

IN THE MATTER OF
THE SECURITIES LEGISLATION
OF ALBERTA, BRITISH COLUMBIA, SASKATCHEWAN, MANITOBA, ONTARIO, QUÉBEC,
NEW BRUNSWICK, NOVA SCOTIA, NEWFOUNDLAND, PRINCE EDWARD ISLAND,
THE NORTHWEST TERRITORIES, THE YUKON AND NUNAVUT

AND

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

AND

IN THE MATTER OF CANADIAN PACIFIC LIMITED,
PANCANADIAN PETROLEUM LIMITED, CANADIAN PACIFIC RAILWAY COMPANY,
CP SHIPS LIMITED, CANADIAN PACIFIC RAILWAY LIMITED, FORDING
ARRANGEMENT INC., PANCANADIAN ENERGY CORPORATION AND FHR
INVESTMENTS INC.

MRRS DECISION DOCUMENT

1. WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of Alberta, British Columbia, Saskatchewan, Manitoba, Ontario, Québec, New Brunswick, Nova Scotia, Newfoundland, Prince Edward Island, the Northwest Territories, the Yukon and Nunavut (the "Jurisdictions") has received an application from Canadian Pacific Limited ("CPL") for:

1.1 a decision under the securities legislation of the Jurisdictions (the "Legislation") that the requirements contained in the Legislation to be registered to trade in a security (the "Registration Requirement") and to file and obtain a receipt for a preliminary prospectus and prospectus (the "Prospectus Requirement") shall not apply to certain trades to be made in connection with an arrangement involving CPL (the "Arrangement");

1.2 a decision under the Legislation in Alberta, British Columbia, Saskatchewan, Ontario, Nova Scotia, Newfoundland, Prince Edward Island, the Northwest Territories, the Yukon and Nunavut that the Prospectus Requirement shall not apply to certain trades of securities of issuers created in contemplation of the Arrangement following completion of the Arrangement; and

1.3 a decision under the Legislation that certain disclosure requirements under the Legislation shall not apply to certain issuers created in contemplation of the Arrangement and to certain other issuers;

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 CPL has represented to the Decision Makers that:

3.1 CPL is a corporation incorporated under the *Canada Business Corporations Act* (the "CBCA");

3.2 the head office of CPL is in Calgary, Alberta, but will be moved to Toronto, Ontario following the Arrangement;

3.3 the authorized capital of CPL includes an unlimited number of common shares ("CPL Common Shares") and an unlimited number of Series A preferred shares (the "CPL Preferred Shares");

3.4 as of July 31, 2001, there were 316,368,470 CPL Common Shares, 2,473,045 options to purchase CPL Common Shares ("CPL Options") and 8,800,000 CPL Preferred Shares outstanding;

3.5 the CPL Common Shares are listed and posted for trading on The Toronto Stock Exchange (the "TSE") and the New York Stock Exchange (the "NYSE");

3.6 the CPL Preferred Shares are listed and posted for trading on the TSE;

3.7 CPL is a reporting issuer or the equivalent in each Jurisdiction where such a concept exists and has been for a period in excess of twelve months;

3.8 CPL is not in default of any requirement under the Legislation;

3.9 CPL is subject to the reporting requirements under the *Securities Exchange Act of 1934* in the United States of America;

3.10 CPL is eligible to use the short form prospectus procedures under National Instrument 44-101 ("NI 44-101");

3.11 CPL has business interests in five main areas consisting of shipping, railways, hotels, mining of coal and mineral interests and oil and gas;

3.12 CPL's shipping interests (the "Ships Business") are primarily held and operated through CP Ships Holdings Inc. ("CP Ships");

3.13 CPL's railway interests (the "Rail Business") are primarily held and operated through Canadian Pacific Railway Company ("CP Rail");

3.14 CP Rail is a corporation incorporated under the CBCA;

- 3.15 the head office of CP Rail is in Calgary, Alberta;
- 3.16 no securities of CP Rail are listed on any stock exchange or traded on any market;
- 3.17 CP Rail is a reporting issuer or the equivalent in each Jurisdiction where such a concept exists and has been for a period in excess of twelve months;
- 3.18 CP Rail is not in default of any requirement under the Legislation;
- 3.19 CP Rail is eligible to use the short form prospectus procedures under NI44-101;
- 3.20 CPL's hotel interests (the "Hotel Business") are primarily held and operated through Canadian Pacific Hotels & Resorts Inc. ("CP Hotels");
- 3.21 CPL's coal and mineral interests (the "Coal Business") are primarily held and operated through Fording Inc. ("Fording");
- 3.22 CPL directly or indirectly holds all of the outstanding voting and equity securities of CP Ships, CP Rail, CP Hotels and Fording;
- 3.23 CPL's oil and gas interests (the "Oil Business") are primarily held and operated through PanCanadian Petroleum Limited ("PanCanadian");
- 3.24 PanCanadian is a corporation incorporated under the CBCA;
- 3.25 the head office of PanCanadian is in Calgary, Alberta;
- 3.26 the authorized capital of PanCanadian includes an unlimited number of common shares ("PanCanadian Shares");
- 3.27 as of July 31, 2001, there were 256,122,092 PanCanadian Shares and 9,986,550 options to purchase PanCanadian Shares ("PanCanadian Options") outstanding;
- 3.28 CPL indirectly holds 218,122,712 PanCanadian Shares, representing approximately 85% of the outstanding PanCanadian Shares;
- 3.29 the PanCanadian Shares are listed and posted for trading on the TSE;
- 3.30 PanCanadian is a reporting issuer or the equivalent in each province where such a concept exists and has been for a period in excess of twelve months;
- 3.31 PanCanadian is not in default of any requirement under the Legislation;

3.32 PanCanadian is eligible to use the short form prospectus procedures under NI 44-101;

3.33 CP Ships Limited ("New Ships") is a corporation incorporated under the CBCA, but will be continued under the *Business Corporations Act* (New Brunswick) shortly following the Arrangement;

3.34 the head office of New Ships is in Saint Johns, New Brunswick;

3.35 the authorized capital of New Ships following the Arrangement will include an unlimited number of common shares ("New Ships Shares");

3.36 Canadian Pacific Railway Limited ("New Rail") is a corporation incorporated under the CBCA;

3.37 the head office of New Rail is in Calgary, Alberta;

3.38 the authorized capital of New Rail following the Arrangement will include an unlimited number of common shares ("New Rail Shares");

3.39 Fording Arrangement Inc. ("New Coal") is a corporation incorporated under the CBCA;

3.40 the head office of New Coal is in Calgary, Alberta;

3.41 the authorized capital of New Coal following the Arrangement will include an unlimited number of common shares ("New Coal Shares");

3.42 PanCanadian Energy Corporation ("New Oil") is a corporation incorporated under the CBCA;

3.43 the head office of New Oil is in Calgary, Alberta;

3.44 the authorized capital of New Oil following the Arrangement will include an unlimited number of common shares ("New Oil Shares");

3.45 New Ships, New Rail, New Coal and New Oil (collectively, the "Newcos") are reporting issuers or the equivalent under the Legislation in Alberta, Ontario, Nova Scotia, British Columbia, Québec and Saskatchewan and have been since August 10, 2001;

3.46 the Newcos are not in default of any requirement under the Legislation;

3.47 FHR Investments Inc. ("Newco CP SP") is a corporation incorporated under the CBCA;

3.48 the registered office of Newco CP SP is in Calgary, Alberta, but will be in Toronto, Ontario following the Arrangement;

3.49 Newco CP SP is a special purpose entity with no business or creditors;

3.50 the authorized capital of Newco CP SP following the Arrangement will include 8,800,000 Cumulative Redeemable Preferred Shares (the "Newco CP SP Preferred Shares");

3.51 the articles of incorporation of Newco CP SP restrict it from incurring debt, giving security or carrying on business unless authorized by a special resolution of the holders of the Newco CP SP Preferred Shares;

3.52 CPL proposes to conduct the Arrangement under the provisions of the CBCA;

3.53 the purpose of the Arrangement will be to transfer the businesses represented by CPL's interests in CP Ships, CP Rail, CP Hotels, Fording and PanCanadian to the holders of CPL Common Shares;

3.54 the Arrangement will involve CPL, PanCanadian, CP Ships, CP Rail, CP Hotels, Fording, the Newcos and various holding companies (the "Holdcos");

3.55 the Arrangement, and the steps leading up to the Arrangement, will involve various trades of various classes of securities of CPL, PanCanadian, CP Ships, CP Rail, CP Hotels, Fording, the Newcos and the Holdcos (collectively, the "Trades"), the net effect of which will be that:

3.55.1 holders of CPL Common Shares will exchange them for a specified number of common shares of CPL of a new class to be created in connection with the Arrangement ("New CPL Shares") and New Ships Shares, New Rail Shares, New Coal Shares and New Oil Shares (collectively, the "New Shares");

3.55.2 holders of CPL Options will exchange them for a specified number of options to purchase each class of New Shares;

3.55.3 holders of PanCanadian Shares, other than CPL, will exchange them for a specified number of New Oil Shares;

3.55.4 holders of PanCanadian Options will exchange them for a specified number of options to purchase New Oil Shares; and

3.55.5 holders of CPL Preferred Shares will, depending on the results of the vote and preference designation of holders of CPL Preferred Shares described in paragraph 3.58, retain their CPL Preferred Shares or exchange them with CPL for cash or Newco CP SP Preferred Shares;

3.56 following the Arrangement:

3.56.1 a successor of New Ships by short form amalgamation will hold all of the voting and equity securities of CP Ships;

3.56.2 a successor of New Rail by short form amalgamation will hold all of the voting and equity securities of CP Rail;

3.56.3 a successor of New Coal by short form amalgamation will hold all of the voting and equity securities of Fording;

3.56.4 a successor of New Oil by short form amalgamation will hold all of the voting and equity securities of PanCanadian; and

3.56.5 CPL will continue to hold all of the outstanding voting and equity securities of CP Hotels;

(for greater certainty, each reference to New Ships, New Rail, New Coal and New Oil herein is to be deemed to include a reference to the successors described above, as applicable, and each reference to New Ships Shares, New Rail Shares, New Coal Shares and New Oil Shares herein is to be deemed to include reference to the equivalent securities of the successors described above, as applicable)

3.57 that portion of the Arrangement dealing with the exchange of PanCanadian Shares for New Oil Shares is subject to the approval of the holders of PanCanadian Shares. In the event that such approval is not obtained, holders of PanCanadian Shares will retain them, holders of CPL Common Shares will receive the specified number of New Oil Shares and New Oil will hold the PanCanadian Shares currently held by CPL;

3.58 in respect of the holders of CPL Preferred Shares, the terms of the Arrangement provide that:

3.58.1 if more than $\frac{2}{3}$ of the votes cast by holders of CPL Preferred Shares at the special meeting of CPL security holders concerning the Arrangement (the "CPL Meeting") approve the Arrangement and holders holding more than $\frac{2}{3}$ of such shares designate a preference to receive cash, all holders of CPL Preferred Shares will exchange them with CPL for a specified amount of cash;

3.58.2 if more than $\frac{2}{3}$ of the votes cast by holders of CPL Preferred Shares at the CPL Meeting approve the Arrangement, but holders holding more than $\frac{1}{3}$ of such shares designate a

preference to receive Newco CP SP Preferred Shares, then holders of CPL Preferred Shares will, in accordance with their preference designation, exchange them with CPL for a specified amount of cash, exchange them with Newco CP SP for a specified number of Newco CP SP Preferred Shares or retain them. Holders of CPL Preferred Shares that fail to designate a preference will receive cash;

3.58.3 if less than 2/3 of the votes cast by holders of CPL Preferred Shares at the CPL Meeting approve the Arrangement, then holders of CPL Preferred Shares will, in accordance with their preference designation, exchange them with Newco CP SP for a specified number of Newco CP SP Preferred Shares or retain them. Holders of CPL Preferred Shares that fail to designate a preference will receive Newco CP SP Preferred Shares;

3.58.4 if any Newco CP SP Preferred Shares are issued under the Arrangement, CPL will purchase any CPL Preferred Shares held by Newco CP SP for debt securities of a type permitted under Newco CP SP's articles of incorporation in sufficient quantity to provide for dividends to be paid upon, and for the redemption of, the outstanding Newco CP SP Preferred Shares; and

3.58.5 all of the outstanding common shares of Newco CP SP will be held by CPL;

3.59 subject to adjustment, based on the number of CPL and PanCanadian common shares outstanding on July 31, 2001, the following shares would be outstanding following the Arrangement:

3.59.1 79,092,117 New Ships Shares;

3.59.2 158,184,235 New Rail Shares;

3.59.3 352,517,166 New Coal Shares;

3.59.4 if that portion of the Arrangement dealing with the exchange of PanCanadian Shares for New Oil Shares is approved by the holders of PanCanadian Shares, 254,395,413 New Oil Shares;

3.59.5 if that portion of the Arrangement dealing with the exchange of PanCanadian Shares for New Oil Shares is not approved by the holders of PanCanadian Shares, 216,396,034 New Oil Shares; and

3.59.6 depending on the results of the vote and election of holders of CPL Preferred Shares described in paragraph 3.58, up to 8,800,000 Newco CP SP Preferred Shares and up to 8,800,000 CPL Preferred Shares;

3.60 the TSE has granted conditional listing approval to the New Shares of each class to be issued under the Arrangement and the NYSE has cleared the Newcos to file original listing applications, with the listing of the New Shares of each class to be subject to the fulfilment of the usual and customary conditions;

3.61 the TSE has granted conditional listing approval to the Newco CP SP Preferred Shares that may be issued under the Arrangement;

3.62 the Arrangement is subject to the approval of the holders of CPL Common Shares and the Court of Queen's Bench of Alberta;

3.63 the CPL Meeting will be held on or about September 26, 2001;

3.64 an information circular (the "CPL Circular") prepared in accordance with the Legislation has been provided to the holders of CPL Common Shares and CPL Preferred Shares in connection with the CPL Meeting;

3.65 the CPL Circular contains prospectus level disclosure concerning the Arrangement, the assets and operations of CPL, CP Ships, CP Rail, CP Hotels, Fording and PanCanadian and the proposed assets and operations of the Newcos;

3.66 the CPL Circular contains a description of the Trades, which description is incorporated herein by reference;

3.67 a special meeting of the holders of PanCanadian Shares (the "PanCanadian Meeting") will be held on or about September 26, 2001 to consider that portion of the Arrangement dealing with the exchange of PanCanadian Shares for New Oil Shares;

3.68 an information circular (the "PanCanadian Circular") prepared in accordance with the Legislation has been provided to the holders of PanCanadian Shares in connection with the PanCanadian Meeting;

3.69 the PanCanadian Circular contains prospectus level disclosure concerning that portion of the Arrangement dealing with the exchange of PanCanadian Shares for New Oil Shares, the assets and operations of PanCanadian and the proposed assets and operations of New Oil;

3.70 the holders of CPL Common Shares, CPL Preferred Shares and PanCanadian Shares will be afforded dissent rights under the CBCA with respect to the Arrangement;

3.71 if all necessary approvals of the Arrangement are obtained and all conditions to the Arrangement are satisfied, CPL anticipates that the Arrangement will become effective on or about October 1, 2001;

3.72 exemptions from the Registration Requirement and Prospectus Requirement are not available under the Legislation of all the Jurisdictions with respect to the Trades;

3.73 following the Arrangement, the Newcos may issue securities in reliance on certain exemptions from the Prospectus Requirement contained in the Legislation, the first trade of which securities will be deemed to be a distribution or primary distribution to the public if the applicable issuer has not been a reporting issuer or the equivalent under the Legislation of the Jurisdiction or Jurisdictions where the trade takes place for a period of twelve months at the date of the trade (the "Specified Exempt Trades");

3.74 the Specified Exempt Trades would include the issuance of New Shares upon the exercise of options to acquire such securities issued under the Arrangement;

3.75 following the Arrangement, CP Rail will be a wholly owned subsidiary of New Rail, the sole material asset of which will be all of the outstanding shares of CP Rail. As a result, the assets, liabilities and operations of New Rail on a consolidated basis will be, in all material respects, the same as the assets, liabilities and operations of CP Rail;

3.76 following the Arrangement, and assuming that portion of the Arrangement dealing with the exchange of PanCanadian Shares for New Oil Shares is approved by the holders of PanCanadian Shares, PanCanadian will be a wholly owned subsidiary of New Oil, the sole material asset of which will be all of the outstanding PanCanadian Shares. As a result, the assets, liabilities and operations of New Oil on a consolidated basis will be, in all material respects, the same as the assets, liabilities and operations of PanCanadian;

3.77 following the Arrangement, CP Rail and PanCanadian may remain reporting issuers or the equivalent in each Jurisdiction where they currently are such in order to facilitate existing or future debt financings;

3.78 following the Arrangement, holders of debt securities of CP Rail and PanCanadian that are currently entitled to receive continuous disclosure materials with respect to CP Rail and PanCanadian under their governing indentures will continue to be provided with the continuous disclosure materials relating to New Rail and New Oil, as applicable;

3.79 following the Arrangement, CPL, each of the Newcos, CP Rail and PanCanadian may use the short form prospectus procedures under NI 44-101;

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 Registration Requirement and the Prospectus Requirement shall not apply to the Trades, provided that the first trade of any security acquired as a result of a Trade shall be deemed to be a distribution or primary distribution to the public under the Legislation of the Jurisdiction or Jurisdictions where the trade takes place (the "Applicable Legislation") unless:

6.1 at the time of the trade, the issuer of the securities is a reporting issuer or the equivalent under the Applicable Legislation or has filed all materials with the Decision Maker of the applicable Jurisdiction or Jurisdictions that it is required to file in the Jurisdictions in which it is a reporting issuer or the equivalent;

6.2 no unusual effort is made to prepare the market or create a demand for the security;

6.3 no extraordinary commission or consideration is paid to a person or company in respect of the trade;

6.4 if the seller of the security is an insider or officer of the issuer, the seller has no reasonable grounds to believe that the issuer is in default of any requirement of the Applicable Legislation; and

6.5 except in Québec, the trade is not a trade from the holdings of any person or company or any combination of persons or companies holding a sufficient number of any securities of the issuer so as to materially affect the control of the issuer or more than 20% of the outstanding voting securities of the issuer, except where there is evidence showing that the holdings of those securities does not affect materially the control of the issuer;

7. THE FURTHER DECISION of the Decision Makers under the Legislation in Alberta, British Columbia, Saskatchewan, Ontario, Nova Scotia, Newfoundland, Prince Edward Island, the Northwest Territories, the Yukon and Nunavut is that the Prospectus Requirement shall not apply to the first trade of securities acquired under a Specified Exempt Trade, provided that:

7.1 at the time of the trade, the issuer of the securities is a reporting issuer or the equivalent under the Legislation of the Jurisdiction or Jurisdictions where the trade takes place (the "Relevant Legislation") or has filed all materials with the Decision Maker of the applicable Jurisdiction or Jurisdictions that it is required to file in the Jurisdictions in which it is a reporting issuer or the equivalent;

7.2 no unusual effort is made to prepare the market or create a demand for the security;

7.3 no extraordinary commission or consideration is paid to a person or company in respect of the trade;

7.4 if the seller of the security is an insider or officer of the issuer, the seller has no reasonable grounds to believe that the issuer is in default of any requirement of the Relevant Legislation;

7.5 the trade is not a trade from the holdings of any person or company or any combination of persons or companies holding a sufficient number of any securities of the issuer so as to materially affect the control of the issuer or more than 20% of the outstanding voting securities of the issuer, except where there is evidence showing that the holdings of those securities does not affect materially the control of the issuer;

7.6 the seller of the securities has held them for the hold period, if any, that would have applied under the Relevant Legislation if the Specified Exempt Trade had been in equivalent securities of CPL prior to the effective date of the Arrangement; and

7.7 the trade occurs on or before the earlier of August 10, 2002 or the date of the coming into force of Multilateral Instrument 45-102;

8. THE FURTHER DECISION of the Decision Makers under the Legislation is that the following requirements of NI 44-101 are waived following the Arrangement:

8.1 with respect to the Newcos, the requirement under subsection 2.2(1)(a) of NI 44-101 that an issuer have been a reporting issuer in the local jurisdiction or another jurisdiction for a period of 12 calendar months preceding the date of the filing of its most recent annual information form ("AIF") to be eligible to use a short form prospectus; and

8.2 any requirement under NI 44-101 for CP Rail or PanCanadian to have a current AIF to be eligible to use a short form prospectus for as long as New Rail or New Oil, as applicable, have a current AIF and comply with the requirements in paragraphs 9 or 10, as applicable, and provided that the short form prospectus contains or incorporates by reference all information or documents that would be required to be contained or incorporated by reference in a short form prospectus filed by New Rail or New Oil, as applicable;

9. THE FURTHER DECISION of the Decision Makers under the Legislation in Alberta, British Columbia, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia and Newfoundland is that, following the Arrangement, CP Rail shall not be subject to the requirements under the Legislation, as and where applicable, that a reporting issuer or the equivalent issue a press

release and file a report upon the occurrence of a material change and file interim and annual financial statements, an annual information form, interim and annual management discussion and analysis, an annual report, an information circular and an annual filing in lieu of an information circular (the "Continuous Disclosure Requirements") for so long as:

9.1 New Rail complies with all of the Continuous Disclosure Requirements;

9.2 New Rail remains the direct or indirect beneficial owner of all the issued and outstanding voting and equity securities of CP Rail;

9.3 New Rail continues to have no assets or liabilities, other than its holding of all of the outstanding voting and equity securities of CP Rail, of more than a nominal value having regard to the total value of New Rail; and

9.4 CP Rail complies with the requirement of the Legislation that a reporting issuer or the equivalent issue a press release and file a report upon the occurrence of a material change for any material change in the affairs of CP Rail that is not also a material change in the affairs of New Rail;

10. THE FURTHER DECISION of the Decision Makers under the Legislation in Alberta, British Columbia, Saskatchewan, Manitoba, Ontario, Québec, Nova Scotia and Newfoundland is that, following the Arrangement, PanCanadian shall not be subject the Continuous Disclosure Requirements if that portion of the Arrangement dealing with the exchange of PanCanadian Shares for New Oil Shares is approved by the holders of PanCanadian Shares and for so long as:

10.1 New Oil complies with all of the Continuous Disclosure Requirements;

10.2 New Oil remains the direct or indirect beneficial owner of all the issued and outstanding voting and equity securities of PanCanadian;

10.3 New Oil continues to have no assets or liabilities, other than its holding of all of the outstanding voting and equity securities of PanCanadian, of more than a nominal value having regard to the total value of New Oil; and

10.4 PanCanadian complies with the requirement of the Legislation that a reporting issuer or the equivalent issue a press release and file a report upon the occurrence of a material change for any material change in the affairs of PanCanadian that is not also a material change in the affairs of New Oil.

DATED this 21st day of September, 2001.

"original signed by"
Thomas G. Cooke, Q.C.,

"original signed by"
Member Jerry A. Bennis, FCA, Member

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - Relief under subsection 116(1) of the Act from the registration and prospectus requirements under sections 54 and 81 of the Act with respect to certain trades to be made in connection with and following an arrangement. Relief under subsection 123(c) and section 185 of the Act from certain disclosure requirements under the Act and *National Instrument 44-101* with respect to various issuers to be created in connection with an arrangement.

Applicable Alberta Statutory Provisions

Securities Act, S.A., 1981, c.S-6.1, as amended - ss. 54, 81, 116(1), 116.1, 118, 120, 121, 123(c), 124(2) and 185

National Instrument 44-101 - *Short Form Prospectus Distributions*