

FINAL REPORT

Freehold Oil and Gas Issues: Stakeholder Consultation

MAY 6, 2009

**Prepared by
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Director**

SMS
STRATEGIC VALUE SERVICES

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1. Introduction

In May 2006, the Multi-Stakeholder Advisory Committee (MAC) released its final report with a number of recommendations dealing with responsible development of Coalbed Methane (CBM) on Crown lands. A number of issues dealing with CBM development on freehold lands were raised during MAC's deliberations. These were considered out of scope. However, MAC, in its final report, recommended the following:

Recommendation 6.2.2: The Alberta Government should set up a process to facilitate parties coming together to work toward resolution of split-title ownership issues.

The Department of Energy (DOE) contracted the services of SVS Strategic Value Services to manage and facilitate a stakeholder consultation process to develop consensus-based recommendations in respect of the above MAC recommendation and the following three other concerns raised by the Freehold Owners Association (FHOA):

- Levelling the playing field¹ between Crown and freehold mineral development by clarifying differences, identifying potential amendments to freehold leases, if required, and discussing potential processes to educate individual owners on such amendments (if required);
- Identifying methods to reduce the fractionization² of freehold mineral titles; and
- Considering the feasibility of developing a method of area-based unitization³ for freehold mineral rights that is acceptable to all stakeholders.

The leadership for the Project was provided by Mr. Len Webber, MLA and Parliamentary Assistant to the Minister of Energy.

¹ Levelling the playing field" refers to the Freehold Owners Association's desire that the freehold owners be provided relevant information and education so that they have equivalent information as corporate owners of freehold mineral rights and thereby allow freehold owners to make informed decisions about negotiating amendments to their lease agreements so that terms can be similar to crown agreements and facilitate CBM development on freehold property.

² Fractionization of freehold title has become more prevalent as mineral rights are passed down from generation to generation. It was suggested that fractionization increases industry's cost of doing business on the parcel of land and results in destroying the value of the freeholder's property.

³ Unitization refers to parties with working interests or royalty interests in oil and gas reservoirs combining their agreements into a unit. It was suggested that unitization will achieve a more efficient and cost effective operation, address concerns with the location of surface facilities, and address concerns of freehold owners regarding drainage from CBM wells on offsetting Crown lands. It was also suggested to consider implementing forced unitization.

This report includes:

- Section 2: Timeline and Process for Developing Consensus-Based Recommendations
- Section 3: Summary of Individual Stakeholder Feedback
- Section 4: Group Session Consultation – Consensus-Based Recommendations
- Section 5: Conclusions

2. Process for Developing Consensus-Based Recommendations

A number of steps were taken prior to facilitating a group session attended by stakeholders. The steps include:

- **Materials Reviewed:** We reviewed relevant materials to develop a good understanding of issues. Appendix I provides a list of the materials.
- **Meetings with Individual Stakeholders:** We prepared an Interview Guide which was sent to the stakeholders prior to the meeting. Appendix II provides the Interview Guide.

We met the stakeholders at their offices except for one which was done via telephone. Appendix III provides the list of stakeholders interviewed.

- **Facilitation of Group Session:** The session dealt with four issues. Appendix IV provides the Agenda for the session. Appendix V provides a list of the participants who attended the group session. In preparation for the session, the summary of individual stakeholder feedback was sent to the participants.

3. Summary of Individual Stakeholder Feedback

Following is a summary of the comments received from stakeholders.

- **Issue # 1: Split title ownership: Uncertainty of ownership of CBM in a split title situation.**
 - ▲ Implications:
 - Uncertainty of ownership of CBM deters its development on freehold split-title areas.
 - Fiscal terms of CBM development currently being negotiated on freehold lands are onerous, which make its development less attractive.
 - Dealing with private property rights.
 - ▲ Options Suggested by Stakeholders:
 - Legislation on clarifying ownership of CBM in freehold lands.
 - Negotiations among directly affected parties.
 - Education of freehold owners on CBM ownership issues and its development.
 - Allow current court cases to determine appropriate ownership.
- **Issue # 2: Leveling the playing field: Royalty terms⁴ in freehold leases, whose lessors are other than large corporations, need to be amended in order to have level playing field between Crown and freehold.**
 - ▲ Implications:
 - Freehold lands are not as attractive as Crown lands for CBM development because royalties on crown properties are typically lower than current freehold agreements.
 - Possible amendments to existing freehold leases or new terms for future leases.

⁴ Unlike Crown, these are not sensitive to low production.

▲ Options Suggested by Stakeholders:

- Education of freehold owners on royalty concepts and possible form for amending freehold leases or to be better informed in establishing new freehold lease terms.

■ **Issue # 3: Fractionalization of freehold titles.**

▲ Implications:

- High cost of identifying and getting approval will increase if fractionalization remains unchecked (i.e., dealing with numerous parties).
- High cost makes freehold lands unattractive for high cost CBM development.

▲ Options Suggested by Stakeholders:

- Education of freehold owners on estate planning.
- *Land Titles Act*, restricting number of title holders.

■ **Issue # 4: Forced area-based unitization of lands that contain CBM.**

▲ Implications:

- CBM development in freehold lands may be uneconomic due to current checkerboard ownership.
- Drainage of CBM from freehold lands from development on surrounding Crown lands.
- Very complex and challenging to implement in an equitable manner and may not be possible until split-title ownership issues are resolved.

▲ Options Suggested by Stakeholders:

- Legislation – Amendments to the *Oil and Gas Conservation Act* to provide for forced area-based unitization.

■ Status quo until split-title ownership is resolved.

4. Group Session Consultation – Consensus-Based Recommendations

4.1 Objective

To develop consensus-based recommendations for the following issues:

- **Issue # 1: Split title ownership:** Uncertainty of ownership of coal bed methane (CBM) in a split title situation may be a barrier to CBM development on freehold lands.
- **Issue # 2: Leveling the playing field:** Royalty and other terms in freehold leases, whose lessors are other than large corporations, need to be amended in order to have level playing field between Crown and freehold lands.
- **Issue # 3: Fractionization of freehold titles:** Fractionization of freehold mineral titles may be a barrier to CBM development on freehold property.
- **Issue # 4: Forced area-based unitization of lands that contain CBM:** Consider the feasibility of forced unitization of freehold mineral rights to ensure orderly and equitable development of CBM.

4.2 Consensus-Based Recommendations Defined

It means the recommendations that can be supported by all participants.

4.3 Split Title

4.3.1 Split Title Defined

Split-title refers to a situation where different parties own the rights to different minerals under the ground on the same piece of land. For this consultation process the focus is on split-title situations for coal and natural gas, that is, the rights of coal and natural gas are owned by different parties. Therefore, the ownership of CBM is uncertain.

There are a number of split title situations, such as, Crown owns the coal rights in a tract and the natural gas rights in the tract are freehold owned, or vice versa; or where the natural gas rights and coal rights in the tract are owned by two different freehold owners.

On Crown lands, amendments to the legislation have been implemented to provide clarity on the administration of CBM, where the Crown owns both coal and natural gas rights, to clarify that petroleum and natural gas leases contain CBM rights; however, these changes do not apply to freehold mineral rights as they are private property and the titles need to be determined through the courts.

4.3.2 Group Discussion

- It was suggested by a couple of stakeholders that the large majority of wells drilled to date have been on Crown lands, where mines and minerals are leased or owned by large corporations. It was also suggested that lands owned by individuals and private corporations remain undeveloped or underdeveloped due to split-title ownership uncertainty.
- There was acknowledgement that in some parts of Alberta there is a checker board mix of ownership and different approaches may be required to ensure orderly and effective development of CBM.
- Other stakeholders suggested that many factors impact development decisions, including resource potential, economic conditions, price of natural gas, development costs, land access, proximity to infrastructure, and company development strategies. The split-title ownership issue is only one factor that may impact development. The influence or magnitude of this factor is unknown.
- The parties generally agreed that ambiguity of ownership is impacting CBM development in general.
- The parties noted the ERCB's decision to grant well licences to the holder of the PNG rights allows CBM development to proceed in some situations despite CBM ownership uncertainty.
- It was noted that some contractual agreements have been reached which allow CBM development on split-title lands, while the ownership uncertainty is being resolved in the courts. However, some believed that negotiated arrangements are

mostly used by large corporations. Extended time for negotiations and access to individual freehold owners residing out of province were cited as some of the reasons there may be less agreement in other areas.

- Freehold owners can be categorized into large corporations, individuals, and private companies. The uncertainty of CBM ownership adversely affects all mineral rights holders, but more significantly, the rights owned by individuals and private companies.
- Comingling of production of natural gas from conventional sandstone reservoirs with CBM may be appropriate to make the shallow development economic and to maximize conservation.
- Fiscal terms being negotiated for CBM development on freehold lands may be onerous in part because of the lack of understanding of the differences between conventional and non-conventional exploration and development.
- The administration of CBM has been clarified on Crown property, but not for freehold properties. As a result, this appears to encourage development on Crown property and may eventually result in drainage of adjacent freehold property.
- Individual freehold owners don't have sufficient knowledge about the "rules of capture", drainage, conditions why some land gets developed while other land does not, royalty rate differences, and perhaps others and, as a result, they are likely to perceive unfairness.
- Large companies may not understand individual freehold issues and the lack of communication and understanding may result in missed opportunities.

4.3.3 Options to Resolve the Issue

4.3.3.1 Legislation

The Government of Alberta to pass legislation to clarify the ownership issue.

The participants discussed the pros and cons for such an action by the Government.

- Pros discussed by the group include:
 - It may remove the uncertainty and spur the CBM development on freehold lands.
 - It may rectify the present situation where freehold undeveloped lands are being drained by the surrounding developed lands. However, some participants challenged that drainage of CBM is not significant in the short term.
 - A participant believed that the approach is not new; there has been a precedent in the case of ownership of sand and gravel rights. The Government of Alberta brought the Sand and Gravel Act, in 1951, to clarify that the rights to sand and gravel were to be owned by the surface rights owner, notwithstanding the rights under the mines and mineral title⁵.
 - Some parties do not equate the surface deposits of sand and gravel to subsurface mines and minerals including Natural Gas, Petroleum or CBM. The sand and gravel case dealt with the subsurface and surface owners' claims.

- Cons discussed by the group include:
 - Parties who lose mineral rights due to legislation may sue the Government due to the expropriation of private property and sue for compensation (overturning existing contracts). The uncertainties will likely persist as a result of additional court cases and appeals, causing further delays in determining ownership.
 - There was discussion about how people acquire coal and gas rights. Some participants believed that in many cases, these were held under separate title, while others did not. This, in turn, was discussed in the context of whether legislation could or could not handle what could be a number of combinations/permutations of CBM and gas titles.
 - Constitutionally may not be possible.

⁵ See Note 1.

- The legislation will benefit some but disadvantage others. For example, legislation could result in transferring mineral rights from one individual freehold owner to another individual freehold owner, or individual freehold owner to corporate freehold owner, or corporate freehold to individual freeholder, or Crown to freehold owners, or freehold to Crown.
- **No consensus on supporting this option.**

4.3.3.2 Negotiations

Companies seeking to develop on split-title lands can negotiate with the affected parties to mitigate the risk associated with uncertain ownership.

The participants discussed the pros and cons for such an action.

- Pros discussed by the group include:
 - This option is viable and currently successfully being used by a number of companies to address ownership uncertainty for CBM development; however, it is mostly being used between large corporations.
 - Many different forms or templates of agreements are being used to meet the needs of directly affected parties.
 - Negotiations can sometimes resolve issues more expediently than court cases, and results in win-win scenarios the outcome of which the parties themselves control.
- Cons discussed by the group include:
 - In order to effectively negotiate, one must be knowledgeable about a wide range of areas, such as fiscal terms, royalty, offset requirements, and differences between natural gas and CBM development. Individual freehold owners may lack the basic knowledge in this area.
 - Not all companies supported using negotiations to resolve split-title ownership issues.
- **No consensus supporting this option**

4.3.3.3 Court Cases

- Currently there are five court cases⁶ in progress to address split-title situations. Some parties consider these court cases cover the vast majority of issues impacting CBM development and expect that these cases could be resolved in the next 2 – 3 years.
- Instead of waiting for these cases to resolve, which one party believed may not address all of the issues, it was suggested that it might be better to proceed with a preliminary question of law as was done in the Anderson case.
- It was suggested that the approach in the Anderson case may have been effective as there were 54 plaintiffs and 48 defendants, and 21 legal actions.
- Others suggested that it would take much longer to organize as a preliminary question of law than the period for the resolution of the current court cases.
- Pros discussed by the group include:
 - There are existing mechanisms to deal with split-title issues (e.g. courts to address private property ownership and negotiated arrangements).
 - A number of court cases are currently underway, which should resolve the majority of CBM ownership concerns.
 - Once determined through appeals, industry will follow the decision and would not litigate each and every document, similar to Bory's and Anderson decisions.
 - It's up to each company to determine its own legal strategy.
 - Court cases should be resolved in the short-term (2-3 years), which will address the CBM ownership issue on freehold lands and on leases with freehold owners that exclude coal.
- Cons discussed by the group include:
 - Individual freehold owners do not have sufficient knowledge or resources

⁶ See note 2.

to litigate. Therefore, their specific concerns may not be represented at court cases that may establish precedents on ownership of CBM on freehold property.

- Some stakeholders believe that court cases will not provide as much clarity in split-title situation as passing legislation.
- Existing court cases may not address all specific issues and uncertainty on any outstanding issues may continue for many years.

- **No consensus supporting this option**

4.3.3.4 Education

- Individual freehold owners to receive education in the areas, including:
 - Royalty concepts, particularly price and production sensitive royalties;
 - Technical aspects of the development of CBM (including drainage); and
 - Lease terms.
- Companies to receive information on freehold issues from the perspective of individual freehold owners.
- It was suggested that CAPP could lead the initiative to educate its members about the issues facing freehold owners, and the initiative to educate freehold owners could be led by FHOA and include Government and CAPP in the planning stages.
- The group acknowledged that a discussion about audience, outcomes and a full list of topics were out of scope for this consultation process. Developing good will and trust on both sides (freehold minerals owners and developers) would be a good outcome. Some other topics suggested by stakeholders to be considered when developing an education initiative are the following:
 - include material about the ability to negotiate effectively and amend current leases.
 - consider that some components be targeted to group(s) or areas in the province.

- consider the audience and be inclusive when developing and implementing the initiative.
- Pros discussed by the group include:
 - Improved know-how on the part of individual freeholders will allow them to negotiate effectively and obtain better terms.
 - Better understanding between parties (freehold owners and companies) would help parties to identify and assess win-win situations.
 - FHOA and ERCB have provided some information sessions in the past and they have been very well received.
- Cons discussed by the group include:
 - Need support from industry, freeholder owners and government to be successful.
 - Will not immediately address split-title ownership issues.
- **The group reached consensus - Education was supported by all stakeholders. Education targeted to individual freehold owners, including:**
 - **Royalty concepts, particularly price and production sensitive royalties, competitive royalty on Crown versus freehold;**
 - **Technical issues involved in the development of CBM (including drainage); and**
 - **Lease terms (including renegotiations, administration, reporting, commingling, etc.).**
- **The group also saw education of individual freehold owners on economic and technical issues associated with shallow development and increased awareness by companies of individual freehold issues would prepare the parties for negotiation of appropriate terms in agreements for CBM development.**

4.3.4 Recommendations

- Focus on two-way information and education, and this may lead to improvement in negotiation.
- Develop an education initiative for individual freehold owners on CBM development.
- Provide a forum or information to support companies to better understand freehold concerns.
- Government and industry associations including CAPP and FHOA to support an education initiative.
- Do not legislate the ownership of CBM in split-title situations; wait for the results of the court cases and support improved negotiations through improved knowledge and understanding.

4.4 Leveling the Playing Field Between Crown and Freehold Lands

4.4.1 Group Discussion

- Much of the mineral rights on freehold land within the CBM fairway have already been leased, often with fixed royalty rates. They range from 12 1/2 percent in leases signed in the 1950s and 1960s to 17% or 18% in leases recently signed. Many of these negotiated rates reflected the conventional oil and gas development of the day. Whereas, the Crown royalties on low productivity CBM at low prices is around 5%. This makes freehold lands less attractive for CBM development.

Individual freehold owners must have knowledge about how CBM is developed, the associated costs, and sliding scale royalties to amend current leases with confidence.

- Over time, industry has signed a large variety of leases with freehold owners. Each lessor may have their own lease. Amending these leases would not be easy and will require all directly affected parties to agree to the modified terms.

- The individual freehold owners often do not trust large corporations and it is the biggest issue to renegotiating leases (i.e., “contract renovation”).
- A sliding scale royalty might provide some solutions when negotiating if it makes the terms of development more attractive.
- It would not be seen as fair by the individual freehold owner if he or she is asked to amend the royalty term only. It would be a win-win if other terms in a lease, beneficial to individual freehold owner, are also amended. For example, offset clause⁷ in the 1991 CAPL lease.
- Industry must also recognize the need to change its mindset towards the individual freehold owner. It should view the freehold owner as a partner. This will have a bottom line result, as companies would be able to drill on currently undeveloped freehold lands.
- CAPP representative at the session will request CAPP to support an education initiative for freehold owners dealing with CBM development and companies to make freehold owners as partners (a mindset change). This will facilitate not only development of CBM, but also development of other marginal resources.
- There was strong support by all participants for educating freehold owners.
- One concern with an education initiative was how to reach many freehold owners. For example, many freehold owners aren’t located in Alberta, but live instead in Scotland, United Kingdom, United States and other places.
- Someone observed that industry needs to enter into negotiations realizing that they are usually dealing with a freehold owner that is not a large corporation, which impacts how much that owner understands the business of the industry
- **The group reached consensus that education of individual freehold owners as a vehicle to address the issue.**

⁷ See Note 3.

4.4.2 Recommendations

- Government and industry associations including CAPP and FHOA should cooperate in the development of an educational initiative for individual freehold owners. The initiative should cover a range of topics including fiscal terms, costs for CBM development, and other related issues. (This recommendation is the same as the one made under the split title issue.)

4.5 The Fractionization of Freehold Titles

4.5.1 Group Discussion

- All participants agree that this is a serious issue, which significantly increases the cost of doing business. If it remains unchecked, the value of some freehold mineral rights will be significantly diminished.
- As an extreme example, one stakeholder mentioned that they have a lease which has 105 title holders on one section. Obtaining agreement with such a large number of title holders can be very expensive and very challenging.
- It was suggested that the \$1,600 exemption from the Freehold Mineral Tax per title may be encouraging fractionization of titles although other participants questioned whether the tax exemption was the driver for encouraging fractionization.
- Freehold owners are unaware of the various organization arrangements which could be used in estate planning, including setting up corporations.
- It was suggested that federal income tax law means that if a title is held through a corporation, any change that results in the market value assessment of the property is taxed at a 50% tax rate rather than at 100% if it's outside of a trust or a company.
- Many people may not be interested in setting up a trust or a company if it comes with high costs.
- Dealing with the inheritance of private property may be a highly emotional case.

- Saskatchewan allows only 4 persons per title; therefore, it was suggested that the Land Titles Act may be amended to restrict number of persons per title.
- **There was consensus to support the development of an educational initiative.**

4.5.2 Recommendations

- Develop a course on drawbacks of fractionization of freehold titles, including information on estate planning. The information should provide examples of various organizational arrangements which may be used in estate planning.
- The course may be web-based or a mode of delivery suitable for the audience.
- Alberta Energy should conduct a comprehensive review of the \$1,600 exemption policy.
- Conduct a review of the *Land Titles Act* to determine if it could be amended to restrict persons on the title, as was done in Saskatchewan.

4.6 Forced Area-Based Unitization of Lands that Contain CBM

4.6.1 Group Discussion

- CBM is in the early stage of development; everyone is at the learning stage.
- In unitization, there needs to be a good estimate of the value and potential of the resource, which is usually established by drilling and production. In the case of CBM, it is difficult to have a reasonable value.
- CBM is not homogenous. Reserves and production rates are variable within a township.
- As long as the split title issue remains unresolved, CBM zone(s) cannot be unitized.
- Forced unitization will be far less beneficial than the current approach to unitization through negotiations. Upon forced unitization, the Government will have all the powers and industry will lose flexibility to deal with complex issues.

- The focus of the proposition appears to be on one issue without consideration of the many other related issues, such as commingling of CBM with conventional natural gas from sands.
- Forced unitization may result in many unintended consequences for both industry and freehold owners.
- Some stakeholders viewed this as not a separate issue, but an inappropriate solution to address split-title and perceived lack of development on freehold lands.

4.6.2 Recommendations

- There was no consensus on this issue or ways to address it. Some supported the forced unitizations as they believed it would facilitate more development on individual freehold mineral rights. However, other participants were strongly opposed due to potential unintended consequences.
- This issue is not to be pursued at this time.

4.7 Notes

1. The situation deals with the case where Western Minerals, the registered owner in fee simple of all mines, minerals, petroleum, gas, coal and valuable stone in or under two quarter sections of land over which Gaumont and Brown were the owners of the surface rights. Western Minerals sued for a declaration that it was the registered and equitable owner. At trial level, Western Minerals won the Judgement.

Following the final notice of appeal by Gaumont and Brown, the Government of Alberta brought in, on April 7, 1951, the Sand and Gravel Act. It provided that as to all lands in the province, the owner of the surface of land is and shall be deemed at all times to have been the owner of and entitled to all sands and gravel on the surface of the land. The Appeal Court allowed the appeal and the Supreme Court of Canada dismissed the subsequent appeal*, with the result Gaumont and Brown were found to be the owners of the sand and gravel.

The Court of Appeal found the Sand and Gravel Act within the legislative jurisdiction of the province by virtue of Section 92(13) of the British North American Act (now the Constitution Act).

2. Court Cases

- EnCana has sued ARC, Devon and Quicksilver on lands where EnCana is a freeholder of all mines and minerals and leased Petroleum and/or Petroleum and Natural Gas to the parties but excluded coal from the leases.
- Conoco, Bears paw and Centria have sued EnCana, and ARC and Quicksilver have countersued EnCana over a large number of leases and title situations.
- CDP and EnCana have sued ARC, and ARC has countersued on land where CDP owns coal and EnCana as a freeholder of Natural Gas and Petroleum has leased Natural Gas to ARC and EnCana has leased CBM from CDP.

3. Clause 8 of the 1991 CAPL Petroleum and Natural Gas Lease provides for offset wells. It states:

If commercial production is obtained after the date of this lease from an offset well, then unless (i) a well has been or is being drilled on the spacing unit of the said lands laterally adjoining the spacing unit of the offset well and into the zone or formation from which commercial production is being obtained from the offset well, or (ii) all or part of the spacing unit of the said lands laterally adjoining the spacing unit ...

The clause does not provide protection from drainage from wells producing from diagonally offsetting sections. This gap has been rectified in the 1999 CAPL lease which provides for both laterally and diagonally offsetting spacing units.

* [1953] 1 S.C.R.: 345

5. Conclusion

As a result of acceptance of the Recommendation 6.2.2 of the MAC by the Government of Alberta, a stakeholder consultation process was established to address the split title ownership issue. The process also addressed the three other concerns raised by FHOA, namely:

- Levelling the playing field;
- Fractionization of freehold titles; and
- Forced Unitization.

Except for the forced unitization issue, the stakeholders were successful in developing consensus-based recommendations for the other three issues.

There was a common recommendation for the three issues: to provide education and information to individual freehold owners in the areas including CBM development, royalty systems and estate planning.

It will be a challenge to design and develop an education program for 50,000 freehold owners, of which about 50% live outside Alberta, to achieve the desired outcomes.

APPENDIX I

List of Materials Reviewed

APPENDIX I

List of Materials Reviewed

1. Coalbed Methane/Natural Gas in Coal, Final Report, Prepared by The CBM/NGC Multi-Stakeholder Advisory Committee, January 2006.
2. Freehold Mineral Rights Tax Act, R.S.A. 2000, C.F-26.
3. Freehold Mineral Rights Tax Regulations, Alta. Reg. 12/1984.
4. Petroleum and Natural Gas Lease, C.A.P.L. 91, Alta.
5. Petroleum and Natural Gas Lease, C.A.P.L. 99, Alta.
6. Freehold Owners Association Publications:
 - Understanding Your Lease Agreement
 - CAPL 99 Suggested Modifications
 - The Oil Company Lessee/Freehold Owner – Lessor Relationship
 - Conflicts between Oil Company– Lessees and Owner-Lessors
 - 1990’s – The Ownership Trail.
7. EUB Decision 2007-024.
8. ERCB Bulletin 2008-50.
9. Form letter from EnCana to Freehold Owners re CBM development, Canadian Foothills Division.
10. Letter from Ms. Else Pederson, President, FHOA, to Mr. David Breakwell, ADM, DOE, dated October 31, 2007 re: Request for Formation of a Committee to address the Development of CBM on Freehold Mineral Rights.

APPENDIX II

Interview Guide

APPENDIX II
Interview Guide

Freehold Oil and Gas Issues Consultation

(CBM Development)

Sponsored by Department of Energy, Alberta

<ul style="list-style-type: none">• Interviewee(s):	
<ul style="list-style-type: none">• Company:	
<ul style="list-style-type: none">• Time/Date Interviewed:	
<ul style="list-style-type: none">• Interviewer/Facilitator:	Ghazi Durrani 780-953-3705 ghazidurrani@shaw.ca

OBJECTIVES:

1. Split title issue: MAC/CBM recommended:

6.2.2 - The Alberta Government should set up a process facilitating parties coming together to work toward resolution of split-title ownership issue.
2. What approach/structure should be established to facilitate leveling the playing field between Crown and freehold owners to enable, if needed, fair amendments to leases for CBM development?
3. Identify methods to reduce fractionization of freehold mineral titles.
4. Development of a method of area-based Unitization for freehold mineral rights that is acceptable to all stakeholders.

ISSUE # 1

1. **Nature and extent of involvement with the issue.**
2. **Describe the impact of this issue on your organization.**
3. **If remains unresolved, nature and extent of impact on various stakeholders.**
4. **What viable options are there to address the issue?**
5. **What are the impediments to the options' implementation?**
6. **What role the Government may play in addressing the issue.**
7. **Any other idea.**

ISSUE # 2

8. **Describe the nature and extent of the issue.**
9. **If remains unaddressed, nature and extent of impact on various stakeholders.**

10. What viable options are there to address the issue?
11. What are the impediments to the options' implementation?

ISSUE # 3

12. What viable options are there to address the issue?
13. What are the impediments to options' implementation?

ISSUE # 4

14. Describe the nature and extent of the issue.
15. What viable options are there to address the issue?
16. What are the impediments to options' implementation?

OVERALL

17. Any other idea.
18. What are expectations from the Group Session?
19. Will you attend the Group Session?

APPENDIX III

List of Stakeholders Interviewed

APPENDIX III

List of Stakeholders Interviewed

☐ Freehold Owners Association

- Else Pederson – President
- Brad Murray
- David Speirs – Technical Committee Chair

☐ EnCana

- Chris Johnston - CBM Advisor
- Richard Dunn – Vice-President Regulatory and External Relations
- Jason Verhaest – Vice-President Finance
- Graham Baugh – Associate General Counsel

☐ Imperial Oil

- Norman McLean – Royalty Analyst
- Randy Thomson
- Jacqueline Lam

☐ ERCB

- Bob Willard – Senior Advisor
- Terry Abel – Manager, Application Branch

CAPP

- Richard Leslie – Manager, Alberta Operations

Coal Association of Canada

- Allen Wright – President and CEO

Sherritt Coal

- Pat Garvin – Director Project Development

Penwest Petroleum

- Wendy Clark

Department of Energy

- Chris Lawton – Audit (via telephone)

Independent Consultants

- Bill Skorenki (CAPL)
- Jon Axford (SEPAC)
- Ken Miklos (via telephone)

APPENDIX IV

Agenda for Group Session

APPENDIX IV

Agenda for Group Session

FREEHOLD MINERAL RIGHTS ISSUES CONSULTATION MEETING AGENDA

Date: March 20, 2009

Time: 8:00 am – 2:40 pm

Location: Room 315 AMEC Place, 801 6th Avenue SW, Calgary

Objective: To develop consensus based recommendations on four freehold mineral rights issues

TIME	TOPIC	PRESENTER
8:00 – 8:05	Welcome & Introductions	Ghazi Durrani
8:05 – 8:20	“Need to Address These Important Issues”	Len Webber, MLA Parliamentary Assistant
8:20 – 8:30	Logistics	Ghazi Durrani
8:30 – 9:45	Issue: Split Title	Ghazi Durrani/Group
9:45 – 10:00	Coffee Break / Telephone Calls	
10:00 – 11:00	Issue: Split Title	Ghazi Durrani/Group
11:00 – 12:00	Issue: Leveling Playing Field	Ghazi Durrani/Group
12:00 – 12:30	Lunch / Telephone Calls	
12:30 – 1:30	Issue: Fractionization	Ghazi Durrani/Group
1:30 – 2:30	Issue: Unitization	Ghazi Durrani/Group
2:30 – 2:40	Wrap-Up	Ghazi Durrani

APPENDIX V

List of Participants in Group Session

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List of Participants in Group Session

- Simon Foxcroft – Sherritt Coal
- Bob Willard – ERCB
- Terry Abel – ERCB
- Jim Harriman – FHOA
- David Speirs – FHOA
- Avery Jubb – Exxonmobil
- Graham Baugh – EnCana
- Chris Johnston – EnCana
- Richard Dunn – EnCana
- Dennis Eisner – Devon
- Lynn Lehr – Conoco Phillips
- Frank Turner – Shell Canada (CAPP & CAPL)
- Jon Axford – SEPAC
- Doug Lammie – Alberta Energy (observer)
- Lori Enns – Alberta Energy (observer)
- Bartek Kienc – Alberta Energy (observer)