

ALBERTA SECURITIES COMMISSION

STAFF NOTICE 43-701, as amended September 30, 2003¹

Oil and Gas Reserves Estimates and Reports

This Notice should be read in light of National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities* ("NI 51-101") and the CSA Notice accompanying the publication of NI 51-101 on September 26, 2003.

This Notice sets out views of Commission staff concerning disclosure of estimated oil and gas reserves and related future net revenue or cash flow ("Reserves Estimates") and the preparation and filing of supporting technical reports.

1. Background

(a) Technical Reports

Under section 90 of the Commission Rules, a natural resource issuer that files a preliminary prospectus with the Commission is also required to file a report satisfactory to the Executive Director of the Commission.

For oil and gas issuers, the applicable report is an engineering and geological report (a "Report") prepared in accordance with National Policy Statement No. 2-B *Guide for Engineers and Geologist Submitting Oil and Gas Reports to Canadian Provincial Securities Administrators* ("NP 2-B").

Part 10 of National Instrument 44-101 *Short Form Prospectus Distributions* provides that an issuer that files a preliminary or final short form prospectus will be required to deliver or file a Report prepared in accordance with NP 2-B if requested by the securities regulator.

(b) Disclosure

NP 2-B sets out, in Appendix 2, Reserve Estimates information that is to be disclosed in a prospectus.

Disclosure concerning the business of an issuer must also be provided in disclosure documents relating to other transactions and offerings, including take-over bids and certain prospectus-exempt securities distributions.

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See "Amendment to ASC Staff Notice 43-701" made effective September 30, 2003.

2. Staff Position

(a) Disclosure of Reserves Estimates

(i) Reserves Estimates are Material

Staff are of the view that Reserves Estimates will, in almost all cases, be material information whenever investors are, in substance, asked by an issuer to make a decision concerning an investment in securities of an oil and gas issuer. Staff therefore consider Reserves Estimates an important part of corporate disclosure documents, including prospectuses, offering memoranda, information circulars for plans of arrangement or other reorganizations and take-over bid circulars or directors' circulars ("Disclosure Documents") concerning oil and gas issuers.

(ii) Disclosure Expected

Staff expect Disclosure Documents concerning oil and gas issuers to include disclosure of Reserves Estimates in accordance with Appendix 2 to NP 2-B.

To ensure that Reserves Estimates disclosure is reasonably current, staff expect it to be presented as of a disclosed effective date that should generally not be earlier than the most recent financial year-end of the issuer (or, in the case of a reverse take-over, the most recent financial year-end of the accounting parent, determined in accordance with the Handbook²). If events subsequent to that effective date would have a material effect on the Reserves Estimates, staff expect the Disclosure Document to include disclosure of those events and their effect on the Reserves Estimates.

It is not necessary that a full Report be included in a Disclosure Document. Reserves Estimates presented in a Disclosure Document must, however, be supported by a Report with the same effective date as the effective date of the disclosed Reserves Estimates.

(b) Independent Reports

NP 2-B states, at paragraph 6, that a Report " ... shall be prepared only by a registered professional engineer or a registered professional geologist who is independent of the issuer or any associate or affiliate of the issuer".

Paragraph 6 of NP 2-B also comments that ". . . in-house reports may be accepted at the discretion of the [Executive] Director of the Securities Commission, but only from large well established issuers". Discretion to accept in-house Reports will be considered on a case-by-case basis, and will not necessarily be extended in all cases to large well established issuers.

The term "large well established issuer" is not defined. Staff consider that the term refers to an issuer that satisfies all of the following:

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The Handbook of the Canadian Institute of Chartered Accountants.

- (i) it has produced in excess of 100 000 BOE (barrels of oil equivalent, determined on the basis of 6 000 cubic feet of gas being equivalent to one barrel of oil) in each of its three most recently completed financial years;
- (ii) it has sufficient appropriately qualified reserves evaluation staff to prepare Reports in accordance with acceptable professional standards; and
- (iii) it applies controls, including review and approval procedures, to ensure that its Reports meet acceptable professional standards.

Even for such large well established issuers, staff generally expect some independent professional involvement in Reports. In the case of an initial public offering or a reverse take-over in which the issuer or the accounting parent³ is a large well established issuer and was previously a private company, staff will expect a high degree of independent involvement. In those cases, staff will expect Reserves Estimates to be supported by a Report, in all other respects prepared in accordance with NP 2-B, of an independent professional engineer or geologist who has:

- evaluated a substantial majority (at least 75%, measured using the constant price and cost case discounted at 10%) of the Reserves Estimates; and
- reviewed the balance of the Reserves Estimates.

Staff encourage issuers and their advisers to meet with them to discuss the degree and nature of independent involvement appropriate to the issuer's circumstances.

3. Oil and Gas Taskforce

The Commission has established an Oil and Gas Taskforce (the "Taskforce") which will make recommendations to the Commission concerning oil and gas disclosure. The recommendations of the Taskforce are likely to include changes to, or the replacement of, NP 2-B. Until such time as the Taskforce completes its work and the Canadian Securities Administrators respond to Taskforce recommendations, this Notice will continue to represent the views and practice of Commission staff.

December 1, 2000.

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Determined in accordance with the Handbook.