

Headnote

MI 11-102 and NP 11-203- Less than 10% of issuer's shareholders are resident Canadians- issuer exempted from NI 51-101 on condition that it file its US oil and gas disclosure- issuer exempted from NI 51-102, NI 54-101, certain insider reporting requirements and certain requirements in respect of early warning requirements and acquisition announcement provisions on the condition that it comply with NI 71-102 as though it were an SEC foreign issuer thereunder - issuer exempted from NI 58-101 on the condition that it file its US corporate governance filings.

Applicable Legislative Provisions

National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities*

National Instrument 51-102 *Continuous Disclosure Obligations*

National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer*

National Instrument 55-102 *System for Electronic Disclosure by Insiders (SEDI)*

National Instrument 55-104 *Insider reporting requirements and exemptions*

National Instrument 58-101 *Disclosure of Corporate Governance Practices*

National Instrument 62-103 *The Early Warning System and Related Take-Over Bid and Insider Reporting Issue*

Citation: Gastar Exploration Ltd., Re, 2011 ABASC 624

Date: 20111215

In the Matter of
the Securities Legislation of
Alberta and Ontario (the **Jurisdictions**)

and

In the Matter of
the Process for Exemptive Relief Applications in Multiple Jurisdictions

and

In the Matter of
Gastar Exploration Ltd. (the **Filer**)

Decision

Background

The securities regulatory authority or regulator in each of the Jurisdictions (the **Decision Maker**) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the **Legislation**) that, subject to certain conditions:

- (a) the Filer be exempted from the requirements of:

- (i) National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities* (**NI 51-101**) (the **Oil and Gas Relief**);
 - (ii) National Instrument 51-102 *Continuous Disclosure Obligations* (the **Continuous Disclosure Relief**);
 - (iii) National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer* (the **Communication Relief**); and
 - (iv) National Instrument 58-101 *Disclosure of Corporate Governance Practices* (the **Corporate Governance Relief**);
- (b) the insider reporting requirement does not apply to an insider of the Filer (the **Insider Reporting Relief**); and
 - (c) an acquiror (as such term is defined in Multilateral Instrument 62-104 *Take-Over Bids and Issuer Bids*) is exempt from the early warning requirements and acquisition announcement provisions (as such terms are defined in National Instrument 62-103 *The Early Warning System and Related Take-Over Bid and Insider Reporting Issues*) in respect of securities of the Filer (the **Early Warning Relief**);

(collectively, the **Exemption Sought**).

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions (for a dual application):

- (a) the Alberta Securities Commission is the principal regulator for this Application;
- (b) the Filer has provided notice that subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in British Columbia and Manitoba; and
- (c) this decision is the decision of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

Interpretation

Terms defined in National Instrument 14-101 *Definitions* or MI 11-102 have the same meaning if used in this decision, unless otherwise defined herein.

Representations

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

1. The Filer is a corporation amalgamated and subsisting under the *Business Corporations Act* (Alberta) (**ABCA**).

2. The Filer is an independent oil and gas company engaged in the development, production, operation, exploration and acquisition of oil and gas properties. The Filer's operations are primarily in the United States.
3. The Filer is a reporting issuer or the equivalent in British Columbia, Alberta, Manitoba and Ontario and is not (to its knowledge), in default of its obligations as a reporting issuer under the securities legislation of any of the jurisdictions in which it is a reporting issuer or the equivalent.
4. The issued and outstanding capital stock of the Filer consists of common shares (**Common Shares**). The Common Shares of the Filer are listed and posted for trading on the NYSE Amex under the symbol "GST", and no securities of the Filer are traded on any marketplace (as such term is defined in National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers (NI 71-102)*) in Canada.
5. The Common Shares are registered under section 12 of the 1934 Act and the Filer has filed with the SEC all filings required to be made with the SEC.
6. According to the records of: (i) Broadridge Financial Services, Inc. (**Broadridge**), as at June 10, 2011; and (ii) American Stock Transfer & Trust Company, LLC (**AST**), the registrar and transfer agent for the Common Shares, as at July 7, 2011:
 - (a) the Filer had 604 beneficial shareholders resident in Canada (**Beneficial Canadian Shareholders**) representing approximately 4.99% of the aggregate number of beneficial shareholders of the Filer; and
 - (b) such Beneficial Canadian Shareholders held 584,663 Common Shares representing approximately 0.90% of the issued and outstanding Common Shares.
7. According to the records of AST, as at July 7, 2011:
 - (a) the Filer had 10 registered shareholders resident in Canada (**Registered Canadian Shareholders**) representing approximately 7.93% of the aggregate number of registered shareholders of the Filer; and
 - (b) such Registered Canadian Shareholders held 50,191 Common Shares representing approximately 0.07% of the issued and outstanding Common Shares.
8. According to the records of Broadridge and AST, approximately 0.97% of the outstanding Common Shares are held, directly or indirectly, by Beneficial Canadian Shareholders and Registered Canadian Shareholders (collectively, **Canadian Shareholders**), and approximately 5.02% of the Filer's registered and beneficial shareholders are Canadian Shareholders.

9. The business of the Filer is administered principally from the United States.
10. The Filer's head and executive offices are located in the United States.
11. A majority of the directors of the Filer are residents of the United States. The Filer has maintained directors resident in Alberta, and has maintained a registered office in Alberta, for the sole purpose of satisfying the director residency requirements and the records requirements, respectively, of the ABCA.
12. All of the executive officers of the Filer are resident in the United States.
13. Less than 1% of the Filer's consolidated assets are located in Canada. The only operations of the Filer conducted in Canada are with respect to the Filer's non-operated working interests in two gas wells located in Alberta.
14. Had the Filer been incorporated or organized under the laws of a foreign jurisdiction, it would be an SEC foreign issuer within the meaning of NI 71-102.

Decision

Each of the Decision Makers is satisfied that the decision meets the test set out in the Legislation for the Decision Makers to make the decision.

The decision of the Decision Makers under the Legislation with respect to the Exemption Sought is that:

- (a) the Oil and Gas Relief is granted for so long as:
 - (i) less than 10% of the number of registered and beneficial holders of Common Shares are residents of Canada;
 - (ii) less than 10% of the outstanding Common Shares are held, directly or indirectly, by residents of Canada;
 - (iii) residents of Canada do not comprise more than 10% of the aggregate number of registered and beneficial holders of any new class or series of securities issued by the Filer;
 - (iv) residents of Canada do not hold, directly or indirectly, more than 10% of the outstanding number of any new class or series of securities issued by the Filer;
 - (v) the Filer is not a foreign private issuer (as such term is defined under U.S. federal securities law);

- (vi) the Filer is subject to and complies with the disclosure requirements of the 1933 Act, the 1934 Act and the rules and regulations of the SEC and the NYSE Amex (collectively, the **US Oil and Gas Rules**) in connection with its oil and gas activities;
 - (vii) the Filer files with the Decision Makers through SEDAR its disclosure (or documents containing disclosure) about its oil and gas activities prepared in accordance with the US Oil and Gas Rules as soon as practicable after such disclosure (or documents containing such disclosure) is filed pursuant to the US Oil and Gas Rules; and
 - (viii) the Filer issues in Canada and files with the Decision Makers a news release stating that it will provide disclosure in respect of its oil and gas activities in accordance with the US Oil and Gas Rules rather than in accordance with NI 51-101;
- (b) the Continuous Disclosure Relief and the Communication Relief is granted for so long as:
- (i) the conditions in paragraphs (a)(i) through (a)(v) of this Decision continue to be satisfied;
 - (ii) the Filer complies with the conditions of the Corporate Governance Relief; and
 - (iii) the Filer complies with NI 71-102 as if it were an SEC foreign issuer thereunder;
- (c) the Corporate Governance Relief is granted for so long as:
- (i) the conditions in paragraphs (a)(i) through (a)(v) of this Decision continue to be satisfied;
 - (ii) the Filer complies with the conditions of the Continuous Disclosure Relief and the Communication Relief;
 - (iii) the Filer complies with the disclosure and other requirements of the 1933 Act, the 1934 Act and the rules and regulations of the SEC and the NYSE Amex relating to corporate governance matters (collectively, the **US Corporate Governance Rules**); and
 - (iv) the Filer files with the Decision Makers through SEDAR any disclosure (or documents containing disclosure), document or instrument pertaining to its corporate governance practices that are required to be disclosed, filed or otherwise made publicly available under the US Corporate Governance

Rules, as soon as practicable after such disclosure (or documents containing such disclosure), document or instrument is filed or otherwise made publicly available pursuant to the US Corporate Governance Rules;

- (d) the Insider Reporting Relief is granted in respect of each insider for so long as:
 - (i) the conditions in paragraphs (a)(i) through (a)(v) of this Decision continue to be satisfied; and
 - (ii) the particular insider complies with section 4.12 of NI 71-102 as if the Filer were an SEC foreign issuer thereunder; and
- (e) the Early Warning Relief is granted in respect of each acquiror for so long as:
 - (i) the conditions in paragraphs (a)(i) through (a)(v) of this Decision continue to be satisfied; and
 - (ii) the particular acquiror complies with section 4.11 of NI 71-102 as if the Filer were an SEC foreign issuer thereunder.

For the Commission:

“original signed by”

 Glenda Campbell, QC
 Vice-Chair

“original signed by”

 Stephen Murison
 Vice-Chair