



UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): November 22, 2005 (November 21, 2005)

BERRY PETROLEUM COMPANY

(Exact Name of Registrant as Specified in its Charter)

DELAWARE

(State or Other Jurisdiction of
Incorporation or Organization)

1-9735

(Commission File Number)

77-0079387

(IRS Employer
Identification Number)

5201 TRUXTUN AVE., STE. 300, BAKERSFIELD, CA

(Address of Principal Executive Offices)

93309

(Zip Code)

Registrant's telephone number, including area code: **(661) 616-3900**

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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Item 7.01 Regulation FD Disclosure

On November 22, 2005, Berry Petroleum Company issued a news release announcing that it had entered into a California crude oil sales contract for its California production for deliveries beginning February 1, 2006. The information contained in the press release is incorporated herein by reference and furnished as Exhibit 99.1. The contract between Berry Petroleum Company and the purchaser is incorporated herein by reference and furnished as Exhibit 99.2. The guarantees are incorporated herein by reference and furnished as Exhibits 99.3 and 99.4.

The information in this Current Report on Form 8-K and Exhibit 99.1, 99.2, 99.3 and 99.4 are being furnished and shall not be deemed "filed" for the purposes of Section 18 of the Securities Exchange Act of 1934, as amended, or otherwise subject to the liabilities of that Section.

Item 9.01 Financial Statements and Exhibits

(c) Exhibits

99.1 News release dated November 22, 2005 announcing a California crude oil sales contract for deliveries beginning February 1, 2006.

99.2 Crude oil sales contract for Berry's California production for deliveries beginning February 1, 2006.

99.3 Flying J Guaranty

99.4 Big West Guaranty

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereto duly authorized.

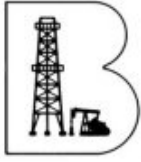
**BERRY PETROLEUM
COMPANY**

By:

/s/ Kenneth A. Olson

Kenneth A. Olson
Corporate Secretary

Date: November 22, 2005



News Release

Berry Petroleum Company

Phone (661) 616-3900
5201 Truxtun Avenue, Suite
300
ir@bry.com
Bakersfield, California 93309-
0640

E-mail:

Internet: www.bry.com

Contacts: Robert F. Heinemann, President and CEO - - Ralph J. Goehring, Executive Vice President and CFO



BERRY PETROLEUM ENTERS INTO CALIFORNIA CRUDE OIL SALES CONTRACT

Bakersfield, CA -November 22, 2005 - Berry Petroleum Company (NYSE:BRY) entered into a new crude oil sales contract for its California production for deliveries beginning February 1, 2006. The per barrel price, calculated on a monthly basis, will be the higher of 1) the West Texas Intermediate NYMEX crude oil price less a fixed differential, or 2) heavy oil field postings plus a premium. The contract is for a four-year term with a one-year renewal option.

Michael Duginski, executive vice president of Corporate Development and California, stated "A new multi-year California crude oil sales contract provides Berry a premium for its quantity of deliverable barrels and allows us to focus our energies on increasing our California production. Our initial deliveries under the contract are expected to be approximately 16,200 barrels per day or approximately two-thirds of Berry's total companywide production."

Berry Petroleum Company is a publicly traded independent oil and gas production and exploitation company with its headquarters in Bakersfield, California.

Safe harbor under the "Private Securities Litigation Reform Act of 1995"

Any statements in this news release that are not historical facts are forward-looking statements that involve risks and uncertainties. Words such as "expected" and "increasing" indicate forward-looking statements and are made based on management's expectations and beliefs concerning future developments and their potential effects upon Berry Petroleum Company. Important factors which could affect actual results are discussed in Part II of Berry's Form 10-K filed with the Securities and Exchange Commission, under the heading "Other Factors Affecting the Company's Business and Financial Results" in the section titled "Management's Discussion and Analysis of Financial Condition and Results of Operations."

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Big West of California, LLC

A FLYING J INC Company

1104 Country Hills Drive, Ogden Utah 84403 Phone 801-624-1607

Contract: # P-148-0106

November 14, 2005

Berry Petroleum Company
Attn: Ron Cross
5201 Truxtun Avenue, Suite 300
Bakersfield, CA 93309

This Agreement is made between Berry Petroleum Company, hereinafter referred to as "Seller", and Big West of California, LLC, hereinafter referred to as "Buyer", whereby Seller agrees to sell and deliver and Buyer agrees to purchase and receive crude oil under the terms and conditions set forth on Attachment A, attached hereto and which is hereby made a part of this Agreement.

Please execute and return one copy of this Agreement if it meets with your approval.

Berry Petroleum Company

Big West of California, LLC

By: /s/Michael Duginski
Michael Duginski
Executive Vice President

By: /s/ Fred Greener
Fred Greener
Executive Vice-President

Date: November 21, 2005

Date: November 17, 2005

451391.2

Attachment A

Big West Contract # P-148-0106
November 14, 2005

1. TERM

Commencing on February 1, 2006 and continuing through January 31, 2010. At Berry Petroleum Company's ("Berry") exclusive option, Berry may extend this Agreement for an additional one year by providing written notice to Big West of California, LLC ("Buyer") at least sixty (60) days prior to January 31, 2010.

2. QUANTITY AND QUALITY:

100% of crude oil as produced from the locations listed below. Buyer understands that crude oil volumes produced may fluctuate significantly over the term of this Agreement. Nothing in this Agreement shall obligate Seller to produce any particular volume of crude oil or to produce any crude oil at all from any of the properties or for Seller to own any of the listed properties.

3. LOCATION-BOPD, PRICE, DELIVERY AND TITLE:

South Midway Sunset - Currently approximately 11,700 BOPD

Price: Buyer will pay the higher of 1) the monthly calendar average including weekends for NYMEX light sweet crude LESS \$7.99 or 2) the monthly average posted price of Chevron, ExxonMobil, Union 76 and Shell Trading (STUSCO) for Midway Sunset crude oil PLUS a premium of \$1.50 per barrel. Either price to be gravity adjusted from 13 degrees. For pricing purposes, all deliveries shall be deemed to have been delivered in equal daily quantities during each calendar month.

FOB: Into connecting carriers per mutually agreeable meters. Seller will use its commercially reasonable best efforts to cause the crude oil to be delivered through one or more common carrier pipelines located at Seller's South Midway Sunset central facility as such pipeline(s) may be specified from time to time by Buyer. Buyer is responsible to make any and all arrangements at its expense for the use of these common carrier pipelines or any other pipelines that may become available. Due to disruptions or down time of the designated pipeline(s), Buyer will take immediate action to ship the crude oil through available alternative pipelines or such other actions as needed in order to maintain Seller's safe inventory levels but, in the event Buyer is not able to achieve immediate reasonably acceptable alternatives, then, during times of excess inventory, Seller reserves the right in its discretion to put the oil through alternative means and Seller shall provide Buyer prompt notice of such election by Seller.

North Midway Sunset - Currently approximately 1,000 BOPD

Price: Buyer will pay the higher of 1) the monthly calendar average including weekends for NYMEX light sweet crude LESS \$7.99 or 2) the monthly average posted price of Chevron, ExxonMobil, Union 76 and Shell Trading (STUSCO) for Midway Sunset crude oil PLUS a premium of \$1.50 per barrel. Either price to be gravity adjusted from 13 degrees. For pricing purposes, all deliveries shall be deemed to have been delivered in equal daily quantities during each calendar month.

FOB: Into connecting carriers per mutually agreeable meters.

Placerita - Currently approximately 3,000 BOPD

Price: Buyer will pay the higher of 1) the monthly calendar average including weekends for NYMEX light sweet crude LESS \$8.74 or 2) the monthly average posted price of Chevron, ExxonMobil, Union 76 and Shell Trading (STUSCO) for Midway Sunset crude oil PLUS a premium of \$0.75 per barrel. Either price to be gravity adjusted from 13 degrees. For pricing purposes, all deliveries shall be deemed to have been delivered in equal daily quantities during each calendar month.

FOB: Placerita shipping meters into designated truck carriers.

Poso Creek Field, McVan Area - Currently approximately 500 BOPD

Price: Buyer will pay the higher of 1) the monthly calendar average including weekends for NYMEX light sweet crude LESS \$7.99 or 2) the monthly average posted price of Chevron, ExxonMobil, Union 76 and Shell Trading (STUSCO) for Midway Sunset crude oil PLUS a premium of \$1.50 per barrel. Either price to be gravity adjusted from 13 degrees. For pricing purposes, all deliveries shall be deemed to have been delivered in equal daily quantities during each calendar month.

FOB: Poso Creek tank gauges into designated truck carriers.

West Montalvo Field - M4 Pool Area - Currently approximately 40 BOPD

Price: Buyer will pay the higher of 1) the monthly calendar average including weekends for NYMEX light sweet crude LESS \$8.74 or 2) the monthly average posted price of Chevron, ExxonMobil, Union 76 and Shell Trading (STUSCO) for Buena Vista crude oil PLUS a premium of \$0.75 per barrel. Either price to be gravity adjusted from 26 degrees. For pricing purposes, all deliveries shall be deemed to have been delivered in equal daily quantities during each calendar month.

FOB: Montalvo tank gauges into designated truck carriers.

In the event any one of the described posters of crude oil ceases to make such postings, the average posted price shall be determined by averaging the postings of the remaining described posters.

4. PAYMENT & TAXES:

Payment due on the twentieth (20th) of the month following the month of delivery. If the 20th falls on a banking holiday Friday or Saturday, the payment will be made on the last preceding business day. If the payment date falls on a Sunday or a banking holiday Monday, payment will be made on the following business day.

Payment will be made for 100% of the proceeds including all taxes by wire transfer using the following instructions:

Berry Petroleum Company
Wells Fargo Bank
ABA 121000248
Account #4296915481

Buyer shall be liable for and shall remit to the proper government authorities any current, new or additional federal, state, municipal or other regulatory body's taxes, inspection fees, transfer taxes or fees, occupation taxes or other like assessments or charges that may be applicable to liquid hydrocarbons after the point of delivery and Buyer shall be responsible for remittance of any such tax to the appropriate governmental authority.

Seller shall indemnify, defend and hold harmless Buyer from any liability, cost or expense caused by any breach of Seller's warranty set forth in Paragraph B of the GP, as amended.

5. INVOICING:

All invoices and correspondence shall be mailed to the following address:

Big West of California, LLC
Attn: Crude Oil Accounting
1104 Country Hills Drive
Ogden, Utah 84403

6. SPECIAL PROVISIONS:

Seller may add new production, acquired through acquisitions, at the same terms for similar quality of crude and locations as the crude oil covered under this Agreement, subject to adjustments for gravity, quality and transportation differentials. Such new production may not exceed 5,000 BOPD, cumulative over all locations without the mutual consent of both parties.

7. OTHER TERMS AND CONDITIONS:

- a. The terms stated in the ConocoPhillips General Provisions for Domestic Crude Oil Agreements effective January 1, 1993 ("GP"), attached hereto as Exhibit A and incorporated herein by reference, will be used to the extent that they are not in conflict with any of the terms in this Attachment A, provided, however:
 - 1) The fourth sentence of Paragraph A of the GP shall be changed to read as follows: "The crude oil delivered hereunder shall be merchantable and acceptable in the applicable common or segregated stream of the carriers involved, but not to exceed 3% S&W (merchantable liquid hydrocarbons are defined as unrefined liquid hydrocarbons which are suitable for normal refinery processing, meet specifications of delivering carriers and are free of foreign contaminant chemicals including, but not limited to, chlorinated and oxygenated hydrocarbons)."
 - 2) the second paragraph of Paragraph B of the GP shall be changed to read as follows: "Seller further warrants the crude oil delivered shall be merchantable."
 - 3) the parties do not agree to comply with the specific laws, orders or regulations identified in Paragraph C of the GP unless such party is otherwise subject to such laws, orders or regulations.
 - 4) in the first sentence of Paragraph E of the GP the phrase "acts in furtherance of the International Energy Program," shall be deleted. The following shall be added at the end of the first paragraph of Paragraph E: "Notwithstanding the foregoing, in the event that Buyer's refining facilities are shut in for Force Majeure, Buyer shall be obligated to trade the crude oil and to locate any alternative markets for a period of 60 (sixty) days following the date of written notice to Seller of such shut-in ("Force Majeure Shut In Period"). The parties acknowledge that there is no associated purchase/sale, or exchange of crude oil, related to this Agreement."
 - 5) in the last paragraph of Paragraph F of the GP the reference to Morgan Guaranty Trust Company of New York shall be deleted and Wells Fargo Bank - San Francisco shall be substituted.
 - 6) Buyer and Seller agree that, based upon the guarantees provided in connection with this Agreement, Paragraph G of the GP is hereby deleted in its entirety.

- 7) Paragraph H (1) of the GP shall be amended to read as follows: "H. Termination: (1) Right to Terminate. If a party to this Agreement (a) becomes the subject of bankruptcy or other insolvency proceedings, or proceedings for the appointment of a receiver, trustee or similar official, (b) becomes generally unable to pay its debts as they become due, (c) makes a general assignment for the benefit of creditors, (d) if Buyer defaults in the payment of any funds due under this Agreement, or (e) if Buyer fails to accept and purchase any crude oil delivered by Seller under this Agreement, then the other party to this Agreement (the "Terminating Party") may terminate this Agreement by giving written notice of termination. Such a termination shall be deemed to be effective immediately prior to any of the events described in clauses (a), (b) or (c) of this Section H(1) and, in the case of termination for reasons described in clauses (d) or (e) immediately upon the Buyer's receipt of Seller's notice of termination. If this Agreement is associated with a separate agreement contemplating a corresponding purchase or sale of crude oil, all related agreements shall be deemed to be terminated at the same time as this Agreement is terminated. All of the references to Liquidating Party in this Paragraph H shall be substituted by Terminating Party. Upon termination, the parties shall have no further rights or obligations with respect to this Agreement, except for the payment of the amount(s) (the 'Settlement Amount' or 'Settlement Amounts') determined as provided in Paragraph(3) of this Section."
- 8) The following sentence shall be added to Paragraph H (3) of the GP: "In the event of a contract termination, the Settlement Amount shall be calculated using the estimated contract quantity of crude oil multiplied by the remainder of the term of this Agreement except as such Settlement Amount may be limited by the provisions of Paragraph H (8)." Paragraph H (3) shall be amended by adding to the end of the first sentence thereof the following: "discounted to present value at the time of payment using a discount rate equal to the interest rate determined under Paragraph F."
- 9) Paragraph H (8) shall be added to the GP to read as follows: "(8) Force Majeure Termination. If the Buyer terminates this Agreement as a result of a Force Majeure causing a shut in of its refining facilities, as provided for in Paragraph E, as amended, then Buyer shall be obligated to pay any and all Settlement Amounts for the Commodity Transactions provided for herein for a period of 12 months following the Force Majeure Shut In Period."
- 10) the governing law set forth in Paragraph M of the GP shall be California law.
- 11) Paragraph Q of the GP is modified to read as follows: "Entirety of Agreement. The Agreement between Seller and Buyer consists of that certain letter agreement dated November 14, 2005 to which is attached Attachment A and these General Provisions as described in Paragraph 7(a) of Attachment A as modified which all together contain the Entire Agreement of the parties; there are no other promises, representations or warranties. Any modification of any of the referenced documents shall only be by written instrument. Any conflict between the General Provisions and Attachment A shall be resolved in favor of Attachment A. The section headings are for convenience only and shall not limit or change the subject matter of this Agreement."
- b. In the event of any claim, dispute or controversy arising out of or relating to this Agreement, including an action for declaratory relief, the prevailing party in such action or proceeding shall be entitled to recover its court costs and reasonable out-of-pocket expenses not limited to taxable costs, including but not limited to phone calls, photocopies, expert witness, travel, etc., and reasonable attorneys' fees to be fixed by the court. Such recovery shall include court costs, out-of-pocket expenses and attorneys' fees on appeal, if any. The court shall determine who is the "prevailing party," whether or not the dispute or controversy proceeds to final judgment. If either party is reasonably required to incur such out-of-pocket expenses and attorneys' fees as a result of any claim arising out of or concerning this Agreement or any right or obligation derived hereunder, then the prevailing party shall be entitled to recover such reasonable out-of-pocket expenses and attorneys' fees whether or not an action is filed.

8. PARENTS GUARANTY:

As a material condition to this Agreement, Buyer shall concurrently deliver to Seller a mutually agreeable continuing guaranty of Big West Oil, LLC, and a mutually agreeable continuing guaranty of Flying J Inc.

**EXHIBIT A
TO ATTACHMENT A
TO NOVEMBER 3, 2005 CRUDE OIL PURCHASE AGREEMENT
(JANUARY 1, 1993 CONOCO GENERAL PROVISIONS FOR
DOMESTIC CRUDE OIL AGREEMENTS)**

**GENERAL PROVISIONS
DOMESTIC CRUDE OIL AGREEMENTS**

A. Measurement and Tests: All measurements hereunder shall be made from static tank gauges on 100 percent tank table basis or by positive displacement meters. All measurements and tests shall be made in accordance with the latest ASTM or ASME-API (Petroleum PD Meter Code) published methods then in effect, whichever apply. Volume and gravity shall be adjusted to 60 degrees Fahrenheit by the use of Table 6A and 5A of the Petroleum Measurement Tables ASTM Designation D1250 in their latest revision. The crude oil delivered hereunder shall be marketable and acceptable in the applicable common or segregated stream of the carriers involved but not to exceed 1% S&W. Full deduction for all free water and S&W content shall be made according to the API/ASTM Standard Method then in effect. Either party shall have the right to have a representative witness all gauges, tests and measurements. In the absence of the other party's representative, such gauges, tests and measurements shall be deemed to be correct.

B. Warranty: The Seller warrants good title to all crude oil delivered hereunder and warrants that such crude oil shall be free from all royalties, liens, encumbrances and all applicable foreign, federal, state and local taxes.

Seller further warrants that the crude oil delivered shall not be contaminated by chemicals foreign to virgin crude oil including, but not limited to chlorinated and/or oxygenated hydrocarbons and lead. Buyer shall have the right, without prejudice to any other remedy available to Buyer, to reject and return to Seller any quantities of crude oil which are found to be so contaminated, even after delivery to Buyer.

C. Rules and Regulations: The terms, provisions and activities undertaken pursuant to this Agreement shall be subject to all applicable laws, orders and regulations of all governmental authorities. If at any time a provision hereof violates any such applicable laws, orders or regulations, such provision shall be voided and the remainder of the Agreement shall continue in full force and effect unless terminated by either party upon giving written notice to the other party hereto. If applicable, the parties hereto agree to comply with all provisions (as amended) of the Equal Opportunity Clause prescribed in 41 C.F.R. 60-1.4; the Affirmative Action Clause for disabled veterans and veterans of the Vietnam Era prescribed in 41 C.F.R. 60-250.4; the Affirmative Action Clause for Handicapped Workers prescribed in 41 C.F.R. 60-741.4; 48 C.F.R. Chapter 1 Subpart 19.7 regarding Small Business and Small Disadvantaged Business Concerns; 48 C.F.R. Chapter 1 Subpart 20.3 regarding Utilization of Labor Surplus Area Concerns; Executive Order 12138 and regulations thereunder regarding subcontracts to women-owned business concerns; Affirmative Action Compliance Program (41 C.F.R. 60-1.40); annually file SF-100 Employer Information Report (41 C.F.R. 60-1.7); 41 C.F.R. 60-1.8 prohibiting segregated facilities; and the Fair Labor Standards Act of 1938 as amended, all of which are incorporated in this Agreement by reference.

D. Hazard Communication: Seller shall provide its Material Safety Data Sheet ("MSDS") to Buyer. Buyer acknowledges the hazards and risks in handling and using crude oil. Buyer shall read the MSDS and advise its employees, its affiliates, and third parties, who may purchase or come into contact with such crude oil, about the hazards of crude oil, as well as the precautionary procedures for handling said crude oil, which are set forth in such MSDS and any supplementary MSDS or written warning(s) which Seller may provide to Buyer from time to time.

E. Force Majeure: Except for payment due hereunder, either party hereto shall be relieved from liability for failure to perform hereunder for the duration and to the extent such failure is occasioned by war, riots, insurrections, fire, explosions, sabotage, strikes, and other labor or industrial disturbances, acts of God or the elements, governmental laws, regulations, or requests, acts in furtherance of the International Energy Program, disruption or breakdown of production or transportation facilities, delays of pipeline carrier in receiving and delivering crude oil tendered, or by any other cause, whether similar or not, reasonably beyond the control of such party. Any such failures to perform shall be remedied with all reasonable dispatch, but neither party shall be required to supply substitute quantities from other sources of supply. Failure to perform due to events of Force Majeure shall not extend the terms of this Agreement.

Notwithstanding the above, and in the event that the Agreement is an associated purchase/sale, or exchange of crude oil, the parties shall have the rights and obligations described below in the circumstances described below:

(1) If, because of Force Majeure, the party declaring Force Majeure (the "Declaring Party") is unable to deliver part or all of the quantity of crude oil which the Declaring Party is obligated to deliver under the Agreement or associated contract, the other party (the "Exchange Partner") shall have the right but not the obligation to reduce its deliveries of crude oil under the same Agreement or associated contract by an amount not to exceed the number of barrels of crude oil that the Declaring Party fails to deliver.

(2) If, because of Force Majeure, the Declaring Party is unable to take delivery of part or all of the quantity of crude oil to be delivered by the Exchange Partner under the Agreement or associated contract, the Exchange Partner shall have the right but not the obligation to reduce its receipts of crude oil under the same Agreement or associated contract by an amount not to exceed the number of barrels of crude oil that the Declaring Party fails to take delivery of.

F. Payment: Unless otherwise specified in the Special Provisions of this Agreement, Buyer agrees to make payment against Seller's invoice for the crude oil purchased hereunder to a bank designated by Seller in U.S. dollars by telegraphic transfer in immediately available funds. Unless otherwise specified in the Special Provisions of this Agreement, payment will be due on or before the 20th of the month following the month of delivery. If payment due date is on a Saturday or New York bank holiday other than Monday, payment shall be due on the preceding New York banking day. If payment due date is on a Sunday or a Monday New York bank holiday, payment shall be due on the succeeding New York banking day.

Payment shall be deemed to be made on the date good funds are credited to Seller's account at Seller's designated bank.

In the event that Buyer fails to make any payment when due, Seller shall have the right to charge interest on the amount of the overdue payment at a per annum rate which shall be two percentage points higher than the published prime lending rate of Morgan Guaranty Trust Company of New York on the date payment was due, but not to exceed the maximum rate permitted by law.

G. Financial Responsibility: Notwithstanding anything to the contrary in this Agreement, should Seller reasonably believe it necessary to assure payment, Seller may at any time require, by written notice to Buyer, advance cash payment or satisfactory security in the form of a Letter or Letters of Credit at Buyer's expense in a form and from a bank acceptable to Seller to cover any or all deliveries of crude oil. If Buyer does not provide the Letter of Credit on or before the date specified in Seller's notice under this section, Seller or Buyer may terminate this Agreement forthwith. However, if a Letter of Credit is required under the Special Provisions of this Agreement and Buyer does not provide same, then Seller only may terminate this Agreement forthwith. In no event shall Seller be obligated to schedule or complete delivery of the crude oil until said Letter of Credit is found acceptable to Seller. Each party may offset any payments or deliveries due to the other party under this or any other agreement between the parties.

If a party to this Agreement (the "Defaulting Party") should (1) become the subject of bankruptcy or other insolvency proceedings, or proceedings for the appointment of a receiver, trustee, or similar official, (2) become generally unable to pay its debts as they become due, or (3) make a general assignment for the benefit of creditors, the other party to this Agreement may withhold shipments without notice.

H. Liquidation:

(1) **Right to Liquidate.** At any time after the occurrence of one or more of the events described in the third paragraph of Section G, Financial Responsibility, the other party to the Agreement (the "Liquidating Party") shall have the right, at its sole discretion, to liquidate this Agreement by terminating this Agreement. Upon termination, the parties shall have no further rights or obligations with respect to this Agreement, except for the payment of the amount(s) (the "Settlement Amount" or "Settlement Amounts") determined as provided in Paragraph (3) of this section.

(2) **Multiple Deliveries.** If this Agreement provides for multiple deliveries of one or more types of crude oil in the same or different delivery months, or for the purchase or exchange of crude oil by the parties, all deliveries under this Agreement to the same party at the same delivery location during a particular delivery month shall be considered a single commodity transaction ("Commodity Transaction") for the purpose of determining the Settlement Amount(s). If the Liquidating Party elects to liquidate this Agreement, the Liquidating Party must terminate all Commodity Transactions under this Agreement.

(3) **Settlement Amount.** With respect to each terminated Commodity Transaction, the Settlement Amount shall be equal to the contract quantity of crude oil, multiplied by the difference between the contract price per barrel specified in this Agreement (the "Contract Price") and the market price per barrel of crude oil on the date the Liquidating Party terminates this Agreement (the "Market Price"). If the Market Price exceeds the Contract Price in a Commodity Transaction, the selling party shall pay the Settlement Amount to the buying party. If the Market Price is less than the Contract Price in a Commodity Transaction, the buying party shall pay the Settlement Amount to the selling party. If the Market Price is equal to the Contract Price in a Commodity Transaction, no Settlement Amount shall be due.

(4) **Termination Date.** For the purpose of determining the Settlement Amount, the date on which the Liquidating Party terminates this Agreement shall be deemed to be (a) the date on which the Liquidating Party sends written notice of termination to the Defaulting Party, if such notice of termination is sent by telex or facsimile transaction; or (b) the date on which the Defaulting Party receives written notice of termination from the Liquidating Party, if such notice of termination is given by United States mail or a private mail delivery service.

(5) **Market Price.** Unless otherwise provided in this Agreement, the Market Price of crude oil sold or exchanged under this Agreement shall be the price for crude oil for the delivery month specified in this Agreement and at the delivery location that corresponds to the delivery location specified in this Agreement, as reported in Platt's Oilgram Price Report ("Platt's") for the date on which the Liquidating Party terminates this Agreement. If Platt's reports a range of prices for crude oil on that date, the Market Price shall be the arithmetic average of the high and low prices reported by Platt's. If Platt's does not report prices for the crude oil being sold under this Agreement, the Liquidating Party shall determine the Market Price of such crude oil in a commercially reasonable manner, unless otherwise provided in this Agreement.

(6) **Payment of Settlement Amount.** Any Settlement Amount due upon termination of this Agreement shall be paid in immediately available funds within two business days after the Liquidating Party terminates this Agreement. However, if this Agreement provides for more than one Commodity Transaction, or if Settlement Amounts are due under other agreements terminated by the Liquidating Party, the Settlement Amounts due to each party for such Commodity Transactions and/or agreements shall be aggregated. The party owing the net amount after such aggregation shall pay such net amount to the other party in immediately available funds within two business days after the date on which the Liquidating Party terminates this Agreement.

(7) **Miscellaneous.** This section shall not limit the rights and remedies available to the Liquidating Party by law or under other provisions of this Agreement. The parties hereby acknowledge that this Agreement constitutes a forward contract for purposes of Section 556 of the U.S. Bankruptcy Code.

I. Equal Daily Deliveries: For pricing purposes only, unless otherwise specified in the Special Provisions, all crude oil delivered hereunder during any calendar month shall be considered to have been delivered in equal daily quantities during such month.

J. Exchange Balancing: If volumes are exchanged, each party shall be responsible for maintaining the exchange in balance on a month-to-month basis, as near as pipeline or other transportation conditions will permit. In all events upon termination of this Agreement and after all monetary obligations under this Agreement have been satisfied, any volume imbalance existing at the conclusion of this Agreement of less than 1,000 barrels will be declared in balance. Any volume imbalance of 1,000 barrels or more, limited to the total contract volume, will be settled by the underdelivering party making delivery of the total volume imbalance in accordance with the delivery provisions of this Agreement applicable to the underdelivering party, unless mutually agreed to the contrary. The request to schedule all volume imbalances must be confirmed in writing by one party or both parties. Volume imbalances confirmed by the 20th of the month shall be delivered during the calendar month after the volume imbalance is confirmed. Volume imbalances confirmed after the 20th of the month shall be delivered during the second calendar month after the volume imbalance is confirmed.

K. Delivery, Title, and Risk of Loss: Delivery, title, and risk of loss of the crude oil delivered hereunder shall pass from Seller to Buyer as follows:

For lease delivery locations, delivery of the crude oil to the Buyer shall be effected as the crude oil passes the last permanent delivery flange and/or meter connecting the Seller's lease/unit storage tanks or processing facilities to the Buyer's carrier. Title to and risk of loss of the crude oil shall pass from Seller to Buyer at the point of delivery.

For delivery locations other than lease/unit delivery locations, delivery of the crude oil to the Buyer shall be effected as the crude oil passes the last permanent delivery flange and/or meter connecting the delivery facility designated by the Seller to the Buyer's carrier. If delivery is by in-line transfer, delivery of the crude oil to the Buyer shall be effected at the particular pipeline facility designated in this Agreement. Title to and risk of loss of the crude oil shall pass from the Seller to the Buyer upon delivery.

L. Term: Unless otherwise specified in the Special Provisions, delivery months begin at 7:00 a.m. on the first day of the calendar month and end at 7:00 a.m. on the first day of the following calendar month.

M. Governing Law: This Agreement and any disputes arising hereunder shall be governed by the laws of the State of Texas.

N. Necessary Documents: Upon request, each party agrees to furnish all substantiating documents incident to the transaction, including a Delivery Ticket for each volume delivered and an invoice for any month in which the sums are due.

O. Waiver: No waiver by either party regarding the performance of the other party under any of the provisions of this Agreement shall be construed as a waiver of any subsequent performance under the same or any other provisions.

P. Assignment: Neither party shall assign this Agreement or any rights hereunder without the written consent of the other party unless such assignment is made to a person controlling, controlled by or under common control of assignor, in which event assignor shall remain responsible for nonperformance.

Q. Entirety of Agreement: The Special Provisions and these General Provisions contain the entire Agreement of the parties; there are no other promises, representations or warranties. Any modification of this Agreement shall be by written instrument. Any conflict between the Special Provisions and these General Provisions shall be resolved in favor of the Special Provisions. The section headings are for convenience only and shall not limit or change the subject matter of this Agreement.

R. Definitions: When used in this Agreement, the terms listed below have the following meanings:

"API" means the American Petroleum Institute.

"ASME" means the American Society of Mechanical Engineers.

"ASTM" means the American Society for Testing Materials.

"Barrel" means 42 U.S. gallons of 231 cubic inches per gallon corrected to 60 degrees Fahrenheit.

"Carrier" means a pipeline, barge, truck, or other suitable transporter of crude oil.

"Crude Oil" means crude oil or condensate, as appropriate.

"Day," "month," and "year" mean, respectively, calendar day, calendar month, and calendar year, unless otherwise specified.

"Delivery Ticket" means a shipping/loading document or documents stating the type and quality of crude oil delivered, the volume delivered and method of measurement, the corrected specific gravity, temperature, and S&W content.

"Invoice" means a statement setting forth at least the following information: The date(s) of delivery under the transaction; the location(s) of delivery; the volume(s); price(s); the specific gravity and gravity adjustments to the price(s) (where applicable); and the term(s) of payment.

"S&W" means sediment and water.



Flying J Inc.

1104 Country Hills Drive, Ogden Utah 84403 Phone 801-624-1607

Contract: # P-148-0106

CONTINUING GUARANTY

1. Guaranty; Definitions. For valuable consideration, the undersigned Flying J Inc., a Utah corporation ("Guarantor"), absolutely and unconditionally, guarantees and promises to pay to Berry Petroleum Company, a Delaware corporation ("Berry"), or order, on demand in lawful money of the United States of America and in immediately available funds, any Indebtedness of Big West of California, LLC, ("Big West") to Berry. Guarantor is financially interested in Big West and acknowledges that financial accommodations extended to Big West will be of substantial benefit to Guarantor. Big West has entered into that certain Crude Oil Purchase Contract dated November 14, 2005 ("Contract"), pursuant to which Big West will purchase substantially all of Berry's crude oil production in California and Berry is willing to enter into such Contract, but only upon the condition that Guarantor executes this Guaranty. In order to induce Berry to enter into the Contract, and in consideration thereof, Guarantor hereby agrees to this Guaranty. The term "Indebtedness" is used herein in its most comprehensive sense and includes the Contract and any and all advances, debts, obligations and liabilities of Big West to Berry, including, without limitation, any obligation heretofore, now or hereafter made, incurred or created, whether voluntary or involuntary and however arising, whether due or not due, absolute or contingent, liquidated, determined or undetermined, and whether Big West may be liable individually or jointly, or whether recovery upon such Indebtedness may be or hereafter become unenforceable. Notwithstanding anything herein to the contrary, the aggregate amount payable by the Guarantor under this Guaranty shall not exceed Seventy-Five Million Dollars (\$75,000,000.00).

2. Continuing Guaranty. This is a continuing guaranty and all rights, powers and remedies hereunder shall apply to all past, present and future Indebtedness of Big West to Berry, including that arising under successive transactions which shall either continue the Indebtedness, increase or decrease it, or from time to time create new Indebtedness after all or any prior Indebtedness has been satisfied, and notwithstanding the dissolution, liquidation or bankruptcy of Berry or Guarantor or any other event or proceeding affecting Berry or Guarantor. The obligations of Guarantor hereunder shall be in addition to any obligations of Guarantor under any other guaranties of any liabilities or obligations of Big West or any other persons heretofore or hereafter given to Berry unless said other guaranties are modified or revoked in writing; and this Guaranty shall not, unless herein provided, affect or invalidate any such other guaranties. The liability of Guarantor to Berry shall at all times be deemed to be the aggregate liability of Guarantor under the terms of this Guaranty and of any other guaranties heretofore given by Guarantor to Berry and not expressly revoked, modified or invalidated.

3. Obligations Joint and Several; Separate Actions; Waiver of Statute of Limitations; Reinstatement of Liability. The obligations hereunder are joint and several and independent of the obligations of Big West, and a separate action or actions may be brought and prosecuted against Guarantor whether action is brought against Big West or any other person or whether Big West or any other person is joined in any such action or actions. Guarantor acknowledges that there are no conditions precedent to the effectiveness of this Guaranty other than this Guaranty shall not be effective until such time and at any time as the Equity (Equity is defined as members' or shareholders' equity as defined by generally accepted accounting principles) of Big West Oil, LLC, a limited liability company, is less than Four Hundred Million Dollars (\$400,000,000.00) and that this Guaranty is in full force and effect and is binding on Guarantor as of the date written below, regardless of whether Berry obtains collateral or any guaranties from others or takes any other action contemplated by Guarantor. Guarantor waives the benefit of any statute of limitations affecting Guarantor's liability hereunder or the enforcement thereof, and Guarantor agrees that any payment of any Indebtedness or other act which shall toll any statute of limitations applicable thereto shall similarly operate to toll such statute of limitations applicable to Guarantor's liability hereunder. The liability of Guarantor hereunder shall be reinstated and revived and the rights of Berry shall continue if and to the extent for any reason any amount at any time paid on account of any Indebtedness guaranteed hereby is rescinded or must be otherwise restored by Berry, whether as a result of any proceedings in bankruptcy or reorganization or otherwise, all as though such amount had not been paid. The determination as to whether any amount so paid must be rescinded or restored shall be made by Berry in its sole discretion; provided, however, that if Berry chooses to contest any such matter at the request of Guarantor, Guarantor agrees to indemnify and hold Berry harmless from and against all costs and expenses, including reasonable attorney fees, expended or incurred by Berry in connection therewith, including, without limitation, in any litigation with respect thereto.

4. Authorizations to Berry. Guarantor authorizes Berry, either before or after revocation hereof, without notice to or demand on Guarantor and without affecting Guarantor's liability hereunder, from time to time to: (a) alter, compromise, renew, extend, accelerate or otherwise change the time for payment of, or otherwise change the terms of the Indebtedness or any part thereof, including increase or decrease of the rate of interest thereon; (b) take and hold security for the payment of this Guaranty or the Indebtedness or any portion thereof, and exchange, enforce, waive and release any such security; (c) apply such security and direct the order or manner of sale thereof, including, without limitation, a nonjudicial sale permitted by the terms of any controlling security agreement or deed of trust, as Berry in its discretion may determine; (d) release or substitute any one or more of the endorsers or any other Guarantors of the Indebtedness; and (e) apply payments received by Berry from Big West to any Indebtedness of Big West to Berry, in such order as Berry shall determine in its sole discretion, whether or not any such Indebtedness is covered by this Guaranty, and Guarantor hereby waives any provision of law regarding application of payments which specifies otherwise. Berry may without notice assign this Guaranty in whole or in part.

5. Representations and Warranties. Guarantor represents and warrants that: (a) this Guaranty is executed at Big West's request; (b) Guarantor has not sold, leased, assigned, encumbered, hypothecated, transferred or otherwise disposed of all or a substantial or material part of Guarantor's assets other than in the ordinary course of business; and (c) Guarantor has established adequate means of obtaining from Big West on a continuing basis financial and other information pertaining to Big West's financial condition. Guarantor agrees to keep adequately informed from such means of any facts, events or

circumstances that might in any way affect Guarantor's risks hereunder, and Guarantor further agrees that Berry shall have no obligation to disclose to Guarantor any information or material about Big West that is acquired by Berry in any manner. As an ongoing obligation and as a material condition to Berry to enter into the Indebtedness with Big West, Guarantor agrees to provide to Berry copies of Guarantor's annual audited and quarterly unaudited financial statements within 90 days for the annual and within 45 days for the quarterly after the end of the reporting period reflected in such statements at all times and so long as this Guaranty is in effect with such financial statements to be accompanied with a certification in a form reasonably satisfactory to Berry by the Chief Financial Officer of Guarantor certifying that the financial statements are accurate and not misleading and there have been no material adverse changes in the business of Guarantor. Berry agrees to keep said financial statements confidential other than for purposes of enforcing this Guaranty or to provide to Berry's lenders, if required by such lenders.

6. Guarantor Waivers. Guarantor waives any right to require Berry to: (a) proceed against or exhaust any security, if any, held by Berry or any other person; (b) give notice of the terms, time and place of any public or private sale of personal property security held from Big West or any other person, or otherwise comply with the provisions of Section 9611 of the California Uniform Commercial Code; (c) pursue any other remedy in Berry's power; or (d) make any presentments or demands for performance, or give any notices of nonperformance, protests, notices of protest or notices of dishonor.

Guarantor waives any defense based upon: (a) any disability of Big West or any other person; (b) the cessation or limitation from any cause whatsoever, other than payment in full, of the Indebtedness of Big West or any other person; (c) any lack of authority of any officer, director, partner, agent or any other person acting or purporting to act on behalf of Big West which is a corporation, partnership, limited liability company or other type of entity, or any defect in the formation of such Big West; (d) any act or omission by Berry which directly or indirectly results in or aids the discharge of Big West or any Indebtedness by operation of law or otherwise; or (e) any modification of the terms of the Indebtedness.

Without limiting the generality of the foregoing, Guarantor expressly waives any and all benefits and defenses under Civil Code Section 2822, which provides that in instances where Berry accepts a partial payment of the indebtedness from Big West, Big West may designate the portion of the indebtedness that is to be satisfied by such partial payment.

Unless relinquished by agreement, guarantor normally has the right to proceed against borrower for the reimbursement of funds that guarantor pays to the beneficiary of the guarantee for the benefit of the borrower (called "subrogation").

Guarantor has certain protection, under the California Code of Civil Procedure, against personal liability for the repayment of the Indebtedness after Berry forecloses on any real property that may be security for the Contract. Berry may foreclose either by (i) court proceeding (a "judicial foreclosure") or (ii) the power of sale provision in the deed of trust (a "non-judicial foreclosure").

Should Berry choose to foreclose on any real property through a non-judicial sale and should the proceeds of such foreclosure sale(s) not satisfy the Indebtedness in full, Code of Civil Procedure Section 580d and court rulings do not allow Berry to recover the difference between the Indebtedness and the proceeds of such foreclosure sale(s) from Guarantor. In other words, Berry, by foreclosing by non-judicial sale, would not be able to obtain a judgment against Guarantor personally to pay the difference between the Indebtedness and the proceeds of such foreclosure sale(s).

GUARANTOR WAIVES ALL RIGHTS AND DEFENSE ARISING OUT OF AN ELECTION OF REMEDIES BY THE CREDITOR, EVEN THOUGH THAT ELECTION OF REMEDIES, SUCH AS A NON-JUDICIAL FORECLOSURE WITH RESPECT TO SECURITY FOR A GUARANTEED OBLIGATION, HAS DESTROYED THE GUARANTOR'S RIGHT OF SUBROGATION AND REIMBURSEMENT AGAINST THE PRINCIPAL BY THE OPERATION OF SECTION 580d OF THE CODE OF CIVIL PROCEDURE OR OTHERWISE.

7. Guarantor's Understanding With Respect to Waivers. Guarantor agrees that each of the waivers set forth above are made with Guarantor's full knowledge of its significance and consequences, and agrees that the waivers are reasonable and not contrary to public policy or law. If any of said waivers are determined to be contrary to any applicable law or public policy, such waivers shall be effective only to the extent permitted by law.

8. This Section intentionally left blank.

9. Bankruptcy of Big West. Notwithstanding any modification, discharge or extension of the Indebtedness or any amendment, modification, stay or cure of Berry's rights which may occur in any bankruptcy or reorganization case or proceeding concerning Big West, whether permanent or temporary, and whether assented to by Berry, Guarantor hereby agrees that Guarantor shall be obligated hereunder to pay and perform the Indebtedness and discharge its other indebtedness in accordance with the terms of the obligations and the terms of this Guaranty in effect on the date hereof. Guarantor understands and acknowledges that by virtue of this Guaranty, it has specifically assumed any and all risks of a bankruptcy or reorganization case or proceeding with respect to Big West. As an example and not in any way of limitation, a subsequent modification of the Indebtedness in any reorganization case concerning Big West shall not affect the indebtedness of Guarantor to pay and perform the Indebtedness in accordance with the original terms.

10. Financial Condition of Big West. Guarantor acknowledges that certain facts concerning Big West and Big West's financial condition may be known or become known to Berry. Guarantor waives any right to require Berry to furnish such information to Guarantor and agrees not to assert any defense Guarantor may have based upon Berry's failure to furnish such information. Guarantor acknowledges that, in executing this Guaranty and at all times hereafter, Guarantor has relied and will continue to rely upon its own investigation and sources other than Berry for all information and facts relating to Big West and Big West's financial condition.

11. Waiver of Authentication of Validity of Acts of Corporation, Partnership or Limited Liability Company. As Big West is a limited liability company, it is not necessary for Berry to inquire into the power of Big West or the officers, directors, partners or agents acting or purporting to act in its behalf, and any Indebtedness made or created in reliance upon the professed exercise of such power shall be guaranteed hereunder.

12. Disclosure of Information. Guarantor acknowledges that Berry has the right to sell, assign, transfer, negotiate or grant participations in all or any part of, or any interest in, any Indebtedness of Big West to Berry and any obligations with respect thereto, including this Guaranty. In connection therewith, Berry may disclose all documents and information which Berry now has or hereafter requires relating to Guarantor and this Guaranty, whether furnished by Big West, Guarantor or otherwise. Guarantor further agrees that Berry may disclose such documents and information to Big West.

13. Costs, Expenses and Attorney Fees. All payments, advances, charges, costs and expenses, including reasonable attorney fees, made or incurred by Berry in the enforcement of this Guaranty or in the collection of any of the Indebtedness of Big West to Berry shall be paid by Guarantor immediately and

without demand, together with interest at a rate per annum equal to the greater of ten percent (10%) or the interest rate being charged by Berry's primary lender to Berry under outstanding credit facilities.

14. Arbitration.

a. Mandatory Arbitration. Any controversy or claim (in an amount in excess of the small claims court maximum jurisdictional limit) arising out of or relating to this Guaranty or any agreements or instruments relating hereto or delivered in connection herewith, or arising out of or relating to any aspect of the past, present or future relationships of the parties hereto, including but not limited to a claim based on or arising from an alleged tort, shall, at the request of any party, be determined by arbitration by a single neutral arbitrator in accordance with California arbitration procedure (California Code of Civil Procedure Section 1280 et seq.) And under the rules of the American Arbitration Association (but not under the auspices of the American Arbitration Association). Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction.

The institution and maintenance of an action for judicial relief or pursuit of a provisional or ancillary remedy shall not constitute a waiver of the right of any party, including the plaintiff, to submit the controversy or claim to arbitration if any other party contests such action for judicial relief.

This paragraph shall apply if and only if at the time of the proposed submission none of the obligations to Berry described in this Guaranty are secured by real property collateral. No controversy or claim shall be submitted to arbitration without the consent of all parties if, at the time of the proposed submission, any such obligation is secured by real property collateral.

b. Judicial Reference. In any judicial action or proceeding arising out of or relating to this Guaranty or any agreements or instruments relating hereto or delivered in connection herewith, including but not limited to a claim based on or arising from an alleged tort, if the controversy or claim is not submitted to arbitration as provided and limited in paragraph a of this Section, all decisions of fact and law shall be determined by a reference in accordance with California Code of Civil Procedure Section 638 et seq.

The parties shall designate to the court a referee in the same manner as arbitrators are selected in American Arbitration Association-sponsored proceedings and pursuant to California Code of Civil Procedure Section 1281.6.

Judgment upon the award rendered by such referee shall be entered in the court in which such proceedings was commenced in accordance with California Code of Civil Procedure Sections 644 and 645.

c. Provisional Remedies Self-help and Foreclosure. Neither paragraph a nor any other provision of this arbitration section shall limit the right of any party to this Guaranty to foreclosure against or sell any real or personal property collateral or security or to obtain provisional or ancillary remedies such as attachment, injunctive relief for the appointment of a receiver from a court of competent jurisdiction before, after or during the pendency of any arbitration. At Berry's option, foreclosure under a deed of trust or mortgage may be accomplished either by exercise of power of sale under the deed of trust or mortgage or by judicial foreclosure.

d. Miscellaneous Arbitration Provisions.

(1) In the event of any dispute governed by this Section, each of the parties shall pay all of its own expenses, and, subject to the award of the arbitrator or referee, shall pay an equal share of the arbitrator's or referee's fees. The arbitrator or referee shall award recovery of all costs and fees (including attorney fees, administrative fees, arbitrator's or referee's fees, and court costs) to the prevailing party.

(2) All statutes of limitations which would otherwise be applicable shall apply to any arbitration or reference proceeding under this Section.

(3) In any arbitration or reference proceeding subject to these provisions, the arbitrator or referee is specifically empowered to decide (by documents only, or with a hearing, at the arbitrator's or referee's sole discretion) pre-hearing motions which are substantially similar to demurrers, motions to dismiss and motions for summary adjudication.

(4) Any arbitrator or referee selected pursuant to this Section shall be knowledgeable in the subject matter of the dispute, and shall be an active attorney or retired judge.

15. Successors, Assigns; Governing Law. This Guaranty shall be binding upon and inure to the benefit of the successors and assigns of the parties, and shall be governed by and construed in accordance with the laws of this State of California.

IN WITNESS WHEREOF, the undersigned Guarantor has executed this Guaranty as of the date stated below.

DATE: November 14, 2005

FLYING J INC., a Utah corporation

By: Scott D. Clayton

Its: Treasurer



Big West Oil, LLC
A FLYING J INC Company

1104 Country Hills Drive, Ogden Utah 84403 Phone 801-624-1607

Contract: # P-148-0106

CONTINUING GUARANTY

1. Guaranty; Definitions. For valuable consideration, the undersigned Big West Oil, LLC a limited liability company ("Guarantor"), absolutely and unconditionally, guarantees and promises to pay to Berry Petroleum Company, a Delaware corporation ("Berry"), or order, on demand in lawful money of the United States of America and in immediately available funds, any Indebtedness of Big West of California, LLC, ("Big West") to Berry. Guarantor is financially interested in Big West and acknowledges that financial accommodations extended to Big West will be of substantial benefit to Guarantor. Big West has entered into that certain Crude Oil Purchase Contract dated November 14, 2005 ("Contract"), pursuant to which Big West will purchase substantially all of Berry's crude oil production in California and Berry is willing to enter into such Contract, but only upon the condition that Guarantor executes this Guaranty. In order to induce Berry to enter into the Contract, and in consideration thereof, Guarantor hereby agrees to this Guaranty. The term "Indebtedness" is used herein in its most comprehensive sense and includes the Contract and any and all advances, debts, obligations and liabilities of Big West to Berry, including, without limitation, any obligation heretofore, now or hereafter made, incurred or created, whether voluntary or involuntary and however arising, whether due or not due, absolute or contingent, liquidated, determined or undetermined, and whether Big West may be liable individually or jointly, or whether recovery upon such Indebtedness may be or hereafter become unenforceable. Notwithstanding anything herein to the contrary, the aggregate amount payable by the Guarantor under this Guaranty shall not exceed Seventy-Five Million Dollars (\$75,000,000.00).

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3. Obligations Joint and Several; Separate Actions; Waiver of Statute of Limitations; Reinstatement of Liability. The obligations hereunder are joint and several and independent of the obligations of Big West, and a separate action or actions may be brought and prosecuted against Guarantor whether action is brought against Big West or any other person or whether Big West or any other person is joined in any such action or actions. Guarantor acknowledges that there are no conditions precedent to the effectiveness of this Guaranty, and that this Guaranty is in full force and effect and is binding on Guarantor as of the date written below, regardless of whether Berry obtains collateral or any guaranties from others or takes any other action contemplated by Guarantor. Guarantor waives the benefit of any statute of limitations affecting Guarantor's liability hereunder or the enforcement thereof, and Guarantor agrees that any payment of any Indebtedness or other act which shall toll any statute of limitations applicable thereto shall similarly operate to toll such statute of limitations applicable to Guarantor's liability hereunder. The liability of Guarantor hereunder shall be reinstated and revived and the rights of Berry shall continue if and to the extent for any reason any amount at any time paid on account of any Indebtedness guaranteed hereby is rescinded or must be otherwise restored by Berry, whether as a result of any proceedings in bankruptcy or reorganization or otherwise, all as though such amount had not been paid. The determination as to whether any amount so paid must be rescinded or restored shall be made by Berry in its sole discretion; provided, however, that if Berry chooses to contest any such matter at the request of Guarantor, Guarantor agrees to indemnify and hold Berry harmless from and against all costs and expenses, including reasonable attorney fees, expended or incurred by Berry in connection therewith, including, without limitation, in any litigation with respect thereto.

4. Authorizations to Berry. Guarantor authorizes Berry, either before or after revocation hereof, without notice to or demand on Guarantor and without affecting Guarantor's liability hereunder, from time to time to: (a) alter, compromise, renew, extend, accelerate or otherwise change the time for payment of, or otherwise change the terms of the Indebtedness or any part thereof, including increase or decrease of the rate of interest thereon; (b) take and hold security for the payment of this Guaranty or the Indebtedness or any portion thereof, and exchange, enforce, waive and release any such security; (c) apply such security and direct the order or manner of sale thereof, including, without limitation, a nonjudicial sale permitted by the terms of any controlling security agreement or deed of trust, as Berry in its discretion may determine; (d) release or substitute any one or more of the endorsers or any other Guarantors of the Indebtedness; and (e) apply payments received by Berry from Big West to any Indebtedness of Big West to Berry, in such order as Berry shall determine in its sole discretion, whether or not any such Indebtedness is covered by this Guaranty, and Guarantor hereby waives any provision of law regarding application of payments which specifies otherwise. Berry may without notice assign this Guaranty in whole or in part.

5. Representations and Warranties. Guarantor represents and warrants that; (a) this Guaranty is executed at Big West's request; (b) Guarantor has not sold, leased, assigned, encumbered, hypothecated, transferred or otherwise disposed of all or a substantial or material part of Guarantor's assets other than in the ordinary course of business; and (c) Guarantor has established adequate means of obtaining from Big West on a continuing basis financial and other information pertaining to Big West's financial condition. Guarantor agrees to keep adequately informed from such means of any facts, events or circumstances that might in any way affect Guarantor's risks hereunder, and Guarantor further agrees that Berry shall have no obligation to disclose to

Guarantor any information or material about Big West that is acquired by Berry in any manner. As an ongoing obligation and as a material condition to Berry to enter into the Indebtedness with Big West, Guarantor agrees to provide to Berry copies of Guarantor's annual audited and quarterly unaudited financial statements within 90 days for the annual and within 45 days for the quarterly after the end of the reporting period reflected in such statements at all times and so long as this Guaranty is in effect with such financial statements to be accompanied with a certification in a form reasonably satisfactory to Berry by the Chief Financial Officer of Guarantor certifying that the financial statements are accurate and not misleading and, to the extent that the financial statements reflect a Big West Equity of at least Four Hundred Million Dollars (\$400,000,000.00), a certification that there have been no material adverse changes in the business of Guarantor that would reduce Guarantor's Equity (Equity is defined as members' or shareholders' equity as defined by generally accepted accounting principles) below Four Hundred Million Dollars (\$400,000,000.00). Berry agrees to keep said financial statements confidential other than for purposes of enforcing this Guaranty or to provide to Berry's lenders, if required by such lenders.

6. Guarantor Waivers. Guarantor waives any right to require Berry to: (a) proceed against or exhaust any security, if any, held by Berry or any other person; (b) give notice of the terms, time and place of any public or private sale of personal property security held from Big West or any other person, or otherwise comply with the provisions of Section 9611 of the California Uniform Commercial Code; (c) pursue any other remedy in Berry's power; or (d) make any presentments or demands for performance, or give any notices of nonperformance, protests, notices of protest or notices of dishonor.

Guarantor waives any defense based upon: (a) any disability of Big West or any other person; (b) the cessation or limitation from any cause whatsoever, other than payment in full, of the Indebtedness of Big West or any other person; (c) any lack of authority of any officer, director, partner, agent or any other person acting or purporting to act on behalf of Big West which is a corporation, partnership, limited liability company or other type of entity, or any defect in the formation of such Big West; (d) any act or omission by Berry which directly or indirectly results in or aids the discharge of Big West or any Indebtedness by operation of law or otherwise; or (e) any modification of the terms of the Indebtedness.

Without limiting the generality of the foregoing, Guarantor expressly waives any and all benefits and defenses under Civil Code Section 2822, which provides that in instances where Berry accepts a partial payment of the indebtedness from Big West, Big West may designate the portion of the indebtedness that is to be satisfied by such partial payment.

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Should Berry choose to foreclose on any real property through a non-judicial sale and should the proceeds of such foreclosure sale(s) not satisfy the Indebtedness in full, Code of Civil Procedure Section 580d and court rulings do not allow Berry to recover the difference between the Indebtedness and the proceeds of such foreclosure sale(s) from Guarantor. In other words, Berry, by foreclosing by non-judicial sale, would not be able to obtain a judgment against Guarantor personally to pay the difference between the Indebtedness and the proceeds of such foreclosure sale(s).

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7. Guarantor's Understanding With Respect to Waivers. Guarantor agrees that each of the waivers set forth above are made with Guarantor's full knowledge of its significance and consequences, and agrees that the waivers are reasonable and not contrary to public policy or law. If any of said waivers are determined to be contrary to any applicable law or public policy, such waivers shall be effective only to the extent permitted by law.

8. This Section intentionally left blank.

9. Bankruptcy of Big West. Notwithstanding any modification, discharge or extension of the Indebtedness or any amendment, modification, stay or cure of Berry's rights which may occur in any bankruptcy or reorganization case or proceeding concerning Big West, whether permanent or temporary, and whether assented to by Berry, Guarantor hereby agrees that Guarantor shall be obligated hereunder to pay and perform the Indebtedness and discharge its other indebtedness in accordance with the terms of the obligations and the terms of this Guaranty in effect on the date hereof. Guarantor understands and acknowledges that by virtue of this Guaranty, it has specifically assumed any and all risks of a bankruptcy or reorganization case or proceeding with respect to Big West. As an example and not in any way of limitation, a subsequent modification of the Indebtedness in any reorganization case concerning Big West shall not affect the Indebtedness of Guarantor to pay and perform the Indebtedness in accordance with the original terms.

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11. Waiver of Authentication of Validity of Acts of Corporation, Partnership or Limited Liability Company. As Big West is a limited liability company, it is not necessary for Berry to inquire into the power of Big West or the officers, directors, partners or agents acting or purporting to act in its behalf, and any Indebtedness made or created in reliance upon the professed exercise of such power shall be guaranteed hereunder.

12. Disclosure of Information. Guarantor acknowledges that Berry has the right to sell, assign, transfer, negotiate or grant participations in all or any part of, or any interest in, any Indebtedness of Big West to Berry and any obligations with respect thereto, including this Guaranty. In connection therewith, Berry may disclose all documents and information which Berry now has or hereafter requires relating to Guarantor and this Guaranty, whether furnished by Big West, Guarantor or otherwise. Guarantor further agrees that Berry may disclose such documents and information to Big West.

13. Costs, Expenses and Attorney Fees. All payments, advances, charges, costs and expenses, including reasonable attorney fees, made or incurred by Berry in the enforcement of this Guaranty or in the collection of any of the Indebtedness of Big West to Berry shall be paid by Guarantor immediately and without demand, together with interest at a rate per annum equal to the greater of ten percent (10%) or the interest rate being charged by Berry's primary lender to Berry under outstanding credit facilities.

14. Arbitration.

a. Mandatory Arbitration. Any controversy or claim (in an amount in excess of the small claims court maximum jurisdictional limit) arising out of or relating to this Guaranty or any agreements or instruments relating hereto or delivered in connection herewith, or arising out of or relating to any aspect of the past, present or future relationships of the parties hereto, including but not limited to a claim based on or arising from an alleged tort, shall, at the request of any party, be determined by arbitration by a single neutral arbitrator in accordance with California arbitration procedure (California Code of Civil Procedure Section 1280 et seq.) And under the rules of the American Arbitration Association (but not under the auspices of the American Arbitration Association). Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction.

The institution and maintenance of an action for judicial relief or pursuit of a provisional or ancillary remedy shall not constitute a waiver of the right of any party, including the plaintiff, to submit the controversy or claim to arbitration if any other party contests such action for judicial relief.

This paragraph shall apply if and only if at the time of the proposed submission none of the obligations to Berry described in this Guaranty are secured by real property collateral. No controversy or claim shall be submitted to arbitration without the consent of all parties if, at the time of the proposed submission, any such obligation is secured by real property collateral.

b. Judicial Reference. In any judicial action or proceeding arising out of or relating to this Guaranty or any agreements or instruments relating hereto or delivered in connection herewith, including but not limited to a claim based on or arising from an alleged tort, if the controversy or claim is not submitted to arbitration as provided and limited in paragraph a of this Section, all decisions of fact and law shall be determined by a reference in accordance with California Code of Civil Procedure Section 638 et seq.

The parties shall designate to the court a referee in the same manner as arbitrators are selected in American Arbitration Association-sponsored proceedings and pursuant to California Code of Civil Procedure Section 1281.6.

Judgment upon the award rendered by such referee shall be entered in the court in which such proceedings was commenced in accordance with California Code of Civil Procedure Sections 644 and 645.

c. Provisional Remedies Self-help and Foreclosure. Neither paragraph a nor any other provision of this arbitration section shall limit the right of any party to this Guaranty to foreclosure against or sell any real or personal property collateral or security or to obtain provisional or ancillary remedies such as attachment, injunctive relief for the appointment of a receiver from a court of competent jurisdiction before, after or during the pendency of any arbitration. At Berry's option, foreclosure under a deed of trust or mortgage may be accomplished either by exercise of power of sale under the deed of trust or mortgage or by judicial foreclosure.

d. Miscellaneous Arbitration Provisions.

(1) In the event of any dispute governed by this Section, each of the parties shall pay all of its own expenses, and, subject to the award of the arbitrator or referee, shall pay an equal share of the arbitrator's or referee's fees. The arbitrator or referee shall award recovery of all costs and fees (including attorney fees, administrative fees, arbitrator's or referee's fees, and court costs) to the prevailing party.

(2) All statutes of limitations which would otherwise be applicable shall apply to any arbitration or reference proceeding under this Section.

(3) In any arbitration or reference proceeding subject to these provisions, the arbitrator or referee is specifically empowered to decide (by documents only, or with a hearing, at the arbitrator's or referee's sole discretion) pre-hearing motions which are substantially similar to demurrers, motions to dismiss and motions for summary adjudication.

(4) Any arbitrator or referee selected pursuant to this Section shall be knowledgeable in the subject matter of the dispute, and shall be an active attorney or retired judge.

15. Successors, Assigns; Governing Law. This Guaranty shall be binding upon and inure to the benefit of the successors and assigns of the parties, and shall be governed by and construed in accordance with the laws of this State of California.

IN WITNESS WHEREOF, the undersigned Guarantor has executed this Guaranty as of the date stated below.

DATE: November 14, 2005

BIG WEST OIL, LLC, a limited liability company

By: Fred Greener

Its: EVP