System for Exemptive Relief Applications  
(a) the Alberta Securities Commission is the principal regulator for this application, and

## 2004 BCSECCOM 628

(b) this MRRS decision document evidences the decision of each Decision Maker.

### **Interpretation**

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

### **Representations**

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

1. Through a series of steps occurring in connection with the Amalgamation (a) Fogo and a wholly-owned subsidiary of the Filer (Newco) will complete an amalgamation, therefore creating an amalgamated corporation (Amalco), (b) the Filer will issue 5.3 class A shares of the Filer (the Buffalo Shares) in exchange for each Fogo common share (the Fogo Shares) held by Fogo shareholders, and (c) the Filer will receive one Amalco share in exchange for each Newco share held by the Filer. As a result, Amalco will become a wholly-owned subsidiary of the Filer and each Fogo shareholder will cease to be a holder of Fogo Shares and will become a holder of Buffalo Shares.
2. The Amalgamation qualifies as a reverse takeover under TSX Venture Exchange (TSXV) Policy 5.2.
3. Following the completion of the Amalgamation, former holders of Fogo Shares will own approximately 83% of the outstanding Buffalo Shares.
4. A meeting of the Filer's shareholders to vote on the Amalgamation will be held on or about November 30, 2004 (the Meeting) and it is anticipated that, subject to receiving the required approval at the Meeting, the Amalgamation will be made effective on or about November 30, 2004.
5. The Information Circular in respect of the Amalgamation will be mailed by the Filer to its shareholders on or about October 30, 2004.
6. The Filer amalgamated with The Combined Larder Mines, Limited (Mines Reunies Larder Ltee.) in August of 1993 and was continued from Saskatchewan into Alberta in June of 2004. The head and principal office of the Filer is located at 211, 7710 – 5th Street S.E., Calgary, Alberta, T2H 2L9 and the registered office is located at Suite 3300, 421 - 7th Ave S.W., Calgary, Alberta, T2P 4K9.
7. The Filer is engaged in the acquisition, exploration, development and production of oil and gas from properties located in south east Saskatchewan.

## 2004 BCSECCOM 628

8. The authorized capital of the Filer at the date hereof consists of an unlimited number of Buffalo Shares of which 7,546,875 Buffalo Shares are issued and outstanding. The Filer also has 640,000 issued and outstanding options which are convertible into Buffalo Shares.
9. The Buffalo Shares are listed and posted for trading on the TSXV under the symbol "BOC".
10. The Filer is a reporting issuer in the provinces of British Columbia, Alberta, Saskatchewan and Ontario. The Filer has filed all the information that it has been required to file as a reporting issuer in each of the Jurisdictions and is not in default of the Legislation.
11. Trading of the Buffalo Shares was halted on August 19, 2004, on which date the closing price was \$0.35.
12. The Filer's financial year end is December 31.
13. Fogo was incorporated on January 31, 2002 under the *Business Corporations Act* (Alberta) (the ABCA) and completed an amalgamation with Judelle on January 1, 2004. Fogo's principal and head office is located at 211, 7710 – 5th Street S.E., Calgary, Alberta, T2H 2L9 and its registered office is located at Suite 3300, 421 – 7th Avenue S.W., Calgary, Alberta, T2P 4K9.
14. Fogo is engaged in the acquisition, exploration, development and production of petroleum and natural gas in western Canada.
15. Fogo is a privately held corporation, is not a reporting issuer in any jurisdiction and its securities are not listed on any stock exchange.
16. The acquisition of Judelle by Fogo constitutes a "significant acquisition" at the 50% or greater significance level pursuant to Section 6.6(3) of the Ontario Securities Commission Rule 41-501 – General Prospectus Requirements (Rule 41-501).
17. Newco will be a wholly-owned subsidiary of the Filer formed under the ABCA solely for the purpose of the Amalgamation.
18. Judelle was incorporated under the ABCA on January 13, 1995. On May 31, 2003, Fogo acquired all of the issued and outstanding Judelle shares. Judelle and Fogo subsequently amalgamated on January 1, 2004.
19. Judelle was not a reporting issuer in any jurisdiction.

## 2004 BCSECCOM 628

20. The Filer seeks relief from the financial statement requirements set out in Sections 6.2(1)1 and 6.2(1)2 of Rule 41-501 with respect to the acquisition of Judelle by Fogo.

### **Decision**

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.

The decision of the Decision Makers under the Legislation is that the requested relief is granted provided that the Filer include in the Information Circular:

1. Audited operating statements for Judelle for the financial years ended December 31, 2002, 2001 and 2000;
2. Unaudited operating statements of Judelle for the five-month periods ending May 31, 2003 and May 31, 2002;
3. That the operating statements be in compliance with alternative disclosure provided in Section 3.3 of the Companion Policy to Rule 41-501 (Rule 41-501CP); and
4. That the alternative disclosure specifically required in Section 3.3(2)(b)(i),(ii) and (iii) of Rule 41-501 CP be included.

DATED at Calgary, Alberta on this 28<sup>th</sup> day of October, 2004.

Agnes Lau, CA  
Deputy Director, Capital Markets