

PETITION

Attention: Fair-Minded Citizens of Alberta & Freehold Mineral Rights Owners

Issue: Ownership of Coal Bed Methane (CBM)

- According to the Alberta Geological Survey, there is almost twice as much natural gas in place in the coals of Alberta as has been discovered to date in the Province's conventional reservoir rocks. Even if only a small part of this coal bed methane ("CBM") is recovered, it has a multi-billion dollar value and recovery of the resource in a fair, environmentally-sensitive and economically-viable manner is essential to the well-being of current and future Albertans.
- There are 16 million acres of privately-owned or 'freehold' mineral rights in southern Alberta. Encana Corporation, as successor to the Canadian Pacific Railway Company (the "CPR"), owns most of these freehold mineral rights but an estimated 50,000 individuals, who typically are the descendants of pioneer settlers who purchased homestead lands from the CPR in the late 1800's and early 1900's, own 6 million acres of freehold mineral rights.
- Between 1902 and 1912, it was the CPR's policy to reserve all coal, all coal and petroleum or all coal, petroleum and valuable stone for itself in land sales to homesteaders. As a result, the title to coal and natural gas became split. There are more than 3 million acres of 'split title' land in southern Alberta.
- To date, CBM developers have focused their activity in the area between Calgary and Edmonton where coals of the Edmonton, Belly River and Mannville geological formations overlap in the subsurface (the "CBM fairway"). Throughout the CBM fairway, mineral rights owned by the Alberta Government ("Crown lands") are checker-boarded with split title freehold lands.
- The Alberta Court of Appeal attributes the CPR's failure to reserve natural gas for itself in homesteader land sales to the railway company's "mistaken belief natural gas was a worthless and noxious substance". Natural gas is no longer worthless and Encana is attempting to reclaim the gas which its predecessor didn't want.
- For the past five years, Encana's has asserted that CBM is coal. Encana's unsubstantiated claim has given rise to ownership uncertainty and fear of litigation amongst freehold owners of split title natural gas and CBM developers. The Government of Alberta has enacted legislation stating that CBM is natural gas – but only beneath Crown lands.
- In result of Encana's unsubstantiated claim to CBM and the Alberta Government's legislation, CBM development has been restricted to Crown lands surrounding split title freehold lands throughout the CBM fairway and the mineral rights of individual freehold owners of natural gas have been drained.
- In 2004, Encana objected to the Alberta Energy and Utilities Board (the "Board") issuing licenses for CBM wells to companies that had leased split title natural gas rights from individual freehold owners. In response, the Board held a hearing to determine the legal entitlement to CBM. Encana took the position that the Board did not have jurisdiction to decide this issue.
- On March 28, 2007, the Board issued Decision 2007-024 in which it ruled that:
 - Subsurface coal is a rock in which CBM is stored
 - CBM is gaseous and distinct from coal in the ground prior to human disturbance
 - The vernacular meaning of coal at all material times was a solid black or blackish combustible rock and does not include CBM
 - The CPR's reservation of coal included only solid hydrocarbons and CBM was transferred to the homesteaders
- The Board is a specialized and independent tribunal empowered to determine complex and highly technical oil and gas issues but it cannot decide legal ownership and its rulings can be appealed to the courts on a question of law or jurisdiction.
- Canada's highest court has already ruled that the owner of natural gas beneath split title lands owns any substances which existed in gaseous phase in the ground prior to human disturbance and this ruling together with the Board's technical finding should decide the issue in any Canadian court.
- But Encana is considering its options. Should Encana choose to litigate these matters it may be many years before a final judicial decision is rendered. In the interim, the mineral rights of individual freehold owners will continue to be drained by wells on Crown land.
- The Freehold Owners Association ("FHOA") contends that Encana's unsubstantiated claims to CBM ownership have already done enough damage to individual freehold owners. It is time for the Government of Alberta to abide by Premier Stelmach's vision for Alberta and "do what is right for all Albertans". FHOA seeks your support in petitioning the Alberta Government to immediately confirm the EUB's ruling with legislation.

Please **sign below**, cut on the dotted line and return to:

Freehold Owners Association (FHOA)
1403-12 St SW, Calgary, AB T3C 1B3
Fax: (403)245-4420

For more information contact FHOA at

Website: www.fhoa.ca

Email: fhoa@shaw.ca

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Re: Petition – Ownership of Coal Bed Methane on Split Title Lands in Alberta

I, the undersigned (please check one or both)

a concerned citizen of Alberta

an owner of freehold mineral rights in Alberta

hereby petition the Government of Alberta to immediately take steps to introduce directive, retroactive legislation applicable to both Crown and freehold lands stating that CBM is natural gas.

Name (print)

Signature

Date

Email/Phone