

SETTLEMENT AGREEMENT

This SETTLEMENT AGREEMENT is entered into by Plaintiffs Raymond and Sally Miller, Barclay Farms, L.L.C., Joan Elaine Brehon, Janette Foote, Niles Miller, U.S. Bank, N.A., as trustee for the T.E. McClintock Trust, U.S. Bank, N.A., as trustee for the Edwin Miller Trust, and White River Royalties, LLC, on behalf of themselves and each member of the Class defined herein, and Defendant EnCana Oil & Gas (USA) Inc., a Delaware corporation with its principal place of business at 370 17th Street, Suite 1700, Denver, Colorado 80202.

DEFINITIONS

- A. "Agreement" is defined as this Settlement Agreement.
- B. "Approval Event" is defined as the date of the occurrence of the last of the three events set forth in paragraph 7 of this Agreement.
- C. "Class" is defined as the class certified by the Court in its Order dated May 30, 2006, defined by the Court to include:
- All persons and entities to whom EnCana and its predecessors by merger have paid royalties or overriding royalties (collectively, "Royalties") on natural gas produced from wells located in Colorado ("EnCana wells"), according to the business records maintained by EnCana, pursuant to leases or overriding royalty agreements that do not expressly authorize the deduction of costs incurred to market such gas after it is severed from the wellhead (collectively, "Royalty Agreements"). The defined Class excludes (1) persons or entities who have reached settlement agreements with EnCana relating to Colorado natural gas royalty underpayment claims with respect to the production affected by such settlements; (2) persons and entities who are working interest owners in an EnCana well on whose behalf EnCana has paid royalties for gas production; (3) Indian tribes; (4) the United States of America; (5) the State of Colorado; (6) U.S. AgBank, FCB, f/k/a Farm Credit Bank of Wichita; (7) Anadarko Petroleum Corporation, as successor-in-interest to Union Pacific Resources Company; and (8) EnCana, EnCana's affiliates, EnCana's predecessors-in-interest, and their respective employees, officers and directors.
- D. "Class Counsel" is defined as George A. Barton and Charles Carpenter.
- E. "Class Members" is defined as each member of the Class, including Plaintiffs, as set forth in Exhibit A to this Agreement, and excludes the persons and entities who elected to opt out of the Class in response to the Notice of Certification of Class Action, as set forth in Exhibit A-1 to this Agreement.

F. "Class Members' Additional Released Parties" is defined to have the meaning set forth in paragraph 9(a) of this Agreement.

G. "Civil Action" is defined as the case captioned *Miller, et al. v. EnCana Oil & Gas (USA) Inc.*, No. 05 CV 2753, pending in the District Court for the City and County of Denver, Colorado (the "Civil Action").

H. "Court" is defined as the Denver District Court in the Civil Action.

I. "EnCana" is defined as EnCana Oil & Gas (USA) Inc., its predecessors in interest, officers, and directors, affiliates and subsidiaries.

J. "EnCana's Additional Released Parties" is defined to have the meaning set forth in paragraph 9(b) of this Agreement.

K. "Escrow Account" is defined as the account established under the Escrow Agreement, as set forth in paragraph 5 of this Agreement.

L. "Escrow Agreement" is defined as the agreement establishing the Escrow Account, as set forth in paragraph 5 of this Agreement, and in the form attached as Exhibit G to this Agreement.

M. "Final Judgment" is defined as the Final Judgment and Order of Dismissal with Prejudice, in the form attached as Exhibit D to this Agreement, to be entered in the Civil Action.

N. "Natural Gas" is defined as natural gas and associated liquid hydrocarbons, including natural gas liquids and condensate separated or extracted therefrom. Natural Gas does not include oil as defined in C.R.S. § 34-60-103(6).

O. "Order" is defined as the Court's class certification order dated May 30, 2006.

P. "Other Working Interest Owners" is defined as working interest owners for whom EnCana sells or markets Natural Gas and on whose behalf EnCana distributes royalties and/or overriding royalties.

Q. "Parties" is defined as Plaintiffs, Class Members and EnCana, each of whom individually may be referred to as a "Party."

R. "Plaintiffs" is defined as Plaintiffs Raymond and Sally Miller, Barclay Farms, L.L.C., Joan Elaine Brehon, Janette Foote, Niles Miller, U.S. Bank, N.A., as trustee for the T.E. McClintock Trust, U.S. Bank, N.A., as trustee for the Edwin Miller Trust, and White River Royalties, LLC, collectively.

S. "Preliminary Allocation Schedule" is defined as the schedule to be prepared and submitted to the Court by Class Counsel identifying each Class Member's share of the Settlement Funds based upon an allocation methodology prepared by Class Counsel and their accounting experts.

T. "Royalty Agreements" is defined as all instruments, including but not limited to oil and gas leases, assignments of leases that convey or reserve overriding royalty interests therein and other documents conveying or reserving royalty or overriding royalty interests, under which any Class Member receives or has received royalty payments, and therefore is subject to this Agreement (to the extent of the Class Members' interest). A list of the current oil and gas leases owned by EnCana is attached as Exhibit B to this Agreement.

U. "Settled Claims" is defined as all of the claims, causes of action, demands, obligations, actions, liabilities and damages of every kind and nature whatsoever, whether known or unknown, whether foreseen or unforeseen, in law or in equity, that relate to the calculation, payment and reporting of royalties to the Class Members for Natural Gas produced, sold or taken in-kind by EnCana, including royalties and/or overriding royalties distributed by EnCana on behalf of Other Working Interest Owners for whom EnCana sells or markets Natural Gas pursuant to the Leases, with respect to production through December 31, 2008, which are, or could have been, the subject of the Civil Action, except for claims limited to mathematical or calculation errors in determining volumes, price, value or decimal interest arising on or after December 31, 2007.

V. "Settlement Funds" is defined as the \$40,000,000 which EnCana shall deposit into the Escrow Account pursuant to the Escrow Agreement.

RECITALS

A. EnCana is a lessee and producer of Natural Gas produced from wells subject to the Royalty Agreements. The Class Members generally are or previously have been lessors, royalty owners and/or overriding royalty owners under one or more of the Royalty Agreements.

B. Plaintiffs filed the Civil Action on April 13, 2005 and alleged that EnCana breached the Royalty Agreements by failing to accurately calculate and pay royalties and/or overriding royalties by deducting post-wellhead expenses in a manner inconsistent with the Colorado Supreme Court's decision in *Rogers v. Westerman Farm Co.*, 29 P.3d 887 (Colo. 2001). Among other things, Plaintiffs alleged that EnCana breached the Royalty Agreements by (1) deducting certain charges for costs it should not have deducted, including (a) fees for gathering or transporting Natural Gas and delivering it to a commercial market and (b) fuel charges paid by delivering a portion of the Natural Gas to the owner of a pipeline or other facilities for use as fuel; (2) selling Natural Gas before it is made marketable for reduced prices; and (3) retaining a percentage of proceeds received for sales of Natural Gas produced from the EnCana wells. Plaintiffs also asserted that EnCana should not have deducted any costs incurred between the wellhead and the tailgate of a processing plant to make the gas marketable.

C. EnCana denied the material allegations of the complaint and asserted numerous affirmative defenses. In particular, EnCana contended that the Natural Gas was and is marketable at the wellhead and at other points prior to the tailgate of a processing plant, and that the costs deducted in paying royalty were proper under the *Rogers* case and the Leases. EnCana further contended that it marketed the Natural Gas at points away from the wells to obtain a better price for itself and its royalty owners and to enhance the value of the Natural Gas.

D. On May 30, 2006, following substantial discovery and a two-day hearing, the Court entered the Order certifying the Class in the Civil Action.

E. On May 30, 2006, the Court also appointed Plaintiffs as class representatives for the Class and appointed Plaintiffs' counsel as Class Counsel.

F. After the Court certified the Class, Plaintiffs and EnCana worked together to determine the potential class members under the Class as defined by the Court. Among other things, they identified leases and overriding royalty instruments expressly allowing deduction of costs, the persons or entities with interests in those leases or instruments, and the persons and entities excluded from the Class under the Court's Order.

G. After the Court's Order, Class Counsel also engaged in further investigation of the merits of the claims and quantification of potential damages asserted by the Class. In November 2007, the Parties participated in a mediation before Judge Richard W. Dana of the Judicial Arbitrator Group.

H. On December 13, 2007, Class Counsel mailed a Notice of Certification of Class Action Against Defendant EnCana Oil & Gas (USA) Inc. to each of the potential members of the Class advising them of the nature of the case and their right to be excluded from the Class by filing opt-out forms with Class Counsel on or before January 30, 2008. On February 12, 2008, Class Counsel filed a report with the Court showing that 144 of the approximately 5,682 potential members of the Class elected to opt out.

I. In connection with the Civil Action, Class Counsel, Plaintiffs as class representatives, and EnCana have engaged in arm's-length negotiations to resolve this dispute without the need for further litigation. As part of the negotiation process, Class Counsel has requested -- and EnCana has provided -- electronic data and other information, and Class Counsel has otherwise investigated claims asserted in the Civil Action with the assistance of accounting and other experts. Plaintiffs as class representatives and Class Counsel have concluded that it would be in the best interests of the Class Members to enter into this Agreement in order to avoid the uncertainties of litigation, particularly complex litigation such as this, and to assure to the Class Members a benefit that is fair and reasonable. Similarly, EnCana has concluded that, despite its belief that it is not liable for the claims asserted and has good defenses thereto, it will enter into this Agreement in order to avoid the time, expense, and uncertainty of protracted litigation.

J. Accordingly, Plaintiffs as class representatives and EnCana have agreed, subject to approval by the Court in the Civil Action, to: (1) fully and finally compromise and settle the Settled Claims; (2) agree upon a methodology for calculation and payment of royalty on production beginning January 1, 2009; and (3) dismiss with prejudice the Civil Action in all respects.

AGREEMENT

In consideration of the mutual promises and covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged,

Plaintiffs, on behalf of themselves and as class representatives of the Class Members, and EnCana hereby contract, covenant and agree that the Settled Claims be fully resolved, compromised and dismissed on the merits and with prejudice, subject to the approval of the Court, on the following terms and conditions:

1. Class Members and Opt-Outs. A list of the Class Members is attached as Exhibit A. Persons and entities who opted out of the Class in response to the Notice of Class Certification sent December 13, 2007, are listed in Exhibit A-1. Those persons and entities are not Class Members under this Agreement. A list of the wells currently subject to the Royalty Agreements is attached as Exhibit C. All wells drilled on the lands covered by the Royalty Agreements after execution of this Agreement will be subject to this Agreement (to the extent of a Class Member's interest).

2. Best Efforts to Garner Settlement's Approval. The Parties and their respective counsel agree to recommend that the Court approve this Agreement and further agree to undertake their best efforts, including all steps and efforts contemplated by this Agreement and any other steps and efforts that may be necessary or appropriate, by order of the Court or otherwise, to carry out the terms of this Agreement.

3. Motion for Preliminary Approval. Within ten business days of the date hereof, the Parties shall submit to the Court a joint motion for preliminary approval of the settlement, which shall include a request to stay all proceedings in the Civil Action until the Court has approved this Agreement and entered the Final Judgment and Order of Dismissal with Prejudice, in the form attached as Exhibit D. The terms of the Final Judgment are incorporated by reference as if fully set forth herein. Plaintiffs as class representatives shall request that the Court hold a hearing on the motion for preliminary approval as soon as practical. Prior to the hearing for final approval of this Agreement, Class Counsel will prepare and submit to the Court the Preliminary Allocation Schedule.

4. Notice of Class Settlement. After the Court's preliminary approval of this Agreement, Class Counsel shall provide notice to the Class Members in the manner approved by the Court, which notice may include, but shall not be limited to, mailing the notice in the form attached as Exhibit E by first-class mail, postage prepaid, to Class Members, and by publishing notice in the form attached as Exhibit F (or other appropriate information approved by the Court) in three consecutive Sunday editions of *The Denver Post*. Class Counsel shall bear the cost of providing notice as described by this paragraph, and such costs shall be deducted from the Settlement Funds in accordance with paragraph 10 of the Final Judgment.

5. Payment of Settlement Funds. As consideration for this Agreement, EnCana is paying the Settlement Funds to resolve all royalty claims on Natural Gas production through December 31, 2008, and is agreeing to pay royalty to Class Members on Natural Gas production on and after January 1, 2009 in the manner described in Paragraph 10 below. For the cash consideration, the Parties agree to proceed as follows with respect to the payment of Settlement Funds by EnCana:

(a) By May 1, 2008, or within 10 days of the Court's preliminary approval of this Agreement (whichever is later), EnCana shall deposit \$40,000,000 – the Settlement Funds –

into the Escrow Account established under the Escrow Agreement generally conforming to the form attached as Exhibit G. Upon depositing the Settlement Funds into the Escrow Account, EnCana shall have no further payment obligations to the Class Members or Class Counsel under this Agreement.

(b) No amount of Settlement Funds shall be released from the Escrow Account until after the Approval Event (as set forth in paragraph 7 below), except that the escrow agent identified in the Escrow Agreement shall wire transfer the Settlement Funds (and any interest attributable thereto) to EnCana, in accordance with the directions set forth in the Escrow Agreement, if one of the following events occurs:

(i) either Plaintiffs as class representatives or EnCana voids this Agreement as provided for herein (including by withholding consent to any modification of this Agreement or Final Judgment imposed, or made a condition to approval, by any court);

(ii) this Agreement is not approved by the Court (including any appellate court); or

(iii) the conditions set forth in paragraph 7(a) and (b) below are not satisfied by December 31, 2008, provided that EnCana may waive the condition set forth in this subparagraph, at its sole option, by written notice to Class Counsel to be sent no later than December 15, 2008.

6. Order and Final Judgment. If the Court approves this Settlement Agreement, then the Parties jointly shall seek entry of the Final Judgment.

7. Conditions Precedent to Agreement's Effect. This Agreement shall become final, binding and effective upon the Approval Event, which is the date on which the last of the following three events occurs, and not before then:

(a) This Agreement (without modification or with modifications accepted pursuant to paragraph 8) is approved in all respects by the Court as required by Rule 23 of the Colorado Rules of Civil Procedure;

(b) The Final Judgment is entered by the Court, thereby dismissing with prejudice all claims as between Class Members and EnCana and instituting the revised royalty calculation method set forth in paragraph 10; and

(c) The time for appeal or to seek permission to appeal from the Court's Final Judgment has expired or, if appealed, the Final Judgment has been affirmed in its entirety and without modification (or, if modified, with modifications accepted pursuant to paragraph 8 below) by the court of last resort to which such appeal has been taken and such affirmance is no longer subject to further appeal or review.

8. Modifications. Any modification to this Agreement or its exhibits, whether modified by the Parties or any court, must be approved in writing signed by the Parties or their authorized representatives in order to be binding.