

IN THE MATTER OF
THE SECURITIES LEGISLATION
OF BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN,
MANITOBA, ONTARIO, QUEBEC, NOVA SCOTIA AND NEWFOUNDLAND

AND

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

AND

IN THE MATTER OF ENERMARK INCOME FUND

MRRS DECISION DOCUMENT

1. WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia and Newfoundland (the "Jurisdictions") has received an application from EnerMark Income Fund (the "Applicant") for a decision under the securities legislation of the Jurisdictions (the "Legislation") that the requirement contained in the Legislation that when a takeover bid is made, all of the holders of securities that are of the same class shall be offered identical consideration shall not apply to U.S. Shareholders (as defined below) under the takeover bid (the "Takeover Bid") to be made by the Applicant for all of the issued and outstanding common shares (the "Shares") of Western Star Exploration Ltd. (the "Target") and Shares issued on the exercise of currently outstanding options to purchase Shares;

2. AND WHEREAS pursuant to the Mutual Reliance Review System for Exemptive Relief Applications (the "System"), the Alberta Securities Commission is the principal regulator for this application;

3. AND WHEREAS the Applicant has represented to the Decision Makers that:

3.1 the Applicant is a trust organized under the laws of the Province of Alberta, whose head office and majority of assets are located in the Province of Alberta and whose trust units (the "Trust Units") are listed on The Toronto Stock Exchange;

3.2 the Target is a public company incorporated under the *Business Corporations Act* (Alberta) whose Shares are listed The Toronto Stock Exchange and which is a reporting issuer for purposes of certain Canadian securities legislation;

3.3 the Applicant is currently preparing a take-over bid circular with respect to the proposed Takeover Bid, which it intends to mail on or before December 16, 1999;

3.4 under the terms of the Takeover Bid, the price to be paid to holders of Shares not resident in the United States (the "Non-U.S. Shareholders") is, at the election of each Non-U.S. Shareholder, \$1.80 cash per Share, or 0.48 of a Trust Unit and 0.75 of a warrant to purchase Trust Units (the "Warrants") or a combination thereof, for each Share. Each whole Warrant is exercisable for one Trust Unit at a price of \$4.00 per Trust Unit until December 31, 2000. The price to be paid to the holders of Shares resident in the United States (the "U.S. Shareholders") is \$1.80 cash per Share. Trust Units and Warrants are only available to Non-U.S. Shareholders. In the event that the Applicant changes the exchange ratio of Trust Units and Warrants offered per Share pursuant to the Takeover Bid so as to yield higher consideration to tendering Non-U.S. Shareholders, the Applicant will make a corresponding adjustment to increase the cash consideration payable per Share;

3.5 the Trust Units and Warrants are not registered under the *United States Securities Act of 1933* which restricts their offering and sale into the United States as well as their subsequent resale;

3.6 the registered list of holders of the Shares as at the record date indicates that the U.S. Shareholders, as reflected on such list, hold less than 10% of the Shares. As at the date of the application, the Target's market capitalization only represented approximately 5% of the Applicant's market capitalization;

3.7 the U.S. Shareholders will not be adversely prejudiced by receiving cash consideration only as the offer price of \$1.80 represents a premium over the 10 day weighted average trading price of the Trust Units as at the date of the application. In addition, the existing tax regime results in adverse tax consequences to U.S. Shareholders who become holders of Trust Units;

4. AND WHEREAS under the System, this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the "Decision");

5. AND WHEREAS 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;

6. THE DECISION of the Decision Makers under the Legislation is that the requirement contained in the Legislation that when a takeover bid is made, all of the holders of securities that are of the same class shall be offered identical consideration shall not apply to U.S. Shareholders under the Takeover Bid

DATED at Calgary, Alberta this 30th day of December, 1999.

"Glenda A. Campbell", Acting Chair "John W. Cranston", Member

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - relief from the requirement to provide identical consideration when a bid is made to all the holders of securities that are of the same class.

Applicable Alberta Statutory Provisions

Securities Act, S.A., 1981, c.S-6.1, as amended, ss. 136(1) and 144(2)(c)