UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 10-Q

x Quarterly Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934
For the quarterly period ended **March 31, 2009**
oTransition Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934
For the transition period from __to ___
Commission file number **1-9735**

BERRY PETROLEUM COMPANY

(Exact name of registrant as specified in its charter)

DELAWARE	**77-0079387**
(State of incorporation or organization)	(I.R.S. Employer Identification Number)

1999 Broadway, Suite 3700
Denver, Colorado 80202
(Address of principal executive offices, including zip code)

Registrant's telephone number, including area code: **(303) 999-4400**

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. YES x NO o

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). YES o NO o

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See definitions of “large accelerated filer,” “accelerated filer” and “smaller reporting company” in Rule 12b-2 of the Exchange Act.
Large accelerated filer x Accelerated filer o Non-accelerated filer o Smaller reporting company o

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act). YES o NO x

As of April 20, 2009, the registrant had 42,790,536 shares of Class A Common Stock ($.01 par value) outstanding. The registrant also had 1,797,784 shares of Class B Stock ($.01 par value) outstanding on April 20, 2009 all of which is held by an affiliate of the registrant.

BERRY PETROLEUM COMPANY
FIRST QUARTER 2009 FORM 10-Q
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BERRY PETROLEUM COMPANY
Unaudited Condensed Balance Sheets
(In Thousands, Except Share Information)

	March 31, 2009	December 31, 2008
ASSETS		
Current assets:		
Cash and cash equivalents	$ 49	$ 240
Short-term investments	65	66
Accounts receivable	72,846	65,873
Fair value of derivatives	95,931	111,886
Assets held for sale	142,820	-
Prepaid expenses and other	8,035	11,015
Total current assets	319,746	189,080
Oil and gas properties (successful efforts basis), buildings and equipment, net	2,096,593	2,254,425
Fair value of derivatives	48,641	79,696
Other assets	27,649	19,182
	$ 2,492,629	$ 2,542,383
LIABILITIES AND SHAREHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	$ 51,257	$ 119,221
Revenue and royalties payable	14,848	34,416
Accrued liabilities	42,088	34,566
Line of credit	-	25,300
Income taxes payable	460	187
Fair value of derivatives	2,983	1,445
Deferred income taxes	35,191	45,490
Liabilities held for sale	4,228	-
Total current liabilities	151,055	260,625
Long-term liabilities:		
Deferred income taxes	272,351	270,323
Long-term debt	1,199,400	1,131,800
Abandonment obligation	40,105	41,967
Other long-term liabilities	4,835	5,921
Fair value of derivatives	12,324	4,203
	1,529,015	1,454,214
Shareholders' equity:		
Preferred stock, $.01 par value, 2,000,000 shares authorized; no shares outstanding	-	-
Capital stock, $.01 par value:		
Class A Common Stock, 100,000,000 shares authorized; 42,783,498 shares issued and outstanding (42,782,365 in 2008)	427	427
Class B Stock, 3,000,000 shares authorized; 1,797,784 shares issued and outstanding in 2009 and 2008 (liquidation preference of $899)	18	18
Capital in excess of par value	82,641	79,653
Accumulated other comprehensive income	64,142	113,697
Retained earnings	665,331	633,749
Total shareholders' equity	812,559	827,544
	$ 2,492,629	$ 2,542,383

The accompanying notes are an integral part of these financial statements.

BERRY PETROLEUM COMPANY
Unaudited Condensed Statements of Income
Three Months Ended March 31, 2009 and 2008
(In Thousands, Except Per Share Data)

	Three months ended March 31, 2009	2008
REVENUES AND OTHER INCOME ITEMS		
Sales of oil and gas	$ 127,869	$ 151,666
Sales of electricity	10,270	15,927
Gas marketing	7,581	3,231
Gain on derivative terminations	14,270	-
Gain (loss) on ineffective commodity derivatives	22,894	(708)
Interest and other income, net	283	830
	183,167	170,946
EXPENSES		
Operating costs - oil and gas production	37,384	39,340
Operating costs - electricity generation	8,783	16,399
Production taxes	5,652	5,183
Depreciation, depletion & amortization - oil and gas production	36,398	24,207
Depreciation, depletion & amortization - electricity generation	959	693
Gas marketing	7,284	2,982
General and administrative	13,294	11,132
Interest expense	10,050	3,327
Dry hole, abandonment, impairment and exploration	122	2,728
	119,926	105,991
Income before income taxes	63,241	64,955
Provision for income taxes	21,462	25,419
Income from continuing operations	41,779	39,536
(Loss) income from discontinued operations, net of taxes	(6,781)	3,495
Net income	$ 34,998	$ 43,031
Basic net income from continuing operations per share	$ .92	$ .88
Basic net (loss) income from discontinued operations per share	$ (.15)	$ .08
Basic net income per share	$ .77	$ .96
Diluted net income from continuing operations per share	$ .92	$ .86
Diluted net (loss) income from discontinued operations per share	$ (.15)	$ .08
Diluted net income per share	$ .77	$ .94
Dividends per share	$ .075	$ .075

Unaudited Condensed Statements of Comprehensive Income
Three Months Ended March 31, 2009 and 2008
(In Thousands)

Net income	$ 34,998	$ 43,031
Unrealized gains (losses) on derivatives, net of income taxes (benefits) of $48,160 and ($40,349), respectively	78,577	(60,523)
Reclassification of realized gains on derivatives included in net income, net of income taxes (benefits) of ($17,788) and $11,698, respectively	(29,022)	17,547
Comprehensive income	$ 84,553	$ 55

The accompanying notes are an integral part of these financial statements.

BERRY PETROLEUM COMPANY
Unaudited Condensed Statements of Cash Flows
Three Months Ended March 31, 2009 and 2008
(In Thousands)

	Three months ended March 31, 2009	2008
Cash flows from operating activities:		
Net income	$ 34,998	$ 43,031
Depreciation, depletion and amortization	39,545	27,769
Dry hole and impairment	9,643	2,728
Commodity derivatives	(22,842)	271
Stock-based compensation expense	2,988	2,107
Deferred income taxes	21,059	22,082
Gain on sale of oil and gas properties	-	(415)
Other, net	(3,952)	491
Change in book overdraft	(23,510)	4,609
Cash paid for abandonment	(112)	(971)
Increase in current assets other than cash and cash equivalents	(12,933)	(78)
Decrease in current liabilities other than book overdraft, line of credit and fair value of derivatives	(36,755)	(14,389)
Net cash provided by operating activities	8,129	87,235
Cash flows from investing activities:		
Exploration and development of oil and gas properties	(49,898)	(75,869)
Property acquisitions	(1,173)	(261)
Additions to vehicles, drilling rigs and other fixed assets	(283)	(909)
Proceeds from sale of assets	-	1,809
Deposits on asset sales	14,000	-
Capitalized interest	(5,312)	(4,485)
Net cash used in investing activities	(42,666)	(79,715)
Cash flows from financing activities:		
Proceeds from issuances on line of credit	147,800	100,600
Payments on line of credit	(173,100)	(104,700)
Proceeds from issuance of long-term debt	159,600	69,200
Payments on long-term debt	(92,000)	(69,200)
Debt issuance cost	(4,538)	-
Dividends paid	(3,416)	(3,327)
Proceeds from stock option exercises	-	1,388
Excess tax benefit and other	-	882
Net cash provided by (used in) financing activities	34,346	(5,157)
Net (decrease) increase in cash and cash equivalents	(191)	2,363
Cash and cash equivalents at beginning of year	240	316
Cash and cash equivalents at end of period	$ 49	$ 2,679

The accompanying notes are an integral part of these financial statements.

Berry Petroleum Company
Notes to the Unaudited Condensed Financial Statements

1. General

All adjustments which are, in the opinion of management, necessary for a fair statement of Berry Petroleum Company's (the Company) financial position at March 31, 2009 and December 31, 2008 and results of operations and other comprehensive income and cash flows for the three months ended March 31, 2009 and 2008 have been included. All such adjustments, except as described below, are of a normal recurring nature. The results of operations and cash flows are not necessarily indicative of the results for a full year.

The accompanying unaudited condensed financial statements have been prepared on a basis consistent with the accounting principles and policies reflected in the December 31, 2008 financial statements. The December 31, 2008 Form 10-K should be read in conjunction herewith. The year-end condensed Balance Sheet was derived from audited financial statements, but does not include all disclosures required by accounting principles generally accepted in the United States of America.

In the first quarter of 2008, we determined there was an error in computing royalties payable in prior years, accumulating to $10.5 million as of December 31, 2007. We concluded the error was not material to any individual prior interim or annual period (or to the projected earnings for 2008) and, therefore, the error was corrected during the first quarter of 2008, with the effect of increasing our sales of oil and gas by $10.5 million and reducing our royalties payable.

Our cash management process provides for the daily funding of checks as they are presented to the bank. Included in accounts payable at March 31, 2009 and December 31, 2008 is $8.2 million and $31.8 million, respectively, representing outstanding checks in excess of the bank balance (book overdraft).

2. Recent Accounting Developments

In September 2008, the Financial Accounting Standards Board (FASB) issued FASB Staff Positions (FSP) No. 133-1 and FIN 45-4 to amend FASB Statement No. 133, *Accounting for Derivative Instruments and Hedging Activities*, to require disclosures by sellers of credit derivatives, including credit derivatives embedded in a hybrid instrument. This FSP also amends FASB Interpretation No.45, *Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others*, to require an additional disclosure about the current status of the payment/performance risk of a guarantee. Further, this FSP clarifies the FASB's intent about the effective date of FASB Statement No. 161, *Disclosures about Derivative Instruments and Hedging Activities*. This FSP became effective for our fiscal year beginning January 1, 2009 and we expanded our disclosures accordingly.

In March 2008, the FASB issued SFAS No. 161, *Disclosures about Derivative Instruments and Hedging Activities—an amendment of FASB Statement No. 133*, which changes the disclosure requirements for derivative instruments and hedging activities. Expanded disclosures are required to provide information about (a) how and why an entity uses derivative instruments, (b) how derivative instruments and related hedged items are accounted for under Statement 133 and its related interpretations, and (c) how derivative instruments and related hedged items affect an entity's financial position, financial performance, and cash flows. We adopted this Statement January 1, 2009 and we expanded our disclosures accordingly.

In December 2007, the FASB issued Statement of Financial Accounting Standard (SFAS) No. 160, *Noncontrolling Interests in Consolidated Financial Statements*. SFAS 160 was issued to establish accounting and reporting standards for the noncontrolling interests in a subsidiary (formerly called minority interests) and for the deconsolidation of a subsidiary. We adopted this Statement January 1, 2009 and it did not have a material effect on our financial statements.

In December 2007, the FASB issued SFAS No. 141(R), *Business Combinations*, which expands the information that a reporting entity provides in its financial reports about a business combination and its effects. This Statement establishes principles and requirements for how the acquirer recognizes and measures in its financial statements the identifiable assets acquired, the liabilities assumed, and any non-controlling interests in the acquiree, recognizes and measures the goodwill acquired in the business combination or a gain from a bargain purchase, and determines what information to disclose to enable users of the financial statements to evaluate the nature and financial effects of the business combination. This Statement applies prospectively to business combinations for which the acquisition date is on or after the beginning of the first annual reporting period beginning on or after December 15, 2008. An entity may not apply the statement before that date. We may experience a financial statement impact depending on the nature and extent of any new business combinations entered into after the effective date of SFAS No. 141(R).

Berry Petroleum Company
Notes to the Unaudited Condensed Financial Statements

In June 2008, the FASB issued FASB Staff Position No. EITF 03-6-1, *Determining Whether Instruments Granted in Share-Based Payment Transactions Are Participating Securities* ("FSP EITF 03-6-1"), which clarifies that share-based payment awards that entitle their holders to receive nonforfeitable dividends before vesting should be considered participating securities. As participating securities, these instruments should be included in the earnings allocation in computing basic earnings per share under the two-class method described in SFAS No. 128, *Earnings per Share*. All prior period earnings per share data presented shall be adjusted retrospectively to conform with the provisions of this pronouncement. FSP EITF 03-6-1 is effective for financial statements issued for fiscal years beginning after December 15, 2008 and interim periods within those years. We implemented EITF 03-06-1 during the first quarter of 2009. See Note 10 to the condensed financial statements.

In April 2009, the FASB issued FSP No. FAS 107-1, *Interim Disclosures about Fair Value of Financial Instruments*. FSP 107-1 requires disclosures about fair value of financial instruments for interim reporting periods as well as in annual financial statements. FSP 107-1 will be effective for us for the quarter ending June 30, 2009. The adoption of FSP 107-1 will not have an impact on our financial position and results of operations.

3. Fair Value Measurements

In September 2006, SFAS No. 157, *Fair Value Measurements* was issued by the FASB. This Statement defines fair value, establishes a framework for measuring fair value and expands disclosures about fair value measurements. We adopted this Statement for financial instruments on January 1, 2008.

In February 2008, the FASB issued FSP FAS 157-2, *Effective Date of FASB Statement No. 157*. This Statement delayed the effective date of SFAS No. 157 for nonfinancial assets and nonfinancial liabilities. We adopted SFAS 157 for nonfinancial assets and nonfinancial liabilities on January 1, 2009 and it did not have a material effect on our financial statements.

In February of 2007, the FASB issued SFAS 159 *The Fair Value Option for Financial Assets and Financial Liabilities—Including an amendment of FASB Statement No. 115*, which is effective for fiscal years beginning after November 15, 2007. SFAS 159 provides an option to elect fair value as an alternative measurement for selected financial assets and financial liabilities not previously carried at fair value. We adopted this Statement at January 1, 2008, but did not elect fair value as an alternative for any financial assets or liabilities.

Determination of fair value

We have established and documented a process for determining fair values. Fair value is based upon quoted market prices, where available. We have various controls in place to ensure that valuations are appropriate. These controls include: identification of the inputs to the fair value methodology through review of counterparty statements and other supporting documentation, determination of the validity of the source of the inputs, corroboration of the original source of inputs through access to multiple quotes, if available, or other information and monitoring changes in valuation methods and assumptions. The methods described above may produce a fair value calculation that may not be indicative of future fair values. Furthermore, while we believe these valuation methods are appropriate and consistent with that used by other market participants, the use of different methodologies, or assumptions, to determine the fair value of certain financial instruments could result in a different estimate of fair value.

Valuation hierarchy

SFAS 157 establishes a three-level valuation hierarchy for disclosure of fair value measurements. The valuation hierarchy is based upon the transparency of inputs to the valuation of an asset or liability as of the measurement date. The three levels are defined as follows:

- Level 1 - inputs to the valuation methodology that are quoted prices (unadjusted) for identical assets or liabilities in active markets.
- Level 2 - inputs to the valuation methodology that include quoted prices for similar assets and liabilities in active markets, and inputs that are observable for the asset or liability, either directly or indirectly, for substantially the full term of the financial instrument.
- Level 3 - inputs to the valuation methodology that are unobservable and significant to the fair value measurement. A financial instrument's categorization within the valuation hierarchy is based upon the lowest level of input that is significant to the fair value measurement.

Our oil swaps, natural gas swaps and interest rate swaps are valued using the counterparties' mark-to-market statements which are validated by our internally developed models and are classified within Level 2 of the valuation hierarchy. The observable inputs include underlying commodity and interest rate levels and quoted prices of these instruments on actively traded markets. Derivatives that are valued based upon models with significant unobservable market inputs (primarily volatility), and that are normally traded less actively are classified within Level 3 of the valuation hierarchy. Level 3 derivatives include oil collars, natural gas collars and natural gas basis swaps.

Berry Petroleum Company
Notes to the Unaudited Condensed Financial Statements

Assets and (liabilities) measured at fair value on a recurring basis

March 31, 2009 (in millions)	Total carrying value on the condensed Balance Sheet	Level 2	Level 3
Commodity derivative assets	143.5	6.0	137.5
Interest rate swaps	(14.7)	(14.7)	-
Total fair value	128.8	(8.7)	137.5

Included in the total $128.8 million asset above is a $0.5 million liability associated with our DJ liabilities which are classified as "Liabilities held for sale" as of March 31, 2009.

December 31, 2008 (in millions)	Total carrying value on the condensed Balance Sheet	Level 2	Level 3
Commodity derivatives assets	198.4	25.9	172.5
Interest rate swap liabilities	(12.5)	(12.5)	-
Total fair value of derivative assets	185.9	13.4	172.5

Changes in Level 3 fair value measurements

The table below includes a rollforward of the condensed Balance Sheet amounts (including the change in fair value) for financial instruments classified by us within Level 3 of the valuation hierarchy. When a determination is made to classify a financial instrument within Level 3 of the valuation hierarchy, the determination is based upon the significance of the unobservable factors to the overall fair value measurement. Level 3 financial instruments typically include, in addition to the unobservable or Level 3 components, observable components (that is, components that are actively quoted and can be validated to external sources).

(in millions)	Three months ended March 31, 2009
Fair value of Level 3 derivative assets, beginning of period	$ 172.5
Total realized and unrealized gains and (losses) included in sales of oil and gas	(22.9)
Purchases, sales and settlements, net	(15.5)
Transfers in and/or out of Level 3	3.4
Fair value of Level 3 derivative assets, March 31, 2009	$ 137.5
Total unrealized gains and (losses) included in income related to financial assets and liabilities still on the condensed balance sheet at March 31, 2009	$ 22.8

The fair value of our DJ basin asset sale determined by our Borad of Directors was confirmed by the sales price paid to us. The following nonrecurring fair value measurements were recorded during the three months ended March 31, 2009 in conjunction with the sale of our DJ basin assets:

	Three Months Ended March 31, 2009	Significant Unobservable Inputs Level 3	Total Gains (Losses)
Long lived assets and liabilities held for sale (in millions)	$ 138,592	$ 138,592	$ (9,637)

Berry Petroleum Company
Notes to the Unaudited Condensed Financial Statements

4. Hedging

To minimize the effect of a downturn in oil and gas prices and protect our profitability and the economics of our development plans, we enter into crude oil and natural gas hedge contracts from time to time. The terms of contracts depend on various factors, including management's view of future crude oil and natural gas prices, acquisition economics on purchased assets and our future financial commitments. This price hedging program is designed to moderate the effects of a severe crude oil and natural gas price downturn while allowing us to participate in some commodity price increases. We benefit from lower natural gas pricing as we are a consumer of natural gas in our California operations and in the Rocky Mountains and East Texas, we benefit from higher natural gas pricing. We have hedged, and may hedge in the future, both natural gas purchases and sales as determined appropriate by management. Management regularly monitors the crude oil and natural gas markets and our financial commitments to determine if, when, and at what level some form of crude oil and/or natural gas hedging and/or basis adjustments or other price protection is appropriate in accordance with policy established by our board of directors. Currently, our hedges are in the form of swaps and collars. However, we may use a variety of hedge instruments in the future to hedge WTI or the index gas price. We also utilize interest rate derivatives to protect against changes in interest rates on our floating rate debt.

The related cash flow impact of all of our hedges is reflected in cash flows from operating activities. At March 31, 2009, our net fair value of derivative assets was $128.8 million as compared to $185.9 million at December 31, 2008 which reflects decreases in commodity prices in the period. Based on NYMEX strip pricing as of March 31, 2009, we expect to receive hedge proceeds under the existing derivatives of $104.4 million during the next twelve months. At March 31, 2009, Accumulated Other Comprehensive Income consisted of $64.1 million, net of tax, of unrealized gains from our crude oil and natural gas swaps and collars that qualified for hedge accounting treatment at March 31, 2009. Deferred net gains recorded in “Accumulated Other Comprehensive Income” at March 31, 2009 and subsequent mark-to-market changes in the underlying hedging contracts are expected to be reclassified to earnings in the same period that the forecasted transaction impacts earnings.

We present our derivative assets and liabilities in our Condensed Balance Sheets on a net basis. We net derivative assets and liabilities, whenever we have a legally enforceable master netting agreement with a counterparty to a derivative contract. We use these agreements to manage and substantially reduce our potential counterparty credit risk.

The following table disaggregates our net derivative assets and liabilities into gross components on a contract-by-contract basis before giving effect to master netting arrangements. Finally, we identify the line items in our Condensed Balance Sheets in which these fair value amounts are included. The gross asset and liability values in the table below are segregated between those derivatives designated in qualifying hedge accounting relationships and those not designated in hedge accounting relationships. We use the end of period accounting designation to determine the classification for each derivative position.

	As of March 31, 2009			
	Derivative Assets		Derivative Liabilities	
(in millions)	Balance Sheet Location	Fair Value	Balance Sheet Location	Fair Value
Commodity – Oil	Current assets	94.6	Current liability	2.3
Commodity – Natural Gas	Current assets	4.1	Current liability	0.3
Commodity – Oil	Long term assets	52.4	Long term liabilities	6.5
Commodity – Natural Gas	Long term assets	0.7		-
Commodity – Natural Gas	Long term liabilities	1.1		-
Interest rate contracts		-	Current assets	2.9
Interest rate contracts		-	Long term assets	4.4
Interest rate contracts		-	Current liabilities	0.4
Interest rate contracts		-	Long term liabilities	7.0
Total derivatives designated as hedging instruments under Statement 133		152.9		23.8
Commodity – Oil	Current assets	0.2	Current liabilities	-
Commodity – Natural Gas	Liabilities held for sale	0.8	Liabilities held for sale	1.3
Total derivatives not designated as hedging instruments under Statement 133		1.0		1.3
Total Derivatives		153.9		25.1

Berry Petroleum Company
Notes to the Unaudited Condensed Financial Statements

The tables below summarize the Statement of Income impacts on our derivative instruments:

Derivatives in Statement 133 cash flow hedging relationships	Amount of gain (loss) Recognized in OCI on Derivative (Effective portion)	Location of Gain (Loss) Reclassified from AOCI into Income (Effective Portion)	Amount of Gain (Loss) Reclassified from AOCI into Income (Effective Portion)	Location of Gain Recognized in Income on Derivative (Ineffective Portion and Amount Excluded from Effectiveness Testing)	Amount of Gain Recognized in Income on Derivative (Ineffective Portion and Amount Excluded from Effectiveness Testing)
	Three Months Ended March 31, 2009		Three Months Ended March 31, 2009		Three Months Ended March 31, 2009
Commodity - Oil	$ 36.5	Sales of oil and gas	$ 41.6	Sales of oil and gas	$ -
Commodity - Natural Gas	8.9	Sales of oil and gas	6.6	Sales of oil and gas	-
Commodity – Oil	-	Gain (loss) on commodity –Oil	-	Gain (loss) on commodity-Oil	22.7
Interest rate	(3.4)	Interest expense	(1.0)	Interest expense	-
Total	$ 42.0		$ 47.2		$ 22.7

Amount of Gain or (Loss) Recognized in Income on Derivatives not designated as Hedging Instruments under Statement 133:

Derivatives not designated as Hedging Instruments under Statement 133	Location of Gain (Loss) Recognized in Income on Derivative	Amount of Gain (Loss) Recognized in Income on Derivate for Derivatives not designated as Hedging Instruments under Statement 133
		Three months ended March 31, 2009
Commodity – Oil	Gain (loss) on ineffective commodity derivatives	$ 0.2
Commodity - Natural Gas	(Loss) income from discontinued operations, net of tax	(0.5)
Total Derivatives		$ (0.3)

We entered into the following natural gas hedges during the three months ended March 31, 2009:

- Houston Ship Channel basis swaps on 2,000 MMBtu/D for $0.38 for full year 2010
- NGPL basis swaps on 2,000 MMBtu/D for $0.49 for the full year 2010
- Collars on 4,000 MMBtu/D with floors of $6.50 and ceilings ranging from $8.75 to $8.90 for full year 2010

These gas hedges have been designated as cash flow hedges in accordance with SFAS No. 133, *Accounting for Derivative Instruments and Hedging Activities*.

During the first quarter of 2009, we entered into natural gas derivatives on behalf of the purchaser of our DJ assets. We did not elect hedge accounting for these hedges and recorded the unrealized net loss of $0.5 million on the income statement under the caption “Income from discontinued operations, net of taxes.”

In conjunction with the sale of the DJ assets, during the first quarter of 2009, we concluded that the forecasted transaction in certain of our hedging relationships was not probable of occurring. As such, we reclassified a gain of $14.3 million from accumulated other comprehensive income to the statement of income under the caption “Gain on derivative terminations.”

Berry Petroleum Company
Notes to the Unaudited Condensed Financial Statements

We entered into the following oil collar derivatives during the three months ended March 31, 2009:

Crude Oil Sales (NYMEX WTI) Collars	Average Barrels Per Day	Floor/Ceiling Prices
Full year 2011	1,000	$ 55.20 / $70.00
Full year 2011	1,000	$ 55.00 / $70.50
Full year 2011	1,000	$ 55.00 / $68.65
Full year 2011	1,000	$ 55.00 / $68.00
Full year 2011	1,000	$ 55.00 / $71.20
Full year 2011	1,000	$ 60.00 / $76.00
Full year 2011	1,000	$ 60.00 / $81.25

These oil hedge derivatives have been designated as cash flow hedges in accordance with SFAS No. 133.

We entered into the following oil swap derivatives during the three months ended March 31, 2009:

Crude Oil Sales (NYMEX WTI) Collars	Average Barrels Per Day	Swap Price
May 2009	1,000	$ 55.60
June 2009	400	$ 57.00
3rd Quarter 2009	500	$ 52.40
Full year 2010	650	$ 56.90
Full year 2011	250	$ 61.80
Full year 2011	500	$ 57.36
Full year 2011	500	$ 57.40
Full year 2011	500	$ 57.50

The oil hedge derivatives have been designated as cash flow hedges in accordance with SFAS No. 133, except as noted below. We did not elect hedge accounting for the May and June 2009 hedges and recorded an unrealized net gain of $0.2 million at March 31, 2009 on the income statement under the caption “Gain (loss) on ineffective commodity derivatives”.

During the first quarter of 2009, we also converted 6,000 Bbl/D oil collars ranging from floors of $55.00 to $60.00 and ceilings of $75.00 to $83.10 for full year 2010 swaps for the same volumes with swap prices ranging from $61.00 to $64.80.

In December 2008, Big West Oil of California filed for bankruptcy protection under Chapter 11 of the United States Bankruptcy Code. Our contract with Big West provided for an oil price differential that was linked to NYMEX WTI prices and allowed us to effectively hedge our oil production at the NYMEX WTI index. Subsequent to the Big West bankruptcy, our crude oil has been sold at field posting prices which resulted in some ineffectiveness related to our WTI linked hedges. We recognized an unrealized net gain of approximately $22.8 million on the income statement under the caption “Gain (loss) on ineffective commodity derivatives” for the quarter ended March 31, 2009 as a result of this ineffectiveness.

We entered into the following interest rate hedges during the three months ended March 31, 2009 which have been designated as cash flow hedges:

Beginning/Maturity	Rate	Notional Amount (in millions)
4/15/09 – 7/15/12	1.89%	$ 25
12/15/09 – 7/15/12	2.15%	$ 25
12/15/09 – 7/15/12	2.05%	$ 25
12/15/09 – 7/15/12	2.00%	$ 25
12/15/09 – 7/15/12	2.00%	$ 25
12/15/09 – 7/15/12	1.94%	$ 25

Berry Petroleum Company
Notes to the Unaudited Condensed Financial Statements

Our hedge contracts have been primarily executed with the counterparties that are party to our senior secured revolving credit facility. Neither we nor our counterparties are required to post collateral in connection with our derivative positions and netting agreements are in place with each of our counterparties allowing us to offset our derivative asset and liability positions. The credit rating of each of these counterparties is AA-/Aa2, or better. Our derivatives are held with a small number of counterparties and as of March 31, 2009, our largest two counterparties accounted for 80% of the value of our total derivative positions.

As of March 31, 2009, we had the following outstanding commodity contracts:

Commodity Hedges

	2009	2010	2011	2012
Oil Bbl/D:	17,435	14,930	9,020	1,000
Natural Gas MMBtu/D:	5,000	9,000	-	-

5. Asset Retirement Obligations

Inherent in the fair value calculation of the asset retirement obligation (ARO) are numerous assumptions and judgments including the ultimate settlement amounts, inflation factors, credit adjusted discount rates, timing of settlement, and changes in the legal, regulatory, environmental and political environments. To the extent future revisions to these assumptions impact the fair value of the existing ARO liability, a corresponding adjustment is made to the oil and gas property balance.

The following table summarizes the change in abandonment obligation for the three months ended March 31, 2009 (in thousands):

Beginning balance at January 1, 2009	$	41,967
Liabilities incurred		-
Liabilities settled		(113)
Revisions in estimated liabilities		-
Accretion expense		1,002
Ending balance at March 31, 2009	$	42,856

Included in the total of $42.9 million above is $2.8 million in AROs that are associated with our DJ liabilities which are classified as "Liabilities held for sale" as of March 31, 2009.

6. Dispositions and Discontinued Operations

On March 3, 2009, we entered into an agreement to sell our DJ basin assets and related hedges for $154 million before customary closing adjustments. The $14 million sale of our DJ basin related hedges was completed in March 2009. The hedge forecasted transaction is no longer expected to occur and the gain on the sale of these hedges is recorded under the caption “Gain on derivative terminations” in the condensed statement of income and is included in operating cash flows for the three months ended March 31, 2009. We received a deposit of $14 million on the sale of the DJ basin assets which is included in “Accrued Liabilities” on the condensed balance sheet as of March 31, 2009. The closing date of the sale was April 1, 2009. In accordance with SFAS No. 144, these properties have been separately presented in the accompanying condensed balance sheet at fair value less the cost to sell, as of March 31, 2009. The sales cost associated with the DJ basin assets were $1.2 million. We recorded a pre-tax impairment loss of $9.6 million, which is aggregated within the $6.8 million “(loss) income from discontinued operations, net of tax” on our statement of income for the three months ended March 31, 2009.

Berry Petroleum Company
Notes to the Unaudited Condensed Financial Statements

Income (loss) from discontinued operations, net of tax on our accompanying statements of income is comprised of the following (in thousands):

	For the Three Months Ended March 31,	
	2009	2008
Oil and gas revenue	$ 5,396	$ 12,829
Other revenue	622	914
Total Revenue	6,018	13,743
Operating expenses	2,576	2,289
Production taxes	195	784
DD&A	2,188	2,869
General and administrative	388	251
Interest expense	815	411
Commodity derivatives	484	-
Dry hole, abandonment, impairment and exploration	9,637	1,398
Total Expenses	16,283	8,002
Income (loss) from discontinued operations, before income taxes	(10,265)	5,741
Income tax benefit (expense)	3,484	(2,246)
Income (loss) from discontinued operations	$ (6,781)	$ 3,495

The following is a summary of the assets and liabilities held for sale related to the DJ Basin sale at March 31, 2009 (in thousands):

	March 31, 2009
Inventory	$ 1,275
Oil and gas properties, net of accumulated depreciation and impairment	140,730
Other Assets	815
Total assets	$ 142,820
Asset retirement obligation	$ 2,751
Other liabilities	1,477
Total liabilities	$ 4,228

7. Dry Hole, Abandonment and Impairment

During the three months ended March 31, 2009 and 2008, we recorded dry hole, abandonment, impairment and exploration expense of $0.1 million and $2.7 million, respectively. In the first quarter of 2008, technical difficulties on three wells in the Piceance basin were encountered before reaching total depth and these holes were abandoned in favor of drilling to the same bottom hole location by drilling a new well.

Berry Petroleum Company
Notes to the Unaudited Condensed Financial Statements

8. Pro Forma Results

On July 15, 2008, the Company acquired certain interests in natural gas producing properties on 4,500 net acres in Limestone and Harrison Counties in East Texas for $668 million cash (East Texas Acquisition) including an initial purchase price of $622 million, and normal post closing adjustments of $46 million.

The unaudited pro forma results presented below for the three months ended March 31, 2008 have been prepared to give effect to the East Texas Acquisition on the Company's results of continuing operations under the purchase method of accounting as if it had been consummated at January 1, 2008. The unaudited pro forma results (in millions) do not purport to represent the results of continuing operations that actually would have occurred on such date or to project the Company's results of operations for any future date or period:

	Three Months Ended March 31, 2008
Pro forma revenue	$ 185,960
Pro forma income from operations	$ 60,073
Pro forma net income	$ 36,942
Pro forma basic earnings per share	$ 0.82
Pro forma diluted earnings per share	$ 0.81

9. Income Taxes

The effective income tax rate was 33.9% for the first quarter of 2009 compared to 45.1% for the fourth quarter of 2008 and 39% for the first quarter of 2008. The decrease in rate for first quarter is primarily due to a decrease in anticipated state taxes. Our estimated annual effective tax rate varies from the 35% federal statutory rate due to the effects of state income taxes and estimated permanent differences.

As of March 31, 2009, we had a gross liability for uncertain tax benefits of $11.2 million of which $10.0 million, if recognized, would affect the effective tax rate. There were no significant changes to the calculation since year end 2008.

We anticipate the balance of our unrecognized tax benefits could be reduced during the next 12 months as the IRS finalizes certain examinations which are in progress, however, we cannot reasonably estimate the impact of the examination at this time.

10. Earnings per Share

In SFAS No. 128, "Earnings per Share (as amended)", the two-class method is an earnings allocation formula that determines earnings per share for each class of stock according to dividends declared (or accumulated) and participation rights in undistributed earnings. In June 2008, the FASB issued FASB Staff Position No. EITF 03-6-1, *Determining Whether Instruments Granted in Share-Based Payment Transactions Are Participating Securities* ("FSP EITF 03-6-1"), which clarifies that share-based payment awards that entitle their holders to receive nonforfeitable dividends before vesting should be considered participating securities. As participating securities, these instruments should be included in the earnings allocation in computing basic earnings per share under the two-class method described in SFAS No. 128. All prior period earnings per share data presented were adjusted retrospectively to conform with the provisions of this pronouncement. FSP EITF 03-6-1 is effective for financial statements issued for fiscal years beginning after December 15, 2008 and interim periods within those years. Accordingly, we have adopted this pronouncement as of January 1, 2009.

Berry Petroleum Company
Notes to the Unaudited Condensed Financial Statements

Undistributed and distributed earnings allocated to shareholders are calculated as follows for the three month periods ended:

	March 31, 2009	March 31, 2008
Income from continuing operations	$ 41,779	$ 39,536
Less:		
Dividends paid - shareholders	3,344	3,289
Dividends paid - unvested shares and deferred stock units	72	38
Undistributed income from continuing operations	$ 38,363	$ 36,209
(Loss) income from discontinued operations	$ (6,781)	$ 3,495

	March 31, 2009	March 31, 2008
Income from continuing operations available to shareholders		
Distributed earnings to shareholders	$ 3,344	$ 3,289
Allocation of undistributed earnings to shareholders	37,387	35,705
Total income from continuing operations available to shareholders	$ 40,731	$ 38,994
Income from discontinued operations available to shareholders		
Distributed earnings to shareholders	$ -	$ -
Allocation of undistributed (loss) earnings available to shareholders	(6,608)	3,445
Total (loss) income from discontinued operations available to shareholders	$ (6,608)	$ 3,445

Undistributed earnings available to shareholders is calculated by dividing weighted average shares outstanding by the total of weighted shares outstanding plus weighted average of unvested shares outstanding plus the weighted average of deferred stock units outstanding multiplied by undistributed earnings. Shares issued during the period and shares reacquired during the period are weighted for the portion of the period in which the shares were outstanding. The weighted average number of unvested shares and deferred stock units for the three month periods ended March 31, 2009 and 2008 is 1,164,391 and 628,685, respectively.

Weighted average shares outstanding and dilutive shares outstanding are calculated as follows:

	March 31, 2009	March 31, 2008
Weighted average shares outstanding:	44,581	44,392
Add: dilutive effects of stock options	12	623
Weighted average shares outstanding, including the effects of dilutive common shares	44,593	45,015

Options to purchase 2.3 million and .2 million shares were outstanding at March 31, 2009 and 2008, respectively, and were excluded from the calculation of diluted earnings per share because the options' exercise price was greater than the average market price of the shares.

Berry Petroleum Company
Notes to the Unaudited Condensed Financial Statements

Basic and dilutive earnings per share from continuing and discontinued operations are calculated as follows:

	March 31, 2009	March 31, 2008
Basic		
Income from continuing operations available to shareholders	$ 40,731	$ 38,994
shares outstanding	44,581	44,392
Basic earnings per share from continuing operations	$ .92	$ .88
(Loss) income from discontinued operations available to shareholders	$ (6,608)	$ 3,445
Shares outstanding	44,581	44,392
Basic (loss) earnings per share from discontinued operations	$ (.15)	$ .08
Basic earnings per share	$ .77	$ .96
Dilutive		
Income from continuing operations available to shareholders	$ 40,731	$ 38,994
Dilutive shares	44,593	45,015
Dilutive earnings per share from continuing operations	$ .92	$ .86
(Loss) income from discontinued operations available to shareholders	$ (6,608)	$ 3,445
Dilutive shares	44,593	45,015
Dilutive (loss) earnings per share from discontinued operations	$ (.15)	$ .08
Dilutive earnings per share	$ .77	$ .94

Upon adoption, both basic income and dilutive income per share for the first quarter of 2008 decreased by $.01 for continuing operations. Basic income and dilutive income per share was unchanged for discontinued operations.

11. Debt Obligations

Short-term lines of credit

In 2005, we completed an unsecured uncommitted money market line of credit (Line of Credit). Borrowings under the Line of Credit may be up to $30 million for a maximum of 30 days. The Line of Credit may be terminated at any time upon written notice by either us or the lender. In conjunction with the amendment to our senior secured credit facility, on July 15, 2008, the Line of Credit was secured by our assets. At March 31, 2009 and December 31, 2008, the outstanding balance under this Line of Credit was $0 and $25.3 million, respectively. Interest on amounts borrowed is charged at LIBOR plus a margin of approximately 1%.

Senior Secured Revolving Credit Facility

On July 15, 2008, we entered into a five year amended and restated credit agreement (the Agreement) with Wells Fargo Bank, N.A. as administrative agent and other lenders. The Agreement is a revolving credit facility for up to $1.5 billion with a borrowing base of $1.0 billion. The outstanding Line of Credit reduces our borrowing capacity available under the Agreement. Interest on amounts borrowed under the Agreement was charged at LIBOR plus a margin of 1.125% to 1.875% or the prime rate, with margins on the various rate options based on the ratio of credit outstanding to the borrowing base. An annual commitment fee of .25% to .375% was charged on the unused portion of this credit facility.

On October 17, 2008, we amended the Agreement which increased our borrowing base from $1.0 billion to $1.25 billion with commitments of $1.08 billion and a new maturity date of July 15, 2012. Commitments were increased during the fourth quarter of 2008 with the addition of $130 million in commitments bringing the total commitments under the facility to $1.21 billion from 19 banks.

Berry Petroleum Company
Notes to the Unaudited Condensed Financial Statements

On February 19, 2009, we executed another amendment to the Agreement which modified our covenants as follows:

Total funded debt to EBITDAX ratio		
2009	2010	Thereafter
4.75	4.50	4.00

Senior secured debt to EBITDAX ratio			
to Sep 2010	Mar 2011	Sep 2011	Thereafter
3.75	3.50	3.25	3.0

Additionally, the write off of $38.5 million to bad debt expense associated with the bankruptcy of Big West is excluded from the calculation of EBITDAX. There were no changes to the current ratio covenant which, as defined, must be at least 1.0. The LIBOR and prime rate margins increased to between 2.25% and 3.0% based on the ratio of credit outstanding to the borrowing base. Additionally, the annual commitment fee on the unused portion of the credit facility increased to 0.50%, regardless of the amount outstanding. This transaction was accounted for in accordance with Emerging Issues Task Force (EITF) 98-14, *Debtor's Accounting for Changes in Line-of-Credit or Revolving-Debt Arrangements*.

The total outstanding debt at March 31, 2009 under the Agreement, as amended, and the Line of Credit was $999 million and $0, respectively, and $3 million in letters of credit have been issued under the facility, leaving $208 million in borrowing capacity available. The maximum amount available is subject to semi-annual redeterminations of the borrowing base, based on the value of our proved oil and gas reserves, in April and October of each year in accordance with the lenders' customary procedures and practices. Both we and the banks have the bilateral right to one additional redetermination each year.

We further amended the Agreement on April 27, 2009. See Note 13 "Subsequent Events."

Senior Subordinated 8.25% notes due 2016

In 2006, we issued in a public offering $200 million of 8.25% senior subordinated notes due 2016 (the Notes). Interest on the Notes is paid semiannually in May and November of each year. Under the Notes, as long as the interest coverage ratio (as defined) is greater than 2.5 times, we may incur additional debt. The deferred costs of approximately $5 million associated with the issuance of this debt are being amortized over the ten year life of the Notes.

Financial Covenants

The senior secured revolving credit facility contains restrictive covenants which, among other things, require us to currently maintain a debt to EBITDAX ratio of not greater than 4.75 and a minimum current ratio, as defined, of 1.0. The $200 million Notes are subordinated to our credit facility indebtedness. Under the Notes, as long as the interest coverage ratio (as defined) is greater than 2.5 times, we may incur additional debt. We were in compliance with all of these covenants as of March 31, 2009.

	As of March 31, 2009
Current Ratio (Not less than 1.0)	2.9
EBITDAX To Total Funded Debt Ratio (Not greater than 4.75)	2.8
Interest Coverage Ratio (Not less than 2.5)	7.4

The weighted average interest rate on total outstanding borrowings at March 31, 2009 was 4.2%.

12. Contingencies and Commitments

We have no material accrued environmental liabilities for our sites, including sites in which governmental agencies have designated us as a potentially responsible party, because it is not probable that a loss will be incurred and the minimum cost and/or amount of loss cannot be reasonably estimated. However, because of the uncertainties associated with environmental assessment and remediation activities, future expense to remediate the currently identified sites, and sites identified in the future, if any, could be incurred. Management believes, based upon current site assessments, that the ultimate resolution of any matters will not result in substantial costs incurred. We are involved in various other lawsuits, claims and inquiries, most of which are routine to the nature of our business. In the opinion of management, the resolution of these matters will not have a material effect on our financial position, or on the results of operations or liquidity.

During the California energy crisis in 2000 and 2001, we had electricity sales contracts with various utilities and a portion of the electricity prices paid to us under such contracts from December 2000 to March 27, 2001 has been under a degree of legal challenge since that time. It is possible that we may have a liability pending the final outcome of the CPUC proceedings on the matter. There are ongoing proceedings before the CPUC in which Edison and PG&E are seeking credit against future payments they are to make for electricity purchases based on retroactive adjustment to pricing under contracts with us. Whether or not retroactive adjustments will be ordered, how such adjustments would be calculated and what period they would cover are too uncertain to estimate at this time.

Berry Petroleum Company
Notes to the Unaudited Condensed Financial Statements

In December 2008, Flying J, Inc., and its wholly owned subsidiary Big West Oil and its wholly owned subsidiary BWOC filed for bankruptcy protection under Chapter 11 of the United States Bankruptcy Code. Also in December 2008, BWOC informed the Company that it was unable to receive the Company's production. Included in our allowance for doubtful accounts is $38.5 million due from BWOC. Of the $38.5 million due from BWOC, $12.4 million represents December crude oil sales by the Company and $26.1 million represents November crude oil sales. BWOC will also be liable to us for damages under this contract. We have guarantees from Big West Oil and from Flying J, Inc. in the amount of $75 million each, in the event that our claim is not fully collectible from BWOC. While we believe that we may recover some or all of the amounts due from BWOC, the data received from the bankruptcy proceedings to date has not provided us with adequate data from which to make a conclusion that any amounts will be collected.

On March 20, 2009, we entered into a crude oil purchase contract with a refiner for the sale of all of the Company's crude oil production from the Midway Sunset Field. The volume approximates 12,000 Bbl/d. The agreement is effective April 1, 2009 and continues until September 30, 2009.

In February 2007, we entered into a multi-staged crude oil sales contract with a refiner for our Uinta light crude oil. Under the agreement, the refiner began purchasing 3,200 Bbl/D in July 2007. After partial completion of its refinery expansion in Salt Lake City in March 2008, the refiner increased its total purchase capacity to 5,000 Bbl/D. This contract is in effect through June 30, 2013. Pricing under the contract, which includes transportation and gravity adjustments, is at a fixed percentage of WTI, which ranges from $10 to $15 per barrel at WTI prices between $40 and $60 per barrel. This contract is our only sales contract for our Uinta oil.

We have two long-term firm transportation contracts that total 35,000 MMBtu/D on the Rockies Express (REX) pipeline for gas production in the Piceance basin. We pay a demand charge for this capacity and our own production did not completely fill that capacity. To maximize the utilization of our firm transportation, we bought our partners' share of the gas produced in the Piceance basin at the market rate for that area and used our excess transportation to move this gas to the sales point. The pre-tax net of our gas marketing revenue and our gas marketing expense in the Statements of Income is $0.3 million and $0.2 million for the three month periods ended March 31, 2009 and 2008, respectively.

In addition, Berry has signed a binding precedent agreement with El Paso Corporation for an average of 35,000 MMBtu/d of firm transportation on the proposed Ruby Pipeline from Opal, WY to Malin, OR. While it is not certain that this new line will be constructed, the expectation is that the project will proceed and be in service by 2011. As part of this agreement and in order to access the Ruby pipeline, we also secured firm transportation from the Piceance basin to Opal.

13. Subsequent Events

On April 1, 2009, we completed the sale of our DJ basin assets. Total proceeds received for the sale were $139 million, including closing adjustments and the $14 million deposit received in March 2009.

On April 27, 2009, we completed the scheduled redetermination of the borrowing under our credit facility. Our borrowing base was reduced from $1.25 billion to $1.05 billion, with $100 million of the reduction resulting from the sale of our DJ basin assets. Also on April 27, 2009 we completed a $140 million second lien credit facility, with lenders from among our current lending group, which matures on January 16, 2013. Interest on the facility is charged at LIBOR plus a margin of eight percent with a minimum LIBOR rate of three percent. Covenants under this facility are similar but slightly less restrictive than our senior secured credit facility. Our Line of Credit is suspended as long as the second lien credit facility is outstanding. Additionally, each dollar outstanding under the second lien credit facility reduces the borrowing base under our senior secured credit facility by 30 cents such that the $140 million second lien facility reduces our borrowing base from $1.05 billion to $1.0 billion. Proceeds from the second lien facility were used to pay down borrowings under our senior secured credit facility. On April 27, 2009, following the closing of the second lien credit facility, the outstanding amount under our senior secured credit facility was approximately $735 million providing us with approximately $275 million of liquidity.

Berry Petroleum Company
Management's Discussion and Analysis of Financial Condition and Results of Operations

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

General. The following discussion provides information on the results of operations for the three months ended March 31, 2009 and 2008 and our financial condition, liquidity and capital resources as of March 31, 2009. The financial statements and the notes thereto contain detailed information that should be referred to in conjunction with this discussion.

The profitability of our operations in any particular accounting period will be directly related to the realized prices of oil, gas and electricity sold, the type and volume of oil and gas produced and electricity generated and the results of development, exploitation, acquisition, exploration and hedging activities. The realized prices for natural gas and electricity will fluctuate from one period to another due to regional market conditions and other factors, while oil prices will be predominantly influenced by global supply and demand. The aggregate amount of oil and gas produced may fluctuate based on the success of development and exploitation of oil and gas reserves pursuant to current reservoir management. The cost of natural gas used in our steaming operations and electrical generation, production rates, labor, equipment costs, maintenance expenses, and production taxes are expected to be the principal influences on operating costs. Accordingly, our results of operations may fluctuate from period to period based on the foregoing principal factors, among others.

Overview. We seek to increase shareholder value through consistent growth in our production and reserves, both through the drill bit and acquisitions. We strive to operate our properties in an efficient manner to maximize the cash flow and earnings of our assets. The strategies to accomplish these goals include:

- Investing our capital in a disciplined manner and maintaining a strong financial position
- Developing our existing resource base
- Calibrating our cost structure to the current commodity price environment
- Acquiring additional assets with significant growth potential
- Accumulating significant acreage positions near our producing operations

Notable First Quarter Items.

- Achieved production averaging 33,330 BOE/D, up 19% from the first quarter of 2008
- Announced the sale of our DJ basin assets and related hedges for approximately $154 million
- Entered into short-term sales contracts for our California crude oil to replace our terminated contract with Big West
- Continued to return California wells to production after the December 2008 Big West bankruptcy, increasing average California production from 16,000 Bbl/D in the fourth quarter of 2008 to 16,440 Bbl/D in the first quarter of 2009
- Increased Diatomite net production to an average of 2,670 BOE/D, up 94% from the first quarter of 2008
- Amended the covenants under our credit facility providing increased financial flexibility going forward
- Added to our oil hedge positions increasing 2011 hedged volumes to 9,000 BOE/D and 2012 volumes to 2,000 BOE/D
- Increased our fixed rate debt position to $725 million utilizing interest rate swaps

Notable Items and Expectations for the Second Quarter and Full Year 2009.

- Closed on the sale of our DJ assets using proceeds for the repayment of debt
- Completed the redetermination of our credit facility with a borrowing base of $1.05 billion with no changes to the terms or interest rate margins
- Completed a $140 million second lien facility, with existing lenders, increasing our liquidity to approximately $275 million
- Expect production to average approximately 30,000 BOED with no future contributions from the DJ assets which averaged approximately 3,100 BOE/D in the first quarter of 2009.

Overview of the first Quarter of 2009. We had net income from continuing operations of $41.8 million, or $0.92 per diluted share, and net cash from operations was $8.1 million in the first quarter of 2009. We drilled 26 gross wells and capital expenditures, excluding property acquisitions, totaled $50.2 million. We achieved average production of 33,330 BOE/D in the first quarter of 2009, down 6% from an average of 35,583 BOE/D in the fourth quarter of 2008.

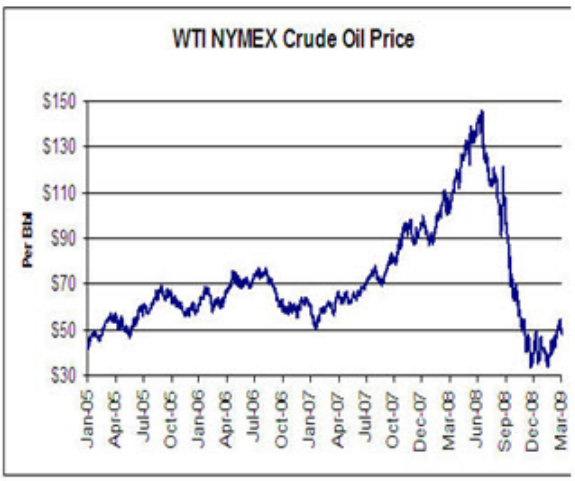
Berry Petroleum Company
Management's Discussion and Analysis of Financial Condition and Results of Operations

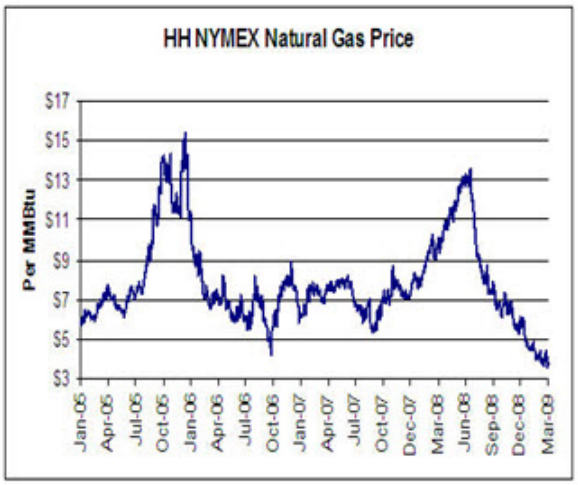
Results of Operations. The following results from continuing operations are in millions (except per share data) for the three months ended:

	March 31, 2009 (1Q09)	March 31, 2008 (1Q08)	1Q09 to 1Q08 Change	December 31, 2008 (4Q08)	1Q09 to 4Q08 Change
Sales of oil	$ 99	$ 131	(24%)	$ 97	2%
Sales of gas	29	21	38%	38	(24%)
Total sales of oil and gas	$ 128	$ 152	(16%)	$ 135	(6%)
Sales of electricity	10	16	(38%)	12	(17%)
Gas Marketing	8	3	167%	8	-
Gain on sale of assets	-	-	-	(2)	-
Gain on hedge terminations	14	-	-	-	-
Gain (loss) on commodity derivatives	23	(1)	-	(2)	-
Interest and other income, net	-	1	-	1	-
Total revenues and other income	$ 183	$ 171	7%	$ 152	20%
Net income (loss) from continuing operations	$ 42	$ 40		$ (12)	
Diluted earnings (loss) per share from continuing operations	$ 0.92	$ 0.88		$ (.26)	

Our revenues may vary significantly from period to period as a result of changes in commodity prices and/or production volumes. Crude oil sales in the three months ended March 31, 2009 were relatively flat with the three months ended December 31, 2008 resulting from price increases of 5% offset by sales volume decreases of 3%. Total oil sales volumes decreased primarily from lower sales volumes in the Uinta basin where no capital activity occurred during the first quarter of 2009 offset by increased production in California where wells were brought back online after disruptions from the Big West bankruptcy. The decrease in revenue when compared to the first quarter of 2008 is primarily the result of a 23% decrease in realized prices. Natural gas revenues decreased from the quarter ended December 31, 2008 as a result of a 13% decrease in volumes from our Piceance and Uinta properties where no capital activity occurred during the quarter and a 9% decrease in realized prices. Natural gas revenues were higher in the first quarter of 2009 compared to the first quarter of 2008 from volume increases of 69%, primarily due to the contribution of our East Texas assets and the results of our 2008 capital program offset by a 32% decrease in realized prices.

In the first quarter of 2008, we determined there was an error in computing royalties payable in prior years, accumulating to $10.5 million as of December 31, 2007. We concluded the error was not material to any individual prior interim or annual period (or to the projected earnings for 2008) and, therefore, the error was corrected during the first quarter of 2008, with the effect of increasing our sales of oil and gas by $10.5 million and reducing our royalties payable.

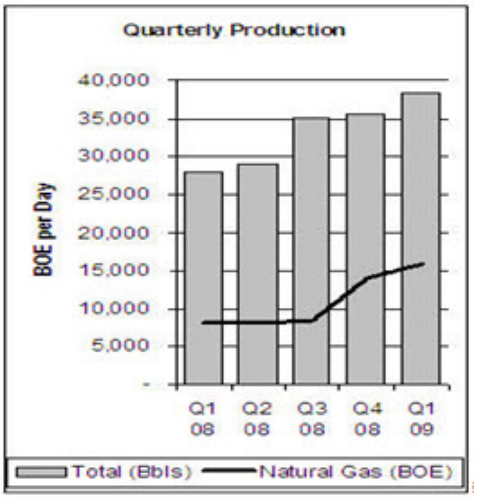




Berry Petroleum Company
Management's Discussion and Analysis of Financial Condition and Results of Operations

Operating data. The following table is for the three months ended:

	March 31, 2009	%	March 31, 2008	%	December 31, 2008	%
Heavy Oil Production (Bbl/D)	16,436	50	16,375	58	15,999	45
Light Oil Production (Bbl/D)	3,066	9	3,510	13	3,659	10
Total Oil Production (Bbl/D)	19,502	59	19,885	71	19,658	55
Natural Gas Production (Mcf/D)	82,979	41	49,086	29	95,548	45
Total operations (BOE/D)	33,332	100	28,066	100	35,583	100
DJ Basin Production (BOE/D)	3,101		3,157		3,415	
Production - Continuing Operations (BOE/D)	30,231		24,909		32,168	
Oil and gas BOE for continuing operations						
Average sales price before hedging	$ 29.36		$ 75.11		$ 40.61	
Average sales price after hedging	47.11		62.44		45.57	
Oil, per Bbl, for continuing operations:						
Average WTI price	$ 43.24		$ 97.82		$ 59.08	
Price sensitive royalties	(1.02)		(4.47)		(1.69)	
Quality differential and other	(9.53)		(10.78)		(8.55)	
Crude oil hedges	23.79		(15.60)		4.69	
Correction to royalties payable	-		5.85		-	
Average oil sales price after hedging	$ 56.48		$ 72.82		$ 53.53	
Natural gas price for continuing operations:						
Average Henry Hub price per MMBtu	$ 4.90		$ 8.74		$ 6.95	
Conversion to Mcf	.25		.44		.35	
Natural gas hedges	1.14		(.19)		.89	
Location, quality differentials and other	(1.27)		(1.56)		(2.67)	
Average gas sales price after hedging per Mcf	$ 5.02		$ 7.43		$ 5.52	



Gas Basis Differential. Natural gas prices in the Rockies continue to decline due to various factors, including takeaway pipeline capacity, supply / inventory volumes, and regional demand issues. We have contracted a total of 35,000 MMBtu/D on the Rockies Express Pipeline under two separate transactions to provide firm transport for our Piceance gas production. The CIG basis differential per MMBtu, based upon first-of-month values, averaged $2.81 below HH and ranged from $0.93 to $6.61 below HH in 2008. For the first quarter of 2009, the CIG basis averaged $1.62 below HH. The Piceance gas was sold in the first quarter of 2009 based upon a mid-continent index such as PEPL. For the first three months of 2009, the mid-continent PEPL index averaged $1.51 below HH. Correspondingly, most of the Uinta Basis gas is sold based upon a Questar index which averaged $1.72 below HH. For E. Texas, the Texas Eastern - East Texas index averaged $0.78 below HH for the first quarter of 2009.

Gas Marketing. We have two long-term (ten year) firm transportation contracts for our Piceance natural gas production. The first contract is for 10,000 MMBtu/D on the Rockies Express (REX) pipeline for gas production in the Piceance basin. The second contract is for 25,000 MMBtu/D on the REX pipeline for gas production in the Piceance basin. We pay a demand charge for this capacity and our own production did not fill that capacity. In order to maximize our firm transportation capacity, we bought our partners' share of the gas produced in the Piceance at the market rate for that area. We then used our excess transportation to move this gas to where it was eventually sold. The pre-tax net of our gas marketing revenue and our gas marketing expense in the Statement of Income is $0.3 million in the three month period ended March 31, 2009.

In addition, Berry has signed a binding precedent agreement with El Paso Corporation for an average of 35,000 MMBtu/D of firm transportation on the proposed Ruby Pipeline from Opal, WY to Malin, OR. While it is not certain that this new line will be constructed, the expectation is that the project will proceed and be in service in 2011. As part of this agreement and in order to access the Ruby pipeline, we also secured firm transportation from Piceance to Opal.

Oil Contracts. California - On March 20, 2009, we entered into a crude oil purchase contract with a refiner for the sale of all of the Company's crude oil production from the Midway Sunset field. The volume approximates 12,000 barrels per day. The agreement is effective on April 1, 2009 and continues until September 30, 2009.

We continue to market our California crude oil production, other than production from the Midway Sunset field discussed above, to various parties. The term of these contracts range from nine months to one month.

Utah - In February 2007, we entered into a multi-staged crude oil sales contract with a refiner for our Uinta basin light crude oil. Under the agreement, the refiner began purchasing 3,200 Bbl/D in July 2007. The refiner has increased its total capacity to 5,000 Bbl/D as provided in our contract. As operator we deliver all produced volumes under our sales contracts, although our working interest partners or royalty owners may take their respective volumes in kind and market their own volumes. Gross oil production averaged approximately 3,280 BOE/D in the quarter ended March 31, 2009. The differential under the contract, which includes transportation and gravity adjustments, is linked to WTI and would range from $10 to $15 per barrel at WTI prices between $40 and $60. This contract provides us an outlet to sell all of our current oil production in the Uinta basin.

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Hedging. See Note 4 to the unaudited condensed financial statements and Item 3. Quantitative and Qualitative Disclosures about Market Risk.

Electricity. We consume natural gas as fuel to operate our three cogeneration facilities which are intended to provide an efficient and secure long-term supply of steam necessary for the cost-effective production of heavy oil in California. We sell our electricity to utilities under standard offer contracts based on "avoided cost" or SRAC pricing approved by the California Public Utilities Commission (CPUC) and under which our revenues are currently linked to the cost of natural gas. Natural gas index prices are the primary determinant of our electricity sales price based on the current pricing formula under these contracts. The correlation between electricity sales and natural gas prices allows us to manage our cost of producing steam more effectively.

Our electricity margins continued to benefit from lower Rockies natural gas prices during 2009. We purchase and transport 12,000 MMBtu/D on the Kern River Pipeline under our firm transportation contract and use this gas to produce cogeneration steam in the Midway-Sunset field. The Rocky Mountain natural gas price differentials have been greater than California differentials allowing us to purchase a portion of our gas at a discount to the California price. As our electricity revenue is linked to California prices, the fuel we purchased at lower Rocky Mountain prices is the primary contributor to our electricity margin.

Revenues and operating costs were down for the quarter ended March 31, 2009 from the quarter ended March 31, 2008 due to 35% lower electricity prices and 50% lower natural gas prices. Revenues and operating costs were down for the quarter ended March 31, 2009 from the quarter ended December 31, 2008 due to 16% lower electricity prices and 16% lower natural gas prices, respectively. We purchased approximately 27 MMBtu/D as fuel for use in our cogeneration facilities in both the quarter ended March 31, 2009 and the quarter ended March 31, 2008.

We generally expect to have small gains or losses on electricity on a quarterly basis which depends on seasonality as we receive improved pricing during the summer months. However, wider natural gas price differentials in the Rockies when compared to California will increase our margin on electricity as described above. In the first quarter of 2009, our margin on electricity increased to $1.5 million.

On September 20, 2007, the CPUC issued a decision (SRAC Decision) that changes the way SRAC energy prices will be determined for existing and new Standard Offer (SO) contracts and revises the capacity prices paid under current SO1 contracts. The effective date of the new pricing under the SRAC Decision has not been determined as of yet and a portion of the SRAC Decision is being reconsidered by the CPUC. We do not believe that the proposed pricing changes will materially affect us in 2009.

The following table is for the three months ended:

	March 31, 2009	March 31, 2008	December 31, 2008
Electricity			
Revenues (in millions)	$ 10.3	$ 15.9	$ 12.3
Operating costs (in millions)	$ 8.8	$ 16.4	$ 9.3
Electric power produced - MWh/D	2,068	2,152	2,086
Electric power sold - MWh/D	1,939	1,959	1,904
Average sales price/MWh	$ 58.85	$ 90.48	$ 69.94
Fuel gas cost/MMBtu (including transportation)	$ 4.01	$ 7.94	$ 4.80

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Oil and Gas Operating, Production Taxes, G&A and Interest Expenses. The following table presents information about our continuing operating expenses for each of the three month periods ended:

	Amount per BOE			Amount (in thousands)		
	March 31, 2009	March 31, 2008	December 31, 2008	March 31, 2009	March 31, 2008	December 31, 2008
Operating costs – oil and gas production	$ 13.74	$ 17.36	$ 15.07	$ 37,384	$ 39,340	$ 44,598
Production taxes	2.08	2.29	2.10	5,652	5,183	6,213
DD&A – oil and gas production	13.38	10.68	12.89	36,398	24,207	38,133
G&A	4.89	4.91	6.07	13,294	11,132	17,972
Interest expense	3.69	1.47	3.05	10,050	3,327	9,032
Total	$ 37.78	$ 36.71	$ 39.18	$ 102,778	$ 83,189	$ 115,948

- Operating costs: Steam costs are the primary variable component of our operating costs and fluctuate based on the amount of steam we inject and the price of fuel used to generate steam. The following table presents steam information:

	March 31, 2009 (1Q09)	March 31, 2008 (1Q08)	1Q09 to 1Q08 Change	December 31, 2008 (4Q08)	1Q09 to 4Q08 Change
Average volume of steam injected (Bbl/D)	103,342	91,326	13%	105,443	(2%)
Fuel gas cost/MMBtu (including transportation)	$ 4.01	$ 7.94	(49%)	$ 4.80	(16%)
Approximate net fuel gas volume consumed in steam generation (MMBtu/D)	26,427	21,634	22%	27,978	(6%)

Operating costs decreased by $7.2 million or 16% between the fourth quarter of 2008 and the first quarter of 2009. The majority of the decrease came from decreased fuel gas costs of $4 million from decreased natural gas prices and a $1 million decrease in compression, gathering and dehydration from lower natural gas production volumes. The remainder of the decrease is due to decreased activity levels and our cost reduction efforts. The decrease in operating costs from the first quarter of 2008 to the first quarter of 2009 was also primarily due to natural gas prices which decreased 49%, offset, on an absolute basis by the addition of our East Texas assets.

- Production taxes: Severance taxes paid in Utah, Colorado and Texas are directly related to the field sales price of the commodity. In California, our production is burdened with ad valorem taxes on our total proved reserves. Our production taxes have remained consistent on a per BOE basis and primarily fluctuates with changes in oil and natural gas prices.

- Depreciation, depletion and amortization: DD&A increased per BOE by 25% and 4% in the first quarter of 2009 as compared to the first quarter of 2008 and fourth quarter of 2008, respectively. The increase per BOE is due to an increase in the contribution of our development properties with higher drilling and leasehold acquisition costs and the integration of our East Texas assets which have higher finding and development costs than our legacy assets.

- General and administrative: Approximately 70% of our G&A is related to compensation. The primary reasons for the increase in G&A during the first quarter of 2009 as compared to the first quarter of 2008 were due to director compensation of $0.9 million which was paid in the first quarter of 2009 and additional staffing related to our 2008 East Texas acquisition. General and administrative costs for the quarter ended December 31, 2008 included $2.3 million of rig termination penalties, $0.6 million of costs to complete the relocation of our corporate headquarters and the costs to establish our regional office in E. Texas.

- Interest expense: Our total outstanding borrowings were approximately $1.2 billion at March 31, 2009 compared to $455 million and $1.2 billion at March 31, 2008 and December 31, 2008, respectively. Our average borrowings increased since June 30, 2008 primarily due to the East Texas acquisition in the third quarter of 2008. For the three months ended March 31, 2009, $5 million of interest cost has been capitalized and we expect to capitalize approximately $25 million of interest cost during the full year of 2009.

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Estimated 2009 and Actual Three Months Ended March 31, 2009 and 2008 Oil and Gas Operating, G&A and Interest Expenses. Based upon our reduced activity in the fourth quarter of 2008, we estimate our average 2009 production volume will be approximately 30,000 BOE/D.

	Anticipated range Full Year 2009 per BOE	Three months ended March 31, 2009	Three months ended March 31, 2008
Operating costs-oil and gas production	$ 13.50 - 15.00	$ 13.74	$ 17.36
Production taxes	1.50 - 2.50	2.08	2.29
DD&A – oil and gas production (*1*)	13.50 - 14.50	13.38	10.68
G&A	4.25 - 4.75	4.89	4.91
Interest expense	4.00 - 4.75	3.69	1.47
Total	$ 36.75- 41.50	$ 37.78	$ 36.71

(1) Full year estimate includes both oil and gas and electricity

Asset Dispositions. On March 3, 2009, we entered into an agreement to sell our DJ basin assets and related hedges for $154 million before customary closing adjustments. The $14 million sale of our DJ basin related hedges was completed in March 2009 and is recorded under the caption "Gain on hedge terminations" in the condensed statements of income and is included in operating cash flows for the three months ended March 31, 2009. We received a deposit of $14 million on the sale of the DJ basin assets which is included in "Accrued Liabilities" on the condensed balance sheets as of March 31, 2009. The closing date of the sale of our DJ basin assets was April 1, 2009. In accordance with SFAS No. 144, *Accounting for the Impairment or Disposal of Long-Lived Assets*, these properties have been separately presented in the accompanying balance sheet at fair value less estimated costs to sell, which were determined as of March 31, 2009. We recorded an impairment charge of $9.6 million, which is aggregated within "(loss) income from discontinued operations, net of tax," on the condensed statements of income for the three months ended March 31, 2009.

Dry Hole, Abandonment, impairment and exploration. In the three months ended March 31, 2009 and 2008, we recorded dry hole, abandonment, impairment and exploration expense of $0.1 million and $2.7 million, respectively. In the first quarter of 2008, technical difficulties on three wells in the Piceance basin were encountered before reaching total depth and these holes were abandoned, in favor of drilling to the same bottom hole location by drilling a new well.

Income Taxes. We experienced an effective tax rate of 33.9% and 39.1% in the three months ended March 31, 2009 and March 31, 2008, respectively. Our estimated annual effective tax rate varies from the 35% federal statutory rate due to the effects of state income taxes and estimated permanent differences. See Note 9 to the condensed financial statements.

Development, Exploitation and Exploration Activity. We drilled 26 gross (26 net) wells during the first quarter of 2009.

Drilling Activity. The following table sets forth certain information regarding drilling activities (including operated and non-operated wells):

	Three months ended March 31, 2009	
Asset Team	Gross Wells	Net Wells
S. Midway	8	8
N. Midway	15	15
Texas	3	3
Totals	26	26

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Recent Accounting Developments

In September 2008, the Financial Accounting Standards Board (FASB) issued FASB Staff Positions (FSP) No. 133-1 and FIN 45-4 to amend FASB Statement No. 133, *Accounting for Derivative Instruments and Hedging Activities*, to require disclosures by sellers of credit derivatives, including credit derivatives embedded in a hybrid instrument. This FSP also amends FASB Interpretation No.45, *Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others*, to require an additional disclosure about the current status of the payment/performance risk of a guarantee. Further, this FSP clarifies the FASB's intent about the effective date of FASB Statement No. 161, *Disclosures about Derivative Instruments and Hedging Activities*. This FSP became effective for our fiscal year beginning January 1, 2009 and we expanded our disclosures accordingly.

In December 2007, the FASB issued Statement of Financial Accounting Standard (SFAS) No. 160, *Noncontrolling Interests in Consolidated Financial Statements*. SFAS 160 was issued to establish accounting and reporting standards for the noncontrolling interest in a subsidiary (formerly called minority interests) and for the deconsolidation of a subsidiary. We adopted this Statement January 1, 2009 and it did not have a material effect on our financial statements.

In December 2007, the FASB issued SFAS No. 141(R), *Business Combinations*, which expands the information that a reporting entity provides in its financial reports about a business combination and its effects. This Statement establishes principles and requirements for how the acquirer recognizes and measures in its financial statements the identifiable assets acquired, the liabilities assumed, and any non controlling interest in the acquiree, recognizes and measures the goodwill acquired in the business combination or a gain from a bargain purchase, and determines what information to disclose to enable users of the financial statements to evaluate the nature and financial effects of the business combination. This Statement applies prospectively to business combinations for which the acquisition date is on or after the beginning of the first annual reporting period beginning on or after December 15, 2008. An entity may not apply the principle before that date. We may experience a financial statement impact depending on the nature and extent of any new business combinations entered into after the effective date of SFAS No. 141(R).

In March 2008, the FASB issued SFAS No. 161, *Disclosures about Derivative Instruments and Hedging Activities—an amendment of FASB Statement No. 133*, which changes the disclosure requirements for derivative instruments and hedging activities. Expanded disclosures are required to provide information about (a) how and why an entity uses derivative instruments, (b) how derivative instruments and related hedged items are accounted for under Statement 133 and its related interpretations, and (c) how derivative instruments and related hedged items affect an entity's financial position, financial performance, and cash flows. We adopted this Statement January 1, 2009 and we expanded our disclosures accordingly.

In June 2008, the FASB issued FASB Staff Position No. EITF 03-6-1, Determining Whether Instruments Granted in Share-Based Payment Transactions Are Participating Securities ("FSP EITF 03-6-1"), which clarifies that share-based payment awards that entitle their holders to receive nonforfeitable dividends before vesting should be considered participating securities. As participating securities, these instruments should be included in the earnings allocation in computing basic earnings per share under the two-class method described in SFAS No. 128, Earnings per Share. All prior period earnings per share data presented shall be adjusted retrospectively to conform with the provisions of this pronouncement. FSP EITF 03-6-1 is effective for financial statements issued for fiscal years beginning after December 15, 2008 and interim periods within those years. We implemented EITF 03-06-1 during the first quarter of 2009, see Note 10 to the financial statements.

In April 2009, the FASB issued FSP No. FAS 107-1, *Interim Disclosures about Fair Value of Financial Instruments*. FSP 107-1 requires disclosures about fair value of financial instruments for interim reporting periods as well as in annual financial statements. FSP 107-1 will be effective for us for the quarter ending June 30, 2009. The adoption of FSP 107-1 will not have an impact on our financial position and results of operations.

Properties

Asset Team Descriptions

To improve the efficiency of our operations we have consolidated our S. Cal Asset Team into the S. Midway and N. Midway Asset Teams. The Poso Creek Field has been incorporated into the S. Midway Asset Team and the Placerita Field into our N. Midway Asset Team.

S. Midway – Our S. Midway Asset Team now includes four assets (Poso Creek, Ethel D, Homebase and Formax). We are in the process of drilling 10 additional Homebase horizontal wells. These wells have been placed deeper and closer to the oil-water contact. The first 8 of these wells are currently on production and performing in line with expectations. At Ethel D we are evaluating the steam flood pilots in preparation for future steam flood expansion. Poso Creek production is recovering from the disruptions associated with the Big West bankruptcy. Further production recovery is expected as the number of steam flood patterns is increased and as the steam flood patterns developed in 2008 respond. The team is focused on improving steam-oil ratios and lowering operating expenses in all of its operations. Average daily production during the three months ended March 31, 2009 from all S. Midway assets was approximately 11,350 BOE/D.

N. Midway – Our N. Midway Asset Team now includes three assets (Diatomite, N. Midway, and Placerita). We began the full scale development of our N. Midway diatomite asset in late 2006 and through the end of 2008 drilled 190 wells on this property. The delineation drilling in 2008 increased our original oil in place estimates by 35% to 330 million barrels. We are targeting ultimate recovery between 23% and 40%, similar to other diatomite developments in California.

We plan to invest $37 million during 2009 to drill an additional 44 diatomite wells and install additional steam generation facilities during 2009 and have drilled 15 of these wells. Additionally, we are seeking operating and capital cost reductions through initiatives such as steam management to improve our steam oil ratio and improved project management to reduce overall well costs. Production in the first quarter of 2009 was 2,670 Bbl/D and is expected to average over 3,000 Bbl/D for the year. Average daily production during the three months ended March 31, 2009 from all N. Midway assets was approximately 5,085 BOE/D.

Piceance – During the three months ended March 31, 2009, production from the Piceance basin averaged 20 MMcf/D. No drilling or completion activity was performed during the quarter. Currently we have an inventory of 44 initial completions and recompletions that will be evaluated for supplemental capital should commodity prices warrant.

Uinta – Average daily production during the three months ended March 31, 2009 from all Uinta basin assets was approximately 5,410 BOE/D. No drilling or completion activity was performed during the quarter. The Ashley Forest Development EIS continues to progress with approval now expected in the second half of 2009.

DJ – In March 2009, we announced the sale of our DJ basin assets and related hedges for approximately $154 million. Our assets in the DJ basin produced 3,100 BOE/D during the first quarter of 2009. The sale of these assets closed on April 1, 2009.

E. Texas – During the three months ended March 31, 2009, production from our East Texas assets averaged 30 MMcf/D. We continue to operate a one rig program and drilled three vertical wells in the Oakes field during the first quarter of 2009. We are currently drilling the fourth of the five planned vertical Oakes wells for 2009. After completion of drilling in the Oakes field, we expect to begin drilling in the Darco Field with our first horizontal Haynesville well.

Financial Condition, Liquidity and Capital Resources. Substantial capital is required to replace and grow reserves. We achieve reserve replacement and growth primarily through successful development and exploration drilling and the acquisition of properties. Fluctuations in commodity prices, production rates and operating expenses have been the primary reason for changes in our cash flow from operating activities.

Liquidity. The total outstanding debt at March 31, 2009 under the Agreement and the Line of Credit was $999 million and $0, respectively, and $3 million in letters of credit have been issued under the facility, leaving $208 million in borrowing capacity available under the Agreement at March 31, 2009.

On April 27, 2009, we completed the scheduled redetermination of the borrowing under our credit facility. Our borrowing base was reduced from $1.25 billion to $1.05 billion, with $100 million of the reduction resulting from the sale of our DJ basin assets. Also on April 27, 2009 we completed a $140 million second lien credit facility, with lenders from among our existing lending group, which matures on January 16, 2013. Interest on the facility is charged at LIBOR plus a margin of eight percent with a minimum LIBOR rate of three percent. Each dollar outstanding under the second lien credit facility reduces the borrowing base under our senior secured credit facility by 30 cents such that the $140 million second lien facility reduces our borrowing base from $1.05 billion to $1.0 billion. Proceeds from the second lien facility were used to pay down borrowings under our senior secured credit facility. On April 27, 2009, following the closing of the second lien credit facility, the outstanding amount under our senior secured credit facility was approximately $735 million providing us with $275 million of liquidity. With the second lien facility in place, we expect our weighted average interest rate to increase from 4.2% at March 31, 2009 to 5.0% for the remainder of 2009, based on current LIBOR rates.

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Capital Expenditure and Cash Flows. We establish a capital budget for each calendar year based on our development opportunities and the expected cash flow from operations for that year. Acquisitions are typically debt financed. We may revise our capital budget during the year as a result of acquisitions and/or drilling outcomes or significant changes in cash flows.

In 2009, we have a capital program of approximately $100 million and we expect to fully fund this program from operating cash flow which should approximate $175 million. Cash provided by operating activities was impacted in the first quarter of 2009 by an annual royalty payment of $22 million which is paid each February and a reduction in accounts payable which, at year-end 2008, reflected our higher 2008 capital budget. Approximately 90% of our oil production is hedged for 2009 and thus our sensitivity to changes in oil prices is limited. A ten dollar change in oil prices impacts our annual operating cash flow by approximately $2 million in 2009. A one dollar change in natural gas prices impacts our annual operating cash flow by approximately $5 million.

Capital expenditures, excluding property acquisitions, totaled $50.2 million during the three months ended March 31, 2009. A portion of our capital budget reflects expenditures to complete projects initiated during 2008 and we expect lower quarterly expenditures for the remainder of 2009.

Working Capital. Cash flow from operations is dependent upon the price of crude oil and natural gas and our ability to increase production and manage costs. Our working capital balance fluctuates as a result of the amount of borrowings and the timing of repayments under our credit arrangements. We use our long-term borrowings under our credit facility primarily to fund property acquisitions. Generally, we use excess cash to pay down borrowings under our credit arrangement. As a result, we often have a working capital deficit or a relatively small amount of positive working capital.

The table below compares continuing operations, financial condition, liquidity and capital resources changes for the three month periods ended (in millions, except for production and average prices):

	March 31, 2009 (1Q09)	March 31, 2008 (1Q08)	1Q09 to 1Q09 Change	December 31, 2008 (4Q08)	1Q09 to 4Q08 Change
Average production (BOE/D)	33,332	28,066	19%	35,583	(6%)
Average oil and gas sales prices, per BOE after hedging	$ 47.11	$ 62.44	(25%)	$ 45.57	3%
Net cash provided by operating activities	$ 8	$ 87	(91%)	$ 78	(90%)
Working capital (deficit)	$ 169	$ (123)	237%	$ (72)	335%
Sales of oil and gas	$ 128	$ 152	(16%)	$ 135	(5%)
Total debt	$ 1,199	$ 455	164%	$ 1,157	4%
Capital expenditures	$ 50	$ 76	(34%)	$ 92	(46%)
Dividends paid	$ 3.4	$ 3.3	3%	$ 3.4	-%

Contractual Obligations. Our contractual obligations as of March 31, 2009 are as follows (in millions):

	Total	2009	2010	2011	2012	2013	Thereafter
Total debt and interest	$ 1,358.8	$ 46.8	$ 46.8	$ 46.8	$ 952.3	$ 16.5	$ 249.6
Abandonment obligations	40.1	1.6	1.6	1.6	1.6	1.6	32.1
Operating lease obligations	17.8	1.9	2.4	2.5	2.4	2.5	6.1
Drilling and rig obligations	45.6	11.4	8.0	8.0	18.2	-	-
Firm natural gas transportation contracts	160.1	14.9	19.8	19.8	19.7	17.5	68.4
Total	$ 1,622.4	$ 76.6	$ 78.6	$ 78.7	$ 994.2	$ 38.1	$ 356.2

Drilling obligations - - Under our June 2006 joint venture agreement in the Piceance basin we are required to have 120 wells drilled by February 2011 to avoid penalties of $.2 million per well or a maximum of $24 million. As of March 31, 2009 we have drilled 29 of these wells and we expect to meet our February 2011 obligation.

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Other Obligations - As of March 31, 2009 we had a gross liability for uncertain tax benefits of $11.2 million of which $10.0 million, if recognized, would affect the effective tax rate. We are unable to predict the year in which these uncertain tax positions will be settled and have excluded these commitments from the table above.

In February 2007, we entered into a multi-staged crude oil sales contract with a refiner for our Uinta basin light crude oil. Under the agreement, the refiner began purchasing 3,200 Bbl/D in July 2007, as provided in our contract. The refiner has increased its total purchase capacity to 5,000 Bbl/D as provided in our contract. The differential under the contract, which includes transportation and gravity adjustments, is linked to WTI and would range from $10 to $15 per barrel at WTI prices between $40 and $60. Gross oil production averaged approximately 3,280 BOE/D in the quarter ended March 31, 2009.

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Quantitative and Qualitative Disclosures About Market Risk

Item 3. Quantitative and Qualitative Disclosures About Market Risk

As discussed in Note 4 to the unaudited condensed financial statements, to minimize the effect of a downturn in oil and gas prices and protect our profitability and the economics of our development plans, we enter into crude oil and natural gas hedge contracts from time to time. The terms of contracts depend on various factors, including management's view of future crude oil and natural gas prices, acquisition economics on purchased assets and our future financial commitments. This price hedging program is designed to moderate the effects of a severe crude oil and natural gas price downturn while allowing us to participate in some commodity price increases. In California, we benefit from lower natural gas pricing as we are a consumer of natural gas in our operations and elsewhere, we benefit from higher natural gas pricing. We have hedged, and may hedge in the future, both natural gas purchases and sales as determined appropriate by management. Management regularly monitors the crude oil and natural gas markets and our financial commitments to determine if, when, and at what level some form of crude oil and/or natural gas hedging and/or basis adjustments or other price protection is appropriate in accordance with policy established by our board of directors. Currently, our hedges are in the form of swaps and collars. However, we may use a variety of hedge instruments in the future to hedge WTI or the index gas price.

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Quantitative and Qualitative Disclosures About Market Risk

The following table summarizes our hedge position as of March 31, 2009:

Term	Average Barrels Per Day		Average Prices
Crude Oil Sales (NYMEX WTI) Collars			
Full year 2009	295	$	80.00/$91.00
Full year 2009	1,000	$	100.00/$163.60
Full year 2009	1,000	$	100.00/$150.30
Full year 2009	1,000	$	100.00/$160.00
Full year 2009	1,000	$	100.00/$150.00
Full year 2009	1,000	$	100.00/$157.48
Full year 2010	1,000	$	65.15 / $75.00
Full year 2010	1,000	$	65.50 / $78.50
Full year 2010	280	$	80.00 / $90.00
Full year 2010	1,000	$	100.00/$161.10
Full year 2010	1,000	$	100.00/$150.30
Full year 2010	1,000	$	100.00/$160.00
Full year 2010	1,000	$	100.00/$150.00
Full year 2010	1,000	$	100.00/$158.50
Full year 2010	1,000	$	70.00/$86.00
Full year 2011	270	$	80.00 / $90.00
Full year 2011	1,000	$	55.20/$70.00
Full year 2011	1,000	$	55.00 / $70.50
Full year 2011	1,000	$	55.00/$68.65
Full year 2011	1,000	$	55.00/$68.00
Full year 2011	1,000	$	55.00/$71.20
Full year 2011	1,000	$	60.00/$76.00
Full year 2011	1,000	$	60.00/$81.25
Full year 2012	1,000	$	63.00/$82.60
Crude Oil Sales (NYMEX WTI) Swaps			
May 2009	1,000	$	55.60
June 2009	400	$	57.00
Full year 2009	240	$	71.50
Full year 2009	1,000	$	70.30
Full year 2009	1,000	$	70.50
3rd Quarter 2009	500	$	52.40
2nd, 3rd & 4th Quarters 2009	2,000	$	55.00
Full year 2009	1,000	$	54.67
Full year 2009	2,000	$	54.10
Full year 2009	5,000	$	54.39
Full year 2010	1,000	$	61.00
Full year 2010	1,000	$	61.25
Full year 2010	1,000	$	64.80
Full year 2010	1,000	$	62.03
Full year 2010	1,000	$	63.00
Full year 2010	1,000	$	63.75
Full year 2010	650	$	56.90
Full year 2011	500	$	57.36
Full year 2011	500	$	57.40
Full year 2011	500	$	57.50
Full year 2011	250	$	61.80

Term	Average MMBtu Per Day		Average Price
Natural Gas Sales (NYMEX HH TO PEPL) Basis Swaps			
4th quarter 2009	4,000	$	1.05
Full year 2009	2,000	$	1.24
Full year 2009	3,000	$	1.19
Full year 2010	2,000	$	1.05
Full year 2010	3,000	$	1.00
Natural Gas Sales (NYMEX HH) Swaps			
Full year 2009	2,000	$	6.15
Full year 2009	3,000	$	6.19

4th quarter 2009	4,000	$	8.50

Natural Gas Sales (NYMEX HH) Collars

Full year 2010	2,000	$	6.00/$8.60
Full year 2010	3,000	$	6.00/$8.65
Full year 2010	1,000	$	6.50/$8.75
Full year 2010	1,000	$	6.50/$8.85
Full year 2010	2,000	$	6.50/$8.90

Natural Gas Sales (NYMEX HH TO NGPL) Basis Swaps

Full year 2010	2,000	$	0.49

Natural Gas Sales (NYMEX HH TO HSC) Basis Swaps

Full year 2010	2,000	$	0.38

Berry Petroleum Company
Quantitative and Qualitative Disclosures About Market Risk

The collar strike prices will allow us to protect a significant portion of our future cash flow if prices decline below our floor prices while still participating in any price increase up to the ceiling prices. These hedges improve our financial flexibility by locking in significant revenues and cash flow upon a substantial decline in crude oil or natural gas prices, including certain basis differentials. It also allows us to develop our long-lived assets and pursue exploitation opportunities with greater confidence in the projected economic outcomes and allows us to borrow a higher amount under our credit facility.

While we have designated our hedges as cash flow hedges in accordance with SFAS No. 133, *Accounting for Derivative Instruments and Hedging Activities*, a portion of the hedges related to the movement in the WTI to California heavy crude oil price differential will likely be ineffective. Likewise, we may have some ineffectiveness in our natural gas hedges due to the movement of HH pricing as compared to actual sales points. If this occurs, the ineffective portion will directly impact net income rather than being reported as Other Comprehensive Income (Loss). If the differential were to change significantly, it is possible that our hedges, when marked-to-market, could have a material impact on earnings in any given quarter and, thus, add increased volatility to our net income. The mark-to-market values reflect the fair values of such hedges and not necessarily the values of the hedges if they are held to maturity.

In December 2008, Big West Oil of California filed for bankruptcy protection under Chapter 11 of the United States Bankruptcy Code. Our contract with Big West provided for an oil price differential that was linked to NYMEX WTI prices and allowed us to effectively hedge our oil production at the NYMEX WTI index. Subsequent to the Big West bankruptcy, our crude oil has been sold at field posting prices which resulted in some ineffectiveness related to our WTI linked hedges. We recognized an unrealized net gain of approximately $22.8 million in the condensed statement of income under the caption “Gain (loss) on ineffective commodity derivatives” for the quarter ended March 31, 2009 as a result of this ineffectiveness.

We have entered into interest rate hedges as shown below to swap the floating rate under our senior secured credit facility (LIBOR) for a fixed interest rate These interest rate swaps have been designated as cash flow hedges.

Hedge Term	Notional Amount $MM	Fixed Rate
4/1/2009 – 6/30/2012	100	4.74%
4/15/2009 – 7/15/2012	150	1.95%
9/15/2009 – 7/15/2012	150	2.44%
12/15/2009 – 7/15/2012	125	2.03%

The related cash flow impact of all of our derivative activities are reflected as cash flows from operating activities. Irrespective of the unrealized gains reflected in Other Comprehensive Income (Loss), the ultimate impact to net income over the life of the hedges will reflect the actual settlement values. All of these hedges have historically been deemed to be cash flow hedges and are booked at fair value.

Berry Petroleum Company
Quantitative and Qualitative Disclosures About Market Risk

Based on average NYMEX futures prices as of March 31, 2009 (WTI $63.88; HH $5.15) for the term of our hedges we would expect to make pre-tax future cash payments or to receive payments over the remaining term of our crude oil and natural gas hedges in place as follows:

	March 31, 2009	Impact of percent change in futures prices on pre-tax future cash (payments) and receipts			
	NYMEX Futures	-40%	-20%	+ 20%	+40%
Average WTI Futures Price (2009 – 2012)	$ 63.88	$ 38.33	$ 51.11	$ 76.66	$ 89.43
Average HH Futures Price (2009 – 2010)	5.15	3.09	4.12	6.19	7.22
Crude Oil gain/(loss) (in millions)	$ 153.8	$ 472.0	$ 297.9	$ 6.1	$ (159.5)
Natural Gas gain/(loss) (in millions)	3.1	21.4	18.6	14.8	15.2
Total	$ 156.9	$ 493.4	$ 316.5	$ 20.9	$ (144.3)
Net pre-tax future cash (payments) and receipts by year (in millions) based on average price in each year:					
2009 (WTI $53.70; HH $4.25)	$ 80.5	$ 192.1	$ 139.1	$ 33.0	$ (20.1)
2010 (WTI $61.92; HH $5.84)	81.1	237.3	162.7	24.8	(39.0)
2011 (WTI $67.24)	(4.7)	56.4	12.1	(36.4)	(79.5)
2012 (WTI $70.12)	-	7.6	2.6	(0.5)	(5.7)
Total	$ 156.9	$ 493.4	$ 316.5	$ 20.9	$ (144.3)

Interest Rates. Our exposure to changes in interest rates results primarily from long-term debt. In October 2006, we issued, in a public offering, $200 million of 8.25% senior subordinated notes due 2016. At March 31, 2009, total long-term debt outstanding was $1.2 billion. Interest on amounts borrowed under our credit facility is charged at LIBOR plus 2.25% to 3.0%, with the exception of the principal for which we have hedged, plus the credit facility's margin through July 15, 2012. Based on March 31, 2009 credit facility borrowings, a 1% change in interest rates would have an annualized $3 million after tax impact on our financial statements.

Berry Petroleum Company
Controls and Procedures

Item 4. Controls and Procedures

As of March 31, 2009, we have carried out an evaluation under the supervision of, and with the participation of, our management, including our Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of our disclosure controls and procedures pursuant to Rule 13a-15 under the Securities Exchange Act of 1934, as amended.

Based on their evaluation as of March 31, 2009, our Chief Executive Officer and Chief Financial Officer have concluded that our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e)) under the Securities Exchange Act of 1934) are effective to ensure that the information required to be disclosed by us in the reports that we file or submit under the Securities Exchange Act of 1934 is recorded, processed, summarized and reported within the time periods specified in SEC rules and forms, and include controls and procedures designed to ensure that information required to be disclosed by us in such reports is accumulated and communicated to our management, including our principal executive officer and principal financial officer, as appropriate to allow timely decisions regarding required disclosure.

There was no change in our internal control over financial reporting that occurred during the three months ended March 31, 2009 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting. We may make changes in our internal control procedures from time to time in the future.

Forward Looking Statements

“Safe harbor under the Private Securities Litigation Reform Act of 1995:” Any statements in this Form 10-Q that are not historical facts are forward-looking statements that involve risks and uncertainties. Words such as “plan,” “will,” “intend,” “continue,” “target(s),” “expect,” “achieve,” “future,” “may,” “could,” “goal(s),” “anticipate,” or other comparable words or phrases, or the negative of those words, and other words of similar meaning indicate forward-looking statements and important factors which could affect actual results. Forward-looking statements are made based on management’s current expectations and beliefs concerning future developments and their potential effects upon Berry Petroleum Company. These items are discussed at length in Part I, Item 1A on page 15 of our Form 10-K dated February 25, 2009, filed with the Securities and Exchange Commission, under the heading “Risk Factors” and all material changes are updated in Part II, Item 1A within this Form 10-Q.

PART II. OTHER INFORMATION

Item 1. Legal Proceedings
None.

Item 1A. Risk Factors
None.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds
None.

Item 3. Defaults Upon Senior Securities
None.

Item 4. Submission of Matters to a Vote of Security Holders
None.

Item 5. Other Information
None.

Berry Petroleum Company

Part II. Other Information

Item 6. Exhibits

Exhibit No.	Description of Exhibit
10.1*	Crude Oil Purchase Contract dated March 20, 2009 between the [Registrant] and Tesoro Corporation.
10.2	Third Amendment to Amended and Restated Credit Agreement dated April 27, 2009 by and among Registrant, Wells Fargo Bank National Association, individually and as administrative agent, and certain financial institutions, as lenders.
10.3	Second Lien Credit Agreement dated April 27, 2009 among Registrant, Wells Fargo Energy Capital, Inc., as administrative agent, and certain financial institutions, as Lenders and agents.
31.1	Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
31.2	Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002
32.1	Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002
32.2	Certification of Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

* Portions of this exhibit have been omitted pursuant to a request for confidential treatment.

SIGNATURE

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 thereto duly authorized.

BERRY PETROLEUM COMPANY

/s/ Shawn M. Canaday
Shawn M. Canaday
Vice President and Controller
(Principal Accounting Officer)

Date: April 30, 2009

Exhibit 10.1

Confidential Portions Redacted and Filed with the Commission pursuant to 17 CFR 200.83. "*" Symbolizes Language Omitted Pursuant to an Application For Confidential Treatment**

Date: 3/20/2009

TESORO Contract No: BEC09TP0003
Berry Petroleum Company Contract No: Please Advise

FAX: 1-303-999-4141

Berry Petroleum Company 1999 Broadway Ste 3700 Denver, CO 80202

Attn: Ron Cross

This Agreement confirms the transaction previously discussed between TESORO REFINING AND MARKETING COMPANY, a Delaware Corporation (hereinafter referred to as "TESORO" or "Buyer"), and Berry Petroleum Company (hereinafter referred to as "Seller") TESORO agrees to purchase, and Seller agrees to sell, Crude Oil under the terms and conditions set forth herein and Conoco's General Provisions for Domestic Crude Oil Agreements dated January 1, 1993.

1. IDENTIFICATION OF CRUDE OIL BATCHS, DELIVERY POINTS, QUANTITIES AND PRICES: The Crude Oil being purchased hereunder is a crude petroleum oil, in its natural produced state after normal oilfield separation, as specified and identified below. The Crude Oil will be delivered and sold in four separate batched deliveries, with the tems of sale of each batch as follows:

A. ***Delivery 1***

QUALITY: San Joaquin Valley Heavy

QUANTITY: Approximately 5,000 Barrels Per Day

DELIVERY: Delivery to the point of destination, SMWS Berry Central, CA, Into Pipe, Book Transfer, In-tank, or Pumpover.

TITLE/RISK OF LOSS: Except as otherwise specified in this agreement, title and risk of loss or damage shall pass to TESORO as the crude oil enters the ConcoPhillips (Unocal) Pipeline or other common carrier pipeline through the inlet flange of metering facilities at SMWS Berry Central, CA.

PRICE: TESORO agrees to pay Seller based on the following price formula:
The price shall be the higher of the two following calculations, to be determined at the end of each month.

1) The average of the four posters (Chevron, Union 76, Shell, and Exxon) for Midway Sunset crude oil for the calendar month average (Including Weekend & Holiday) adjusted for actual gravity, plus a differential of $*** United States Dollars per Barrel.

2) *NYMEX's* daily settle quoted price for Light Sweet Crude Future for the calendar month average (Excluding Weekend & Holiday) less $*** United States Dollars per Barrel.

For pricing purposes, any crude oil delivered hereunder shall be deemed to have been delivered in equal daily quantities during the calendar month in which delivery occurs.

B. ***Delivery 2***

QUALITY: San Joaquin Valley Heavy

QUANTITY: Approximately 1,000 Barrels Per Day

DELIVERY: Delivery to the point of destination, Berry Ethel D, CA, Into Pipe, Book Transfer, In-tank, or Pumpover.

TITLE/RISK OF LOSS: Except as otherwise specified in this agreement, title and risk of loss or damage shall pass to TESORO as the crude oil enters the Pacific Plains Pipeline through the inlet flange of metering facilities at Berry Ethel D, CA.

PRICE: TESORO agrees to pay Seller based on the following price formula:
The price shall be the higher of the two following calculations, to be determined at the end of each month:

1) The average of the four posters (Chevron, Union 76, Shell, and Exxon) for Midway Sunset crude oil for the calendar month average (Including Weekend & Holiday adjusted for actual gravity), plus a differential of $*** United States Dollars per Barrel.

2) NYMEX's daily settle quoted price for Light Sweet Crude Future for the calendar month average (Excluding Weekend & Holiday) less $*** United States Dollars per Barrel.

For pricing purposes, any crude oil delivered hereunder shall be deemed to have been delivered in equal daily quantities during the calendar month in which delivery occurs.

C. ***Delivery 3***

QUALITY: San Joaquin Valley Heavy

QUANTITY: Approximately 3,500 Barrels Per Day

DELIVERY: Delivery to the point of destination, NMWS Fairfield, CA, Into Pipe, Book Transfer, In-tank, or Pumpover.

TITLE/RISK OF LOSS: Except as otherwise specified in this agreement, title and risk of loss or damage shall pass to TESORO as the crude oil enters the Pacific Plains Pipeline through the inlet flange of metering facilities at NMWS Fairfield, CA.

PRICE: TESORO agrees to pay Seller based on the following price formula:
The price shall be the higher of the two following calculations, to be determined at the end of each month:

1) The average of the four posters (Chevron, Union 76, Shell, and Exxon) for Midway Sunset crude oil for the calendar month average (Including Weekend & Holiday adjusted for actual gravity) plus a differential of $*** United States Dollars per Barrel.

2) NYMEX's daily settle quoted price for Light Sweet Crude Future for the calendar month average (Excluding Weekend & Holiday) less $*** United States Dollars per Barrel.

For pricing purposes, any crude oil delivered hereunder shall be deemed to have been delivered in equal daily quantities during the calendar month in which delivery occurs.

D. ***Delivery 4***

QUALITY: San Joaquin Valley Heavy

QUANTITY: Approximately 2,400 Barrels Per Day

DELIVERY: Delivery to the point of destination, Berry Formax, CA, Into Pipe/BT/IT/PO

TITLE/RISK OF LOSS: Except as otherwise specified in this agreement, title and risk of loss or damage shall pass to TESORO as the crude oil enters the ConocoPhillips (Unocap) Pipeline through the inlet flange of metering facilities at Berry Formax, CA.

PRICE: TESORO agrees to pay Seller based on the following price formula:
The price shall be the higher of the two following calculations, to be determined at the end of each month:

1) The average of the four posters (Chevron, Union 76, Shell, and Exxon) for Midway Sunset crude oil for the calendar month average (Including Weekend & Holiday) adjusted for actual gravity, plus a differential of $*** United States Dollars per Barrel.

2) NYMEX's daily settle quoted price for Light Sweet Crude Future for the calendar month average (Excluding Weekend & Holiday) less $*** United States Dollars per Barrel.

For pricing purposes, any crude oil delivered hereunder shall be deemed to have been delivered in equal daily quantities during the calendar month in which delivery occurs.

2. **TERM:** This Agreement shall extend for an initial term from 4/1/2009 to 9/30/2009.

3. **PAYMENT:** Payment due on the 20th day of the month after the month of delivery.

Payment shall be made by electronic funds transfer in United States Dollars.

Payments due on Saturday shall be paid the preceding Friday, and payments due on Sunday shall be paid on the following Monday. Similarly, payments due on a federal bank holiday shall be paid the preceding business day except when a federal bank holiday falls on a Monday, when payment shall be due the following day.

All payments made under this agreement shall be made without offset, deduction or counterclaim except as provided herein, by separate written agreement between the parties, or within the GENERAL PROVISIONS attached hereto or previously provided, incorporated into and made part of this Agreement by reference.

If applicable, net-out invoices shall be according to the established netting agreement between Buyer and Seller.

Send Invoices to: Tesoro Refining and Marketing Company 300 Concord Plaza Drive San Antonio, TX 78216

Attn: Crude Accounting, Fax (210) 881-6435
Email: TSOCrudeinvoices@tsocorp.com

Attn: Accounts Payable, Fax (210) 579-4573 Email: apayable@tsocorp.com

4. **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 applicable to the extent that they are not in conflict with any of the terms in this Agreement, 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: 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. Paragraph H (1) 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."

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7. 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)."

8. Paragraph H(5) Market Price is hereby amended to read as follows: "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 as specified in this Agreement and at the delivery location that corresponds to the delivery location specified in this Agreement."

9. The governing law set forth in Paragraph M of the GP shall be California law.

10. Any modification of any of the referenced documents shall only be by written instrument signed by both parties. Any conflict between the General Provisions and this Agreement shall be resolved in favor of this Agreement. The section headings are for convenience only and shall not limit or change the subject matter of this Agreement.

12. Tesoro agrees to immediately provide to Seller upon Seller's request from time to time copies of Tesoro's financial statements for the period requested either certified as to accuracy by Tesoro's chief financial officer or audited by Tesoro's independent accounting firm in form and as to date reasonably acceptable to Seller; provided however that Tesoro shall not be required to 1) prepare any financial statements, 2) issue any certifications for Seller's benefit, or 3) be required to provide any information that is not suitable for public disclosure in accordance with applicable securities laws and regulations applicable to Tesoro as a publicly traded entity.

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.

CONFIDENTIALITY: The parties will treat all information contained within or produced pursuant to this Agreement as confidential and will use it only for the purposes of this Agreement. Such confidential information specifically includes, without limitation, the prices specified in this Agreement. Neither party will disclose the other party's confidential information to any third party or in any public statement without the other party's express prior written consent, provided however, that the parties shall disclose such information (other than prices) to carriers and the operators of terminals and pipelines, as might be required to arrange for delivery of Crude Oil being sold hereunder. Nothing contained herein shall prevent a party from disclosing confidential information when necessary to enforce provisions of this Agreement or when such party's counsel determines in good faith that such disclosure is required to comply with applicable law, judicial or administrative process or regulatory requirement, including without limitation disclosures by Seller about the existence of the Agreement and identifying the parties and other general information as may be deemed material for disclosure under applicable securities regulations, but not including the price being sold hereunder unless approximations thereof are required to be disclosed under applicable securities laws and regulations or unless ordered disclosed by the applicable government agency after confidentialty protection has been requested. In the event of any such disclosure, the party making such disclosure pursuant to law, process or regulatory requirement shall provide the other party with notice of and a reasonable opportunity to object to such disclosure. This confidentiality provision will remain in full force and effect for the term of this Agreement and for a period of one year thereafter.

ADDRESSES: The following address shall be used for notices under this Agreement.

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To TESORO	To Seller
Tesoro Refining and Marketing Company 300 Concord Plaza Drive San Antonio, Texas 78216-6999	Berry Petroleum Company 1999 Broadway Ste 3700 Denver, CO 80202
Attn: Commercial Contract Administration	Attn: Ron Cross
PHONE # 1-210-626-7157 FAX # 1-210-579-4578	PHONE # 1-303-999-4041 FAX # 1-303-999-4141
Email: smanagment@tsocorp.com	rfc@bry.com

ADDITIONAL TESORO CONTACTS:

OPERATIONS Crude Scheduling	Phone: (210) 626-4036	Fax: (210) 745-4565
CREDIT Brian Randecker	Phone: (210) 626-4757	Fax: (210) 745-4673
ACCOUNTING Mid-Office Accounting	Fax: (210) 881-6435 E-mail: sat-tsocrudeinvoices(a)tsocorp.com	

INTERNATIONAL TRADE COMPLIANCE appropriate person below:	Direct questions for international shipments to	
Pipeline Imports Kevin Wilder	Phone: (210) 626-4843	Cell: (210) 315-6192
Marine Imports Audra Hanley	Phone: (210) 626-4446	Cell: (210) 315-6324
Exports Gary Wilson	Phone: (210) 626-4787	Cell: (210) 241-5333

Regards,

Damon M Van Zandt
Director, North American Crude Trading Tesoro Refining and Marketing Company

Agreed and accepted as of the date first above written.

BERRY PETROLEUM COMPANY

By: /s/ Michael Duginski
Michael Duginski,
Executive Vice President and
Chief Operating Officer

Confidential Portions Redacted and Filed with the Commission pursuant to 17 CFR 200.83. "*" Symbolizes Language Omitted Pursuant to an Application For Confidential Treatment**

EXHIBIT A
TO MARCH __, 2009 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 Complicance 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.

Exhibit 10.2

[EXECUTION]

THIRD AMENDMENT TO AMENDED AND RESTATED CREDIT AGREEMENT

THIS THIRD AMENDMENT TO AMENDED AND RESTATED CREDIT AGREEMENT (this "Amendment") made as of April 24, 2009 by and among BERRY PETROLEUM COMPANY, a Delaware corporation ("Borrower"), WELLS FARGO BANK, NATIONAL ASSOCIATION, individually and as administrative agent ("Administrative Agent"), and the Lenders party to the Original Credit Agreement defined below ("Lenders").

W I T N E S S E T H:

WHEREAS, Borrower, Administrative Agent and Lenders entered into that certain Amended and Restated Credit Agreement dated as of July 15, 2008 (as amended, supplemented, or restated to the date hereof, the "Original Credit Agreement"), for the purpose and consideration therein expressed, whereby Lenders became obligated to make loans to Borrower as therein provided; and

WHEREAS, Borrower, Administrative Agent and Lenders desire to amend the Original Credit Agreement as set forth herein;

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements contained herein and in the Original Credit Agreement, in consideration of the loans which may hereafter be made by Lenders to Borrower, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto do hereby agree as follows:

ARTICLE I.

DEFINITIONS AND REFERENCES

§ 1.1. Terms Defined in the Original Credit Agreement. Unless the context otherwise requires or unless otherwise expressly defined herein, the terms defined in the Original Credit Agreement shall have the same meanings whenever used in this Amendment.

§ 1.2. Other Defined Terms. Unless the context otherwise requires, the following terms when used in this Amendment shall have the meanings assigned to them in this Section 1.2.

"Amendment" means this Third Amendment to Amended and Restated Credit Agreement.

"Credit Agreement" means the Original Credit Agreement as amended hereby.

"Original Omnibus Certificate" means the Omnibus Certificate dated July 15, 2008 executed and delivered by officers of Borrower pursuant to the Original Credit Agreement.

ARTICLE II.

AGREEMENTS

§ 2.1. Definitions.

(a) The following definitions in Section 1.1 of the Original Credit Agreement are hereby amended in their entirety to read as follows:

"Availability" means on any day during the Commitment Period, an amount equal to the lesser of the Aggregate Commitment or the Borrowing Base, determined for such day by deducting from such lesser amount at the end of such day, the Facility Usage.

"Secured Obligations" means all Obligations and all Lender Hedging Obligations; provided that after the end of the Suspension Period, SG Obligations will be included in the Secured Obligations.

(b) The following new definitions are hereby added to Section 1.1 of the Original Credit Agreement in alphabetical order to read as follows:

"Discharge of Second Lien Obligations" has the meaning given to such term in the Second Lien Intercreditor Agreement.

"Second Lien Intercreditor Agreement" means that certain Intercreditor Agreement dated as of April 24, 2009 among Administrative Agent, Wells Fargo Energy Capital, Inc., as administrative agent for the Term Lenders (as defined therein), and Borrower, as from time to time supplemented, amended or restated."

"SG Obligations" means the Indebtedness arising under the SG Money Market Facility in an aggregate principal amount not to exceed $30,000,000, plus all interest accrued thereon and all fees, expenses and other Liabilities payable with respect thereto; provided that no loans or advances shall be made by SG under the SG Money Market Facility during the Suspension Period.

"Suspension Period" means the period from and including April 24, 2009 until the date on which the Discharge of Second Lien Obligations has occurred.

(c) The definition of "Impacted Lender" in Section 1.1 of the Original Credit Agreement is hereby amended to replace the reference to "the LC Issuer" in clause (b)(i) thereof with "Administrative Agent".

§ 2.2. Indebtedness. Subsection (f) of Section 7.1 of the Original Credit Agreement is hereby amended in its entirety to read as follows:

"(f) only after the end of the Suspension Period, SG Obligations;"

§ 2.3. Asset Sales. Subsection (i) of Section 7.5 of the Original Credit Agreement is hereby amended in its entirety to read as follows:

(i) sales and dispositions of other property for a purchase price paid in cash or Mineral Interests in an amount at least equal to the fair market value thereof; provided that if the aggregate sales price for all such property sold during any period between any two sequential Determination Dates exceeds five percent (5%) of the Present Value of the Borrowing Base Properties, the Borrowing Base shall be reduced effective immediately upon such sale or disposition by an amount equal to the value, if any, assigned to such property in the most recently delivered Engineering Report.

§ 2.4. Lenders Schedule. Schedule 1 to the Credit Agreement is hereby replaced with Exhibit A attached hereto.

§ 2.5. Borrowing Base. Pursuant to Section 2.9(a) of the Credit Agreement, Administrative Agent and Lenders hereby notify Borrower that from the date hereof until and including the next Determination Date the Borrowing Base shall be $1,008,000,000, and by its execution hereof, Borrower accepts the foregoing Borrowing Base.

§ 2.6. Reallocation.

(a) Lenders hereby authorize Administrative Agent and Borrower to request Revolving Loans from the Lenders, to make prepayments of Revolving Loans and to reallocate Commitments under the Credit Agreement among Lenders in order to ensure that, upon the effectiveness of this Agreement, the Revolving Loans of the Lenders shall be outstanding on a ratable basis in accordance with their respective Percentage Shares and that the Commitments shall be as set forth on Schedule 1 of the Credit Agreement, as replaced hereby, and no such borrowing, prepayment or reallocation shall violate any provisions of the Credit Agreement. Lenders hereby confirm that, from and after the effectiveness of this Agreement, all participations of Lenders in respect of Letters of Credit outstanding under the Credit Agreement pursuant to Section 2.13 of the Credit Agreement shall be based upon the Percentage Shares of Lenders (after giving effect to this Agreement).

(b) Lenders hereby waive any requirements for minimum amounts of prepayments of Revolving Loans and ratable payments on account of the principal or interest of any Revolving Loan under the Credit Agreement to the extent such prepayment or payments are required pursuant to the Credit Agreement. Borrower shall pay any funding indemnification amounts required by Section 3.4 of the Credit Agreement in the event the payment of any principal of any Eurodollar Loan or the conversion of any Eurodollar Loan other than on the last day of an Interest Period applicable thereto is required in connection with the reallocation contemplated by this Section 2.5.

§2.6 Second Lien Intercreditor Agreement. A new Section 9.14 is hereby added to the Original Credit Agreement immediately after Section 9.13 thereof to read as follows:

"Section 9.14. Second Lien Intercreditor Agreement. Each Lender hereby irrevocably authorizes Administrative Agent to execute and, by such execution, to bind such Lender to the terms of the Second Lien Intercreditor Agreement and to take all actions (and execute all documents) required (or deemed advisable) by the Administrative Agent in accordance with the terms of the Second Lien Intercreditor Agreement, and each of the Lenders agrees to be bound by the terms of the Second Lien Intercreditor Agreement as fully as if a signatory thereto."

§2.7. SG Obligations. SG hereby agrees that during the Suspension Period, (i) it will not make any loans or advances under the SG Money Market Facility, (ii) the SG Obligations will not be part of the Secured Obligations, (iii) no SG obligations will be secured by the Collateral and (iv) SG will not be entitled to any proceeds of the Collateral. Pursuant to Section 10.1(a) of the Original Credit Agreement, SG expressly consents to the terms of this Amendment and the Second Lien Intercreditor Agreement and authorizes Administrative Agent to enter into the Second Lien Intercreditor Agreement.

ARTICLE III.

CONDITIONS OF EFFECTIVENESS

§3.1 Effective Date. This Amendment shall become effective as of the date first above written when and only when:

(a) Administrative Agent shall have received all of the following, at Administrative Agent's office, duly executed and delivered and in form and substance satisfactory to Administrative Agent, all of the following:

(i) this Amendment;

(ii) a certificate of the Secretary of Borrower dated the date of this Amendment certifying: (i) that resolutions attached thereto previously adopted by the Board of Directors of the Borrower authorize the execution, delivery and performance of this Amendment by Borrower; (ii) the names and true signatures of the officers of the Borrower authorized to execute and deliver Loan Documents; (iii) that the certificate of incorporation and bylaws of Borrower are in effect on the date hereof and no modifications have been made to them; and (iv) that all of the representations and warranties set forth in Article IV hereof are true and correct on and as of the date hereof, except to the extent that such representation or warranty was made as of a specific date or updated, modified or supplemented as of a subsequent date with the consent of Required Lenders and Administrative Agent, in which cases such representations and warranties shall have been true and correct in all material respects on and of such earlier date;

(iii) the certificate of a Responsible Officer of Borrower required to be delivered pursuant to clause (h) of the definition of Permitted Second Lien Debt, which certificate relates to the Indebtedness of Borrower arising under that certain Second Lien Credit Agreement dated of even date herewith among Borrower, Wells Fargo Energy Capital, Inc., as administrative agent, and the other lenders party thereto;

(iv) the Second Lien Intercreditor Agreement;

(v) evidence satisfactory to Administrative Agent that no SG Obligations remain outstanding; and

(vi) such other supporting documents as Administrative Agent may reasonably request.

(b) Borrower shall have paid, in connection with such Loan Documents, all other fees and reimbursements to be paid to Administrative Agent pursuant to any Loan Documents, or otherwise due Administrative Agent and including fees and disbursements of Administrative Agent's attorneys.

ARTICLE IV.

REPRESENTATIONS AND WARRANTIES

§4.1 Representations and Warranties of Borrower. In order to induce each Lender to enter into this Amendment, Borrower represents and warrants to each Lender that:

(a) The representations and warranties contained in Article V of the Original Credit Agreement are true and correct on and as of the date hereof, except to the extent that such representation or warranty was made as of a specific date or updated, modified or supplemented as of a subsequent date with the consent of Required Lenders and Administrative Agent, in which cases such representations and warranties shall have been true and correct in all material respects on and of such earlier date.

(b) Borrower is duly authorized to execute and deliver this Amendment and is and will continue to be duly authorized to borrow monies and to perform its obligations under the Credit Agreement. Borrower has duly taken all corporate action necessary to authorize the execution and delivery of this Amendment and to authorize the performance of the obligations of Borrower hereunder.

(c) The execution and delivery by Borrower of this Amendment, the performance by Borrower of its obligations hereunder and the consummation of the transactions contemplated hereby do not and will not (a) conflict with (i) any Law, (ii) the articles of incorporation and bylaws of Borrower, or (iii) any agreement, judgment, license, order or permit applicable to or binding upon Borrower in any material respect, or (b) result in the creation of any Lien upon any assets or properties of Borrower. Except for those which have been obtained, no consent, approval, authorization or order of any court or governmental authority or third party is required in connection with the execution and delivery by Borrower of this Amendment or to consummate the transactions contemplated hereby.

(d) When duly executed and delivered, each of this Amendment and the Credit Agreement will be a legal and binding obligation of Borrower, enforceable in accordance with its terms, except as limited by bankruptcy, insolvency or similar laws of general application relating to the enforcement of creditors' rights and by equitable principles of general application.

(e) The audited annual Consolidated financial statements of Borrower dated as of December 31, 2008 fairly present the Consolidated financial position at such date and the Consolidated statement of operations and the changes in Consolidated financial position for the periods ending on such date for Borrower. Copies of such financial statements have heretofore been delivered to each Lender. Since such date no material adverse change has occurred in the financial condition or businesses or in the Consolidated financial condition or businesses of Borrower.

ARTICLE V.

MISCELLANEOUS

§5.1 Ratification of Agreements. The Original Credit Agreement as hereby amended is hereby ratified and confirmed in all respects. The Loan Documents, as they may be amended or affected by this Amendment, are hereby ratified and confirmed in all respects. Any reference to the Credit Agreement in any Loan Document shall be deemed to be a reference to the Original Credit Agreement as hereby amended. The execution, delivery and effectiveness of this Amendment shall not, except as expressly provided herein, operate as a waiver of any right, power or remedy of Lenders under the Credit Agreement, the Notes, or any other Loan Document nor constitute a waiver of any provision of the Credit Agreement, the Notes or any other Loan Document.

§5.2 Survival of Agreements. All representations, warranties, covenants and agreements of Borrower herein shall survive the execution and delivery of this Amendment and the performance hereof, including without limitation the making or granting of the Loans, and shall further survive until all of the Obligations are paid in full. All statements and agreements contained in any certificate or instrument delivered by Borrower hereunder or under the Credit Agreement to any Lender shall be deemed to constitute representations and warranties by, and/or agreements and covenants of, Borrower under this Amendment and under the Credit Agreement.

§5.3 Loan Documents. This Amendment is a Loan Document, and all provisions in the Credit Agreement pertaining to Loan Documents apply hereto.

§5.4 Governing Law. This Amendment shall be governed by and construed in accordance with and governed by the laws of the State of California and the laws of the United States of America without regard to principles of conflicts of law.

§5.5 Counterparts; Fax. This Amendment may be separately executed in counterparts and by the different parties hereto in separate counterparts, each of which when so executed shall be deemed to constitute one and the same Amendment. This Amendment may be validly executed by facsimile or other electronic transmission.

THIS AMENDMENT AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS OF THE PARTIES.

[*The remainder of this page has been intentionally left blank.*]

IN WITNESS WHEREOF, this Amendment is executed as of the date first above written.

BERRY PETROLEUM COMPANY

By: /s/ David D. Wolf
Name: David D. Wolf
Title: Executive Vice President and Chief Financial Officer

WELLS FARGO BANK, NATIONAL ASSOCIATION, Administrative Agent, LC Issuer and Lender

By: /s/ Oleg Kogan
Oleg Kogan
Vice President

BNP PARIBAS, Lender

By: /s/ Betsy Jocher
Name: Betsy Jocher
Title: Director

By: /s/ Greg Smothers
Name: Greg Smothers
Title: Director

SOCIÉTÉ GÉNÉRALE, Lender under the Credit Agreement and the SG Money Market Facility

By: /s/ Stephen W. Warfel
Name: Stephen W. Warfel
Title: Managing Director

JPMORGAN CHASE BANK, N.A., Lender

By: /s/ Michael A. Kamauf
Name: Michael A. Kamauf
Title: Vice President

THE ROYAL BANK OF SCOTLAND plc, Lender

By: /s/ Lucy Walker
Name: Lucy Walker
Title: Vice President

THE BANK OF NOVA SCOTIA, Lender

By: /s/ Andrew Ostrov
Name: Andrew Ostrov
Title: Director

WACHOVIA BANK, N.A., Lender

By: /s/ Paul Pritchett
Name: Paul Pritchett
Title: Vice President

UNION BANK, N.A. (formerly known as Union Bank of California, N.A.), Lender

By: /s/ Timothy Brendel
Name: Timothy Brendel
Title: Vice President

COMPASS BANK, Lender

By: /s/ Greg Determann
Name: Greg Determann
Title: Vice President

U.S. BANK NATIONAL ASSOCIATION, Lender

By: /s/ Justin M. Alexander
Name: Justin M. Alexander
Title: Vice President

CREDIT SUISSE, CAYMAN ISLANDS BRANCH, Lender

By: /s/ Nupur Kumar
Name: Nupur Kumar
Title: Vice President

By: /s/ Shaheen Malik
Name: Shaheen Malik
Title: Vice President

BANK OF SCOTLAND plc, Lender

By: /s/ Julia R. Franklin
Name: Julia R. Franklin
Title: Assistant Vice President

NATIXIS, Lender

By: /s/ LouisP. Laville, III
Name: Louis P. Laville, III
Title: Managing Director

By: /s/ Liana Tchernysheva
Name: Liana Tchernysheva
Title: Director

BANK OF OKLAHOMA N.A., Lender

By: /s/ Michael M. Logan
Name: Michael M. Logan
Title: Senior Vice President

RAYMOND JAMES BANK, FSB, Lender

By: /s/ Garrett McKinnon
Name: Garrett McKinnon
Title: Senior Vice President

GUARANTY BANK AND TRUST COMPANY, Lender

By: /s/ Gail J. Nofsinger
Name: Gail J. Nofsinger
Title: Senior Vice President

CITIBANK, N.A., Lender

By: /s/ Todd Mogil
Name: Todd Mogil
Title: Vice President

BANK OF MONTREAL, Lender

By: /s/ Gumaro Tijerina
Name: Gumaro Tijerina
Title: Director

CALYON NEW YORK BRANCH, Lender

By: /s/ Darrell Stanley
Name: Darrell Stanley
Title: Managing Director

By: /s/ Sharada Manne
Name: Sharada Manne
Title: Director

Exhibit 10.3

Execution Version

SECOND LIEN CREDIT AGREEMENT

BERRY PETROLEUM COMPANY

and

WELLS FARGO ENERGY CAPITAL, INC.
as Administrative Agent, Co-Lead Arranger and Co-Bookrunner,

THE ROYAL BANK OF SCOTLAND plc,
as Syndication Agent, Co-Lead Arranger and Co-Bookrunner,

CALYON NEW YORK BRANCH and SOCIETE GENERALE,
as Co-Documentation Agents, Co-Lead Arrangers and Co-Bookrunners,

UNIONBANCAL EQUITIES, INC.,
as Co-Lead Arranger and Co-Bookrunner

and

CERTAIN FINANCIAL INSTITUTIONS
as Lenders

April 24, 2009

SECOND LIEN TERM LOAN FACILITY OF UP TO $140,000,000

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SECOND LIEN CREDIT AGREEMENT

THIS SECOND LIEN CREDIT AGREEMENT is made as of April 24, 2009, by and among BERRY PETROLEUM COMPANY, a Delaware corporation (herein called "Borrower"), each lender that becomes a signatory hereto (individually, together with its successors and assigns, a "Lender", and collectively, together with their respective successors and assigns, the "Lenders"), and WELLS FARGO ENERGY CAPITAL, INC., as administrative agent for the Lenders (in such capacity, together with its successors in such capacity pursuant to the terms hereof, the "Administrative Agent").

WHEREAS, Borrower, the lenders signatory thereto or later becoming bound thereby (including Wells Fargo Bank, National Association ("Wells Fargo") and certain of the other lenders), and Wells Fargo, as administrative agent for such lenders and the issuer of letters of credit thereunder, are parties to that certain Amended and Restated Credit Agreement, dated as of July 15, 2008, as amended by the First Amendment to Amended and Restated Credit Agreement dated as of October 17, 2008, the Second Amendment to Amended and Restated Credit Agreement dated as of February 19, 2009, and the Third Amendment to the Amended and Restated Credit Agreement dated as of the date hereof (as so amended, amended and restated, supplemented or modified, the "First Lien Credit Agreement");

WHEREAS, Borrower has requested that the Lenders make available to it a second lien credit facility for the purposes set forth herein; and

WHEREAS, the Lenders have agreed to provide the requested second lien credit facility to the Borrower on the terms, and subject to the conditions, set forth herein.

ACCORDINGLY, in consideration of the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I - - - Definitions and References

Section 1.1. Defined Terms. As used in this Second Lien Credit Agreement, each of the following terms has the meaning given to such term in this Section 1.1 or in the sections and subsections referred to below:

"Adjusted Base Rate" means, for any day, the Base Rate plus the Base Rate Margin for such day; provided that the Adjusted Base Rate charged by any Person shall never exceed the Highest Lawful Rate.

"Adjusted EBITDAX" means, for any period, EBITDAX for such period adjusted (a) as permitted and in accordance with Article 11 of Regulation S-X promulgated by the SEC, and (b) to give effect to any acquisition or divestiture made by Borrower or any of its Consolidated subsidiaries during such period as if such transactions had occurred on the first day of such period, regardless of whether the effect is positive or negative.

"Adjusted Eurodollar Rate" means, for any Eurodollar Loan for any day during any Interest Period therefor, the rate per annum equal to the sum of (a) the Eurodollar Margin for such day plus (b) the higher of (i) 3% per annum and (ii) the rate per annum (rounded upwards, if necessary, to the nearest 1/100 of 1%) determined by Administrative Agent to be equal to the quotient obtained by dividing (A) the Eurodollar Rate for such Eurodollar Loan for such Interest Period by (B) one minus the Reserve Requirement for such Eurodollar Loan for such Interest Period; provided that no Adjusted Eurodollar Rate charged by any Person shall ever exceed the Highest Lawful Rate. The Adjusted Eurodollar Rate for any Eurodollar Loan shall change whenever the Eurodollar Margin or the Reserve Requirement changes.

"Administrative Agent" has the meaning given such term in the Preamble to this Agreement.

"Administrative Questionnaire" means an Administrative Questionnaire in a form supplied by Administrative Agent.

"Affiliate" means, as to any Person, each other Person that directly or indirectly (through one or more intermediaries or otherwise) controls, is controlled by, or is under common control with, such Person. A Person shall be deemed to be "controlled by" any other Person if such other Person possesses, directly or indirectly, the power:

(a) to vote 10% or more of the Equity Interests in such Person (on a fully diluted basis) having ordinary voting power for the election of directors or similar managing group; or

(b) to direct or cause the direction of the management and policies of such Person whether by contract or otherwise.

"Aggregate Commitment" means the aggregate amount of the Commitments of the Lenders; provided, that in no event shall the Aggregate Commitment exceed the Maximum Credit Amount.

"Agreement" means this Second Lien Credit Agreement.

"Applicable Lending Office" means, with respect to each Lender, such Lender's Domestic Lending Office in the case of Base Rate Loans and such Lender's Eurodollar Lending Office in the case of Eurodollar Loans.

"Approved Fund" means any Fund that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

"Assignment and Assumption" means an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by Section 10.5), and accepted by Administrative Agent, in substantially the form of Exhibit F or any other form approved by Administrative Agent.

"Availability" means "Availability" as defined in the First Lien Credit Agreement.

"Base Rate" means, for any day, the rate per annum equal to the highest of (a) the Federal Funds Rate for such day plus one and one-half of one percent (1.5%), (b) the Prime Rate for such day, (c) the One-Month Eurodollar Rate for such day plus one and one-half percent (1.5%), or (d) four percent (4%). Any change in the Base Rate due to a change in the Prime Rate, the Federal Funds Rate or the One-Month Eurodollar Rate shall be effective on the effective date of such change in the Prime Rate or Federal Funds Rate or the One-Month Eurodollar Rate. As used in this definition, "Prime Rate" means, at any time, the per annum rate of interest most recently announced within Wells Fargo at its principal office in San Francisco as its Prime Rate, with the understanding that Wells Fargo's Prime Rate is one of its base rates and serves as the basis upon which effective rates of interest are calculated for those loans making reference thereto, and is evidenced by the recording thereof after its announcement in such internal publication or publications as Wells Fargo may designate. Each change in the Prime Rate will be effective on the day the change is announced within Wells Fargo.

"Base Rate Loan" means a Loan which does not bear interest at the Adjusted Eurodollar Rate.

"Base Rate Margin" means, on any day, seven percent (7.00%) per annum.

"Borrowing Base" means "Borrowing Base" as defined in the First Lien Credit Agreement.

"Borrowing Base Deficiency" means "Borrowing Base Deficiency" as defined in the First Lien Credit Agreement.

"Borrowing Base Properties" means "Borrowing Base Properties" as defined in the First Lien Credit Agreement.

"Borrowing Notice" means a written or telephonic request, or a written confirmation, made by Borrower which meets the requirements of Section 2.2.

"Business Day" means a day, other than a Saturday or Sunday, on which commercial banks are open for business with the public in Denver, Colorado. Any Business Day in any way relating to Eurodollar Loans (such as the day on which an Interest Period begins or ends) must also be a day on which, in the judgment of Administrative Agent, significant transactions in dollars are carried out in the interbank eurocurrency market.

"Capital Lease" means a lease with respect to which the lessee is required concurrently to recognize the acquisition of an asset and the incurrence of a liability in accordance with GAAP.

"Capital Lease Obligation" means, with respect to any Person and a Capital Lease, the amount of the obligation of such Person as the lessee under such Capital Lease which should, in accordance with GAAP, appear as a liability on the balance sheet of such Person.

"Cash Equivalents" means Investments in:

(a) marketable obligations, maturing within twelve months after acquisition thereof, issued or unconditionally guaranteed by the United States of America or an instrumentality or agency thereof and entitled to the full faith and credit of the United States of America;

(b) demand deposits, and time deposits (including certificates of deposit) maturing within twelve months from the date of deposit thereof, with any office of any Lender or with a domestic office of any national or state bank or trust company which is organized under the Laws of the United States of America or any state therein, which has capital, surplus and undivided profits of at least $500,000,000, and whose long term certificates of deposit are rated at least A2 by Moody's or A by S & P;

(c) repurchase obligations with a term of not more than seven days for underlying securities of the types described in subsection (a) above entered into with any commercial bank meeting the specifications of subsection (b) above;

(d) open market commercial paper, maturing within 270 days after acquisition thereof, which are rated at least P-1 by Moody's or A-1 by S & P; and

(e) money market or other mutual funds substantially all of whose assets comprise securities of the types described in subsections (a) through (d) above.

"Change in Law" means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation or application thereof by any Governmental Authority or (c) the making or issuance of any request, guideline or directive (whether or not having the force of law) by any Governmental Authority.

"Change of Control" means the occurrence of either of the following events: (a) any Person or two or more Persons acting as a group shall acquire beneficial ownership (within the meaning of Rule 13d-3 of the SEC under the Securities Act of 1934, as amended, and including holding proxies to vote for the election of directors other than proxies held by Borrower's management or their designees to be voted in favor of Persons nominated by Borrower's Board of Directors) of 30% or more of the outstanding voting securities of Borrower, measured by voting power (including both common stock and any preferred stock or other equity securities entitling the holders thereof to vote with the holders of common stock in elections for directors of Borrower) or (b) one-third or more of the directors of Borrower shall consist of Persons not nominated by Borrower's Board of Directors (not including as Board nominees any directors which the Board is obligated to nominate pursuant to shareholders agreements, voting trust arrangements or similar arrangements).

"Closing Date" means the date on which all of the conditions precedent set forth in Section 4.1 shall have been satisfied or waived.

"Collateral" means all property of any kind which is subject to a Lien in favor of Lenders (or in favor of Administrative Agent for the benefit of Lenders) or which, under the terms of any Security Document, is purported to be subject to such a Lien, in each case that secures the Secured Obligations.

"Commitment" means, for each Lender, the obligation of such Lender to make Loans to Borrower in an aggregate amount not exceeding the amount set forth on the Lenders Schedule.

"Consolidated" refers to the consolidation of any Person, in accordance with GAAP, with its properly consolidated subsidiaries. References herein to a Person's Consolidated financial statements, financial position, financial condition, liabilities, etc. refer to the consolidated financial statements, financial position, financial condition, liabilities, etc. of such Person and its properly consolidated subsidiaries.

"Continuation" shall refer to the continuation pursuant to Section 2.3 hereof of a Eurodollar Loan as a Eurodollar Loan from one Interest Period to the next Interest Period.

"Continuation/Conversion Notice" means a written or telephonic request, or a written confirmation, made by Borrower which meets the requirements of Section 2.3.

"Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. "Controlling" and "Controlled" have meanings correlative thereto.

"Conversion" shall refer to a conversion pursuant to Section 2.3 or Article III of one Type of Loan into another Type of Loan.

"Core Acquisitions and Investments" means (i) acquisitions of Mineral Interests and acquisitions of assets used in the producing, drilling, transportation, processing, refining or marketing of petroleum products that are related to a Restricted Person's producing Mineral Interests, and (ii) acquisitions of or Investments in Persons engaged primarily in the business of acquiring, developing and producing Mineral Interests or transporting, processing, refining or marketing petroleum products that are related to a Restricted Person's producing Mineral Interests; provided that with respect to any acquisition or Investment described in this clause (ii), either (A) immediately after making such acquisition or Investment, Borrower shall directly or indirectly own at least fifty-one percent (51%) of the Equity Interests of such Person, measured by voting power, or (B) such Person shall not be a publicly traded entity and such acquisition or Investment shall be related to the business and operations of Borrower or one of its Subsidiaries.

"Current Assets" means the sum of the current assets of Borrower and its Consolidated Subsidiaries at such time, plus the Availability under the First Lien Credit Agreement at such time, but excluding, for purposes of this definition any non-cash gains for any Hedging Contract resulting from the requirements at such time of SFAS 133 or any replacement accounting standard.

"Current Liabilities" means the current liabilities of Borrower and its Consolidated Subsidiaries at such time, but excluding for purposes of this definition, (i) any non-cash losses or charges on any Hedging Contract resulting from the requirement at such time of SFAS 133 or any replacement accounting standard and (ii) current maturities of the Obligations and First Lien Obligations.

"Debtor Relief Laws" means the Bankruptcy Code of the United States, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

"Default" means any Event of Default and any default, event or condition which would, with the giving of any requisite notices and the passage of any requisite periods of time, constitute an Event of Default.

"Default Rate" means, at the time in question (a) with respect to any Base Rate Loan, the rate per annum equal to three percent (3%) above the Adjusted Base Rate then in effect and (b) with respect to any Eurodollar Loan, the rate per annum equal to three percent (3%) above the Adjusted Eurodollar Rate then in effect for such Loan, provided in each case that no Default Rate charged by any Person shall ever exceed the Highest Lawful Rate.

"Disclosure Letter" means the letter of even date with the Agreement from Borrower to the Agent, attached hereto as Exhibit G.

"Disclosure Report" means either a notice given by Borrower under Section 6.4 or a certificate given by Borrower's Chief Financial Officer under Section 6.2(a).

"Dividend" means any dividend or other distribution made by a Restricted Person on or in respect of any stock, partnership interest, or other equity interest in such Restricted Person or any other Restricted Person (including any option or warrant to buy such an equity interest), excluding Stock Repurchases.

"Domestic Lending Office" means, with respect to any Lender, the office of such Lender specified as its "Domestic Lending Office" below its name on the Lenders Schedule, or such other office as such Lender may from time to time specify to Borrower and Administrative Agent; and, with respect to Administrative Agent, the office, branch, or agency through which it administers this Agreement.

"Domestic Subsidiary" means any Subsidiary that is organized under the laws of any political subdivision of the United States.

"EBITDAX" means, for any period, the sum of (without duplication, and without giving effect to any extraordinary losses or gains during such period) the following determined on a Consolidated basis (1) Net Income during such period, plus (2) all interest paid or accrued during such period on Indebtedness (including amortization of original issue discount and the interest component of any deferred payment obligations and capital lease obligations) which was deducted in determining such Net Income, plus (3) all income taxes which were deducted in determining such Net Income, plus (4) all depreciation, amortization (including amortization of goodwill and debt issue costs), depletion, accretion and other non-cash charges (including any provision for the reduction in the carrying value of assets recorded in accordance with GAAP) which were deducted in determining such Net Income, plus (5) all exploration expenses which were deducted in determining such Net Income, minus (6) all non-cash items of income which were included in determining such Net Income.

"Eligible Assignee" means (a) a Lender, (b) an Affiliate of a Lender, (c) an Approved Fund, and (d) any other Person (other than a natural person), approved by (i) Administrative Agent, and (ii) unless a Default has occurred and is continuing, Borrower (each such approval not to be unreasonably withheld or delayed); provided that notwithstanding the foregoing, "Eligible Assignee" shall not include Borrower or any of Borrower's Affiliates or Subsidiaries.

"Engineering Report" means the Initial Engineering Report and each engineering report delivered pursuant to Section 6.2.

"Environmental Laws" means any and all Laws relating to the environment or to emissions, discharges, releases or threatened releases of pollutants, contaminants, chemicals, or industrial, toxic or hazardous substances or wastes into the environment including ambient air, surface water, ground water, or land, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport, or handling of pollutants, contaminants, chemicals, or industrial, toxic or hazardous substances or wastes.

"Equity Interest" means (i) with respect to any corporation, the capital stock of such corporation, (ii) with respect to any limited liability company, the membership interests in such limited liability company, (iii) with respect to any partnership or joint venture, the partnership or joint venture interests therein, and (iv) with respect to any other legal entity, the ownership interests in such entity.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time, and any successor statutes or statute, together with all rules and regulations promulgated with respect thereto.

"ERISA Affiliate" means each Restricted Person and all members of a controlled group of corporations and all trades or businesses (whether or not incorporated) under common Control, that, together with such Restricted Person, are treated as a single employer under Section 414 of the Internal Revenue Code.

"ERISA Plan" means any employee pension benefit plan subject to Title IV of ERISA maintained by any ERISA Affiliate with respect to which any Restricted Person has a fixed or contingent liability.

"Eurodollar Lending Office" means, with respect to any Lender, the office of such Lender specified as its "Eurodollar Lending Office" below its name on the Lenders Schedule (or, if no such office is specified, its Domestic Lending Office), or such other office of such Lender as such Lender may from time to time specify to Borrower and Administrative Agent.

"Eurodollar Loan" means a Loan that bears interest at the Adjusted Eurodollar Rate.

"Eurodollar Margin" means, on any day, eight percent (8.00%) per annum.

"Eurodollar Rate" means, for any Eurodollar Loan and with respect to the related Interest Period therefor, (a) the interest rate per annum (carried out to the fifth decimal place) equal to the applicable London interbank offered rate for deposits in the requested currency appearing on the Reuters Reference LIBOR01 page for such currency as of 11:00 a.m. (London time) two Business Days prior to the first day of such Interest Period, or (b) in the event the rate referenced in the preceding subsection (a) does not appear on such page or service or such page or service shall cease to be available, the rate per annum (carried out to the fifth decimal place) equal to the rate determined by Administrative Agent to be the offered rate on Page BBAM of the Bloomberg Financial Market Information Service as of 11:00 a.m. (London time) two Business Days prior to the first day of such Interest Period, or (c) in the event the rates referenced in the preceding subsections (a) and (b) are not available, the rate per annum determined by Administrative Agent as the rate of interest at which deposits in U.S. dollars (for delivery on the first day of such Interest Period) in same day funds in the approximate amount of the applicable Eurodollar Loan and with a term equivalent to such Interest Period would be offered by Wells Fargo or one of its Affiliate banks to major banks in the London interbank market at their request at approximately 11:00 a.m. (London time) two Business Days prior to the first day of such Interest Period.

"Event of Default" has the meaning given to such term in Section 8.1.

"Excluded Property" has the meaning given to such term in the Security Documents.

"Excluded Taxes" means, with respect to Administrative Agent, any Lender or any other recipient of any payment to be made by or on account of any obligation of Borrower hereunder, (a) taxes imposed on or measured by its overall net income (however denominated), and franchise taxes imposed on it (in lieu of net income taxes), by the jurisdiction (or any political subdivision thereof) under the laws of which such recipient is organized or in which its principal office is located or, in the case of any Lender, in which its Applicable Lending Office is located, (b) any branch profits taxes imposed by the United States of America or any similar tax imposed by any other jurisdiction in which Borrower is located; and (c) in the case of a Foreign Lender (other than an assignee pursuant to a request by Borrower under Section 3.7(b), any withholding tax that is imposed on amounts payable to such Foreign Lender at the time such Foreign Lender becomes a party hereto (or designates a new lending office) or is attributable to such Foreign Lender's failure or inability (other than as a result of a Change in Law) to comply with Section 3.5(e), except to the extent that such Foreign Lender (or its assignor, if any) was entitled, at the time of designation of a new lending office (or assignment), to receive additional amounts from Borrower with respect to such withholding tax pursuant to Section 3.5(a).

"Federal Funds Rate" means, for any day, the rate per annum (rounded upwards, if necessary, to the nearest 1/100th of one percent) equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided that (a) if the day for which such rate is to be determined is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if such rate is not so published for any day, the Federal Funds Rate for such day shall be the average rate quoted to Administrative Agent on such day on such transactions as determined by Administrative Agent.

"Fee Letter" means that certain Fee Letter dated February 26, 2009 between Administrative Agent and Borrower.

"First Lien Agent" means "Administrative Agent" as defined in the First Lien Credit Agreement.

"First Lien Credit Agreement" has the meaning given to such term in the Recitals to this Agreement.

"First Lien Lender Hedging Obligations" means "Lender Hedging Obligations" as defined in the First Lien Credit Agreement.

"First Lien Lenders" means the syndicate of financial institutions that comprise the "Lenders" as defined in the First Lien Credit Agreement; and "First Lien Lender" means "Lender" as defined in the First Lien Credit Agreement.

"First Lien Loan Documents" means "Loan Documents" as defined in the First Lien Credit Agreement.

"First Lien Loans" means "Loans" as defined in the First Lien Credit Agreement.

"First Lien Obligations" means "Obligations" as defined in the First Lien Credit Agreement.

"First Lien Secured Obligations" means "Secured Obligations" as defined in the First Lien Credit Agreement.

"First Lien Security Documents" means "Security Documents" as defined in the First Lien Credit Agreement.

"Fiscal Quarter" means a three-month period ending on March 31, June 30, September 30 or December 31 of any year.

"Fiscal Year" means a twelve-month period ending on December 31 of any year.

"Foreign Lender" means any Lender that is organized under the laws of a jurisdiction other than that in which Borrower is resident for tax purposes. For purposes of this definition, the United States of America, each State thereof and the District of Columbia shall be deemed to constitute a single jurisdiction.

"Foreign Subsidiary" means any Subsidiary of Borrower that is not a Domestic Subsidiary.

"Four-Quarter Period" means any period of four consecutive Fiscal Quarters.

"Fund" means any Person (other than a natural person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its business.

"GAAP" means those generally accepted accounting principles and practices which are recognized as such by the Financial Accounting Standards Board (or any generally recognized successor) and which, in the case of Borrower and its Consolidated Subsidiaries, are applied for all periods after the date hereof in a manner consistent with the manner in which such principles and practices were applied to the audited Initial Financial Statements. If any change in any accounting principle or practice is required by the Financial Accounting Standards Board (or any such successor) in order for such principle or practice to continue as a generally accepted accounting principle or practice, all reports and financial statements required hereunder with respect to Borrower or with respect to Borrower and its Consolidated Subsidiaries shall be prepared in accordance with such change, which change shall be disclosed to Administrative Agent on the next date on which financial statements are required to be delivered to Lenders pursuant to Section 6.2(a); provided that, unless the Majority Lenders shall otherwise agree in writing, no such change shall modify or affect the manner in which compliance with the covenants contained in Article VII are computed such that all such computations shall be conducted utilizing financial information presented consistently with prior periods.

"Governmental Authority" means the government of the United States or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

"Guarantor" means any Person who has guaranteed some or all of the Secured Obligations pursuant to a guaranty listed on the Security Schedule or any other Person who has guaranteed some or all of the Secured Obligations and who has been accepted by Administrative Agent as a Guarantor or any Subsidiary of Borrower which now or hereafter executes and delivers a guaranty to Administrative Agent pursuant to Section 6.15.

"Hazardous Materials" means any substances regulated under any Environmental Law, whether as pollutants, contaminants, or chemicals, or as industrial, toxic or hazardous substances or wastes, or otherwise.

"Hedging Contract" means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a "Master Agreement"), including any such obligations or liabilities under any Master Agreement.

"Highest Lawful Rate" means, with respect to each Lender Party to whom Obligations are owed, the maximum, nonusurious rate of interest that such Lender Party is permitted under applicable Law to contract for, take, charge, or receive with respect to such Obligations. All determinations herein of the Highest Lawful Rate, or of any interest rate determined by reference to the Highest Lawful Rate, shall be made separately for each Lender Party as appropriate to assure that the Loan Documents are not construed to obligate any Person to pay interest to any Lender Party at a rate in excess of the Highest Lawful Rate applicable to such Lender Party.

"Indebtedness" of any Person means Liabilities in any of the following categories (without duplication):

(a) Liabilities for borrowed money,

(b) Liabilities constituting an obligation to pay the deferred purchase price of property or services,

(c) Liabilities evidenced by a bond, debenture, note or similar instrument,

(d) Liabilities which (i) would under GAAP be shown on such Person's balance sheet as a liability, and (ii) are payable more than one year from the date of creation thereof (other than reserves for taxes and reserves for contingent obligations),

(e) Liabilities arising under Hedging Contracts,

(f) Liabilities constituting principal under leases capitalized in accordance with GAAP,

(g) Liabilities arising under conditional sales or other title retention agreements,

(h) Liabilities owing under direct or indirect guaranties of Liabilities of any other Person or otherwise constituting obligations to purchase or acquire or to otherwise protect or insure a creditor against loss in respect of Liabilities of any other Person (such as obligations under working capital maintenance agreements, agreements to keep-well, or agreements to purchase Liabilities, assets, goods, securities or services), but excluding endorsements in the ordinary course of business of negotiable instruments in the course of collection,

(i) Liabilities (for example, repurchase agreements, mandatorily redeemable preferred stock and sale/leaseback agreements) consisting of an obligation to purchase or redeem securities or other property, if such Liabilities arises out of or in connection with the sale or issuance of the same or similar securities or property,

(j) Liabilities with respect to letters of credit or applications or reimbursement agreements therefor;

(k) Liabilities with respect to payments received in consideration of oil, gas, or other minerals yet to be acquired or produced at the time of payment (including obligations under "take-or-pay" contracts to deliver gas in return for payments already received and the undischarged balance of any production payment created by such Person or for the creation of which such Person directly or indirectly received payment),

(l) Liabilities with respect to other obligations to deliver goods or services in consideration of advance payments therefor; or

(m) Liabilities with respect to bankers acceptances;

provided, however, that the "Indebtedness" of any Person shall not include Liabilities that were incurred by such Person on ordinary trade terms to vendors, suppliers, or other Persons providing goods and services for use by such Person in the ordinary course of its business which are paid as required by Section 6.7.

"Indemnified Taxes" means Taxes other than Excluded Taxes.

"Independent Engineers" means an independent petroleum engineering firm chosen by Borrower and acceptable to Administrative Agent.

"Initial Engineering Report" means the engineering reports concerning the Mineral Interests of the Restricted Persons prepared by Degolyer and MacNaughton as of January 1, 2009.

"Initial Financial Statements" means the audited annual financial statements of Borrower dated as of December 31, 2008.

"Insolvent" means with respect to any Person, that such Person (a) is insolvent (as such term is defined in the United States Bankruptcy Code, Title 11 U.S.C., as amended (the "Bankruptcy Code"), and with all terms used in this Section that are defined in the Bankruptcy Code having the meanings ascribed to those terms in the text and interpretive case law applicable to the Bankruptcy Code), or (b) the sum of such Person's debts, including absolute and contingent liabilities, the Obligations or guarantees thereof, exceeds the value of such Person's assets, at a fair valuation, and (c) such Person's capital is unreasonably small for the business in which such Person is engaged and intends to be engaged. Such Person has incurred (whether under the Loan Documents or otherwise), or intends to incur debts which will be beyond its ability to pay as such debts mature. In determining whether a Person is "Insolvent" all rights of contribution of each Restricted Party against other Restricted Parties under the Guaranty, at law, in equity or otherwise shall be taken into account.

"Insurance Schedule" means Schedule 2 attached hereto.

"Intercreditor Agreement" means that certain Intercreditor Agreement, dated as of the date hereof, among the Borrower, the Administrative Agent and the First Lien Agent.

"Interest Payment Date" means (a) with respect to each Base Rate Loan, the last day of each Fiscal Quarter, and (b) with respect to each Eurodollar Loan, the last day of the Interest Period that is applicable thereto and, if such Interest Period is six, nine or twelve months in length, each date specified by Administrative Agent which is approximately three, six or nine months after such Interest Period begins.

"Interest Period" means, with respect to each particular Eurodollar Loan, the period specified in the Borrowing Notice or Continuation/Conversion Notice applicable thereto, beginning on and including the date specified in such Borrowing Notice or Continuation/Conversion Notice (which must be a Business Day), and ending one, two, three, or six months and, if available, nine or twelve months thereafter, as Borrower may elect in such notice; provided that: (a) any Interest Period which would otherwise end on a day which is not a Business Day shall be extended to the next succeeding Business Day unless such Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day; (b) any Interest Period which begins on the last Business Day in a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day in a calendar month; and (c) notwithstanding the foregoing, any Interest Period which would otherwise end after the Maturity Date shall end on the Maturity Date (or, if the Maturity Date is not a Business Day, on the first preceding Business Day).

"Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended from time to time and any successor statute or statutes, together with all rules and regulations promulgated with respect thereto.

"Investment" means any investment, made directly or indirectly, in any Person or any property, whether by purchase, acquisition of shares of capital stock, indebtedness or other obligations or securities or by loan, advance, capital contribution or otherwise and whether made in cash, by the transfer of property, or by any other means.

"Law" means any statute, law, regulation, ordinance, rule, treaty, judgment, order, decree, permit, concession, franchise, license, agreement or other governmental restriction of the United States or any state or political subdivision thereof or of any foreign country or any department, province or other political subdivision thereof. Any reference to a Law includes any amendment or modification to such Law, and all regulations, rulings, and other Laws promulgated under such Law.

"Lender Parties" means Administrative Agent and all Lenders.

"Lenders" or "Lender" means each signatory hereto (other than Borrower and any Restricted Person that is a party hereto), including WFEC in its capacity as a Lender hereunder rather than as Administrative Agent, and the successors of each such party as holder of a Note.

"Lenders Schedule" means Schedule 1 hereto.

"Liabilities" means, as to any Person, all indebtedness, liabilities and obligations of such Person, whether matured or unmatured, liquidated or unliquidated, primary or secondary, direct or indirect, absolute, fixed or contingent, and whether or not required to be considered pursuant to GAAP.

"Lien" means, with respect to any property or assets, any right or interest therein of a creditor to secure Liabilities owed to it or any other arrangement with such creditor which provides for the payment of such Liabilities out of such property or assets or which allows such creditor to have such Liabilities satisfied out of such property or assets prior to the general creditors of any owner thereof, including any lien, mortgage, security interest, pledge, deposit, production payment, rights of a vendor under any title retention or conditional sale agreement or lease substantially equivalent thereto, tax lien, mechanic's or materialman's lien, or any other charge or encumbrance for security purposes, whether arising by Law or agreement or otherwise, but excluding any right of offset which arises without agreement in the ordinary course of business. "Lien" also means any filed financing statement, any registration of a pledge (such as with an issuer of uncertificated securities), or any other arrangement or action which would serve to perfect a Lien described in the preceding sentence, regardless of whether such financing statement is filed, such registration is made, or such arrangement or action is undertaken before or after such Lien exists.

"Loan" has the meaning given to such term in Section 2.1.

"Loan Documents" means this Agreement, the Notes, the Intercreditor Agreement, the Security Documents, and all other agreements, certificates, documents, instruments and writings at any time delivered in connection herewith or therewith (exclusive of term sheets and commitment letters).

"Majority Lenders" means two or more Lenders whose aggregate Percentage Shares exceed fifty percent (50.0%).

"Material Adverse Change" means a material and adverse change, from the state of affairs presented in the Initial Financial Statements or as represented or warranted in any Loan Document, to (a) Borrower's Consolidated financial condition, (b) Borrower's Consolidated operations, properties or prospects, considered as a whole, (c) Borrower's ability to timely pay the Obligations, (d) the enforceability of the material terms of any Loan Documents, or (e) the rights and remedies of Administrative Agent or Lenders under the Loan Documents.

"Material Hedging Modification" means any amendments, modifications, sales, assignments, novations or terminations of any Hedging Contracts that, in the aggregate, reduce by more than five percent (5%) the aggregate notional volume of oil, gas and natural gas liquids subject to the Restricted Persons' Hedging Contracts in effect as of the most recent calculation of Total Proved PV10% to Total Funded Debt pursuant to Section 7.14.

"Material Subsidiary" means a Subsidiary of Borrower that (a) owns assets representing five percent (5%) of the market value of Borrower's Consolidated assets or (b) has EBITDAX for the Four-Quarter Period most recently ended that equals or exceeds five percent (5%) of Borrower's Consolidated EBITDAX for such period.

"Maturity Date" means January16, 2013.

"Maximum Credit Amount" means $140,000,000.

"Mineral Interests" means rights, estates, titles, and interests in and to oil, gas, sulfur, or other mineral leases and any mineral interests, royalty and overriding royalty interest, production payment, net profits interests, mineral fee interests, and other rights therein, including, without limitation, any reversionary or carried interests relating to the foregoing, together with rights, titles, and interests created by or arising under the terms of any unitization, communization, and pooling agreements or arrangements, and all properties, rights and interests covered thereby, whether arising by contract, by order, or by operation of Law, which now or hereafter include all or any part of the foregoing.

"Minimum Collateral Amount" means Mineral Interests representing eighty percent (80%) of the Present Value of the Proved Reserves properly attributed to the Borrowing Base Properties or such higher percentage of the Borrowing Base Properties that may be designated by First Lien Agent.

"Money Market Facility" means a credit facility which (a) is evidenced by a bond, debenture, note or similar instrument, (b) has financial covenants that are not more restrictive with respect to the Restricted Persons than the financial covenants under this Agreement and has other covenants and events of default governing the Indebtedness evidenced by such credit facility that are not materially more restrictive with respect to the Restricted Persons than the covenants and Events of Default under this Agreement, and (c) the Indebtedness of which is not subordinated to any other Indebtedness of the Restricted Persons.

"Moody's" means Moody's Investors Service, Inc. or its successor.

"Net Income" means, for any period, the net income (or loss) of Borrower and its properly consolidated Subsidiaries for such period, calculated on a consolidated basis.

"Net Worth" of any Person means, as of any date, the remainder of all Consolidated assets of such Person minus such Person's Consolidated liabilities, each as determined by GAAP, but excluding, for purposes of this definition any assets and liabilities for any Hedging Contract resulting from the requirements of SFAS 133 at such time.

"Non-Core Acquisitions and Investments" means acquisitions and Investments that are not Core Acquisitions and Investments.

"Note" has the meaning given to such term in Section 2.1.

"NYMEX" means the New York Mercantile Exchange.

"NYMEX Pricing" means, as of any date of determination with respect to a oil and natural gas futures contract for any month, (a) for crude oil, the closing settlement price for the Light, Sweet Crude Oil futures contract for such month, and (b) for natural gas, the closing settlement price for the Henry Hub Natural Gas futures contract for such month, in each case, as published by New York Mercantile Exchange (NYMEX) on its website, currently located at www.nymex.com, or any successor thereto (as such price may be corrected or revised from time to time by the NYMEX in accordance with its rules and regulations).

"Obligations" means all Liabilities from time to time owing by any Restricted Person to any Lender Party under or pursuant to any of the Loan Documents. "Obligation" means any part of the Obligations.

"One-Month Eurodollar Rate" means, for any day for any Base Rate Loan, (a) the interest rate per annum (carried out to the fifth decimal place) equal to the applicable London interbank offered rate for deposits in the requested currency appearing on the Reuters Reference LIBOR01 page for such currency as of 11:00 a.m. (London time) on such day with a term equivalent to one month, or (b) in the event the rate referenced in the preceding subsection (a) does not appear on such page or service or such page or service shall cease to be available, the rate per annum (carried out to the fifth decimal place) equal to the rate determined by Administrative Agent to be the offered rate on Page BBAM of the Bloomberg Financial Market Information Service as of 11:00 a.m. (London time) on such day with a term equivalent to one month, or (c) in the event the rates referenced in the preceding subsections (a) and (b) are not available, the rate per annum determined by Administrative Agent using another comparable publicly available service for displaying London inter-bank offered rates for deposits of U.S. Dollars with a term equivalent to one month.

"Organizational Documents" means, (a) with respect to any corporation, the certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction); (b) with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement; and (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity.

"Other Taxes" means all present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies arising from any payment made hereunder or under any other Loan Document or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement or any other Loan Document.

"Participant" has the meaning given to such term in Section 10.5(d).

"Percentage Share" means, with respect to any Lender, the percentage set forth below such Lender's name on the Lenders Schedule or as set forth in any Assignment and Assumption relating to any assignment that has become effective pursuant to Section 10.5, as such amount may be modified from time to time pursuant to the terms hereof. Notwithstanding the foregoing, after the Loans have been made, "Percentage Share" shall mean with respect to any Lender, the percentage obtained by dividing (i) the unpaid principal balance of such Lender's Loans at the time in question by (ii) the aggregate unpaid principal balance of all Loans at such time.

"Permitted Convertible Debt" means Permitted Unsecured Debt which is convertible, in whole or in part, into common Equity Interests in Borrower; provided that Permitted Convertible Debt shall not contain any put or mandatory redemption provisions which may be exercised prior to January 15, 2013.

"Permitted Investments" means (a) Cash Equivalents, (b) property of the Restricted Persons used in the ordinary course of business of the Restricted Persons, (c) current assets arising from the sale or lease of goods and services in the ordinary course of business by the Restricted Persons or from sales permitted under Section 7.5, (d) investments, in an aggregate amount not to exceed $4,000,000, in a Person engaged in the sole business of ownership and operation of drilling rigs, and (e) sales or leases permitted under Section 7.5.

"Permitted Liens" means:

(a) statutory Liens for taxes, assessments or other governmental charges or levies which are not yet delinquent or which are being contested in good faith by appropriate action and for which adequate reserves have been maintained in accordance with GAAP;

(b) landlords', operators', carriers', warehousemen's, repairmen's, mechanics', materialmen's, or other like Liens which do not secure Indebtedness, in each case only to the extent arising in the ordinary course of business and only to the extent securing obligations which are not delinquent or which are being contested in good faith by appropriate proceedings and for which adequate reserves have been maintained in accordance with GAAP;

(c) minor defects and irregularities in title to any property, so long as such defects and irregularities neither secure Indebtedness nor materially impair the value of such property or the use of such property for the purposes for which such property is held;

(d) deposits of cash or securities to secure the performance of bids, acquisition agreements, trade contracts, leases, statutory obligations and other obligations of a like nature (excluding appeal bonds) incurred in the ordinary course of business;

(e) Liens under the Security Documents;

(f) easements, restrictions, servitudes, permits, conditions, covenants, exceptions or reservations in any property of Borrower or any of its Subsidiaries for the purpose of roads, pipelines, transmission lines, transportation lines, distribution lines for the removal of gas, oil, coal or other minerals or timber, and other like purposes, or for the joint or common use of real estate, rights of way, facilities and equipment, that do not secure any monetary obligations and that do not materially interfere with the future development of such property or with cash flow from such property as reflected in the most recent Engineering Report;

(g) Liens under joint operating agreements, pooling or unitization agreements, partnership agreements, oil and gas leases, farm-out agreements, division orders, contracts for the sale, purchase, transportation, processing or exchange of oil, gas or other hydrocarbons, unitization and pooling declarations and agreements, area of mutual interest agreements, development agreements, joint ownership arrangements or similar contractual arrangements arising in the ordinary course of the business of Borrower or its Subsidiaries to secure amounts owing under such agreements and contracts, which amounts are not more than 90 days past due or are being contested in good faith by appropriate proceedings, if such reserve as may be required by GAAP shall have been made therefor;

(h) (i) Liens on fixed or capital assets acquired, constructed or improved by Borrower or its Subsidiaries; provided, that (A) such Liens secure Indebtedness permitted under Section 7.1, (B) such Liens and the Indebtedness secured thereby are incurred substantially simultaneously with the acquisition, construction or improvement of such fixed or capital assets or within 180 days thereafter, (C) such Liens do not at any time encumber any property other than the property financed by such Indebtedness and (D) the amount of Indebtedness secured thereby is not more than 100% of the purchase price, and (ii) Liens in the nature of precautionary financing statements filed against leased property by lessors holding Capital Lease Obligations included in Indebtedness permitted under Section 7.1;

(i) all lessors' royalties, overriding royalties, net profits interests, carried interests, production payments that do not constitute Indebtedness, reversionary interests and other burdens on or deductions from the proceeds of production with respect to each Mineral Interest (in each case) that do not operate to reduce the net revenue interest for such Mineral Interest (if any) as reflected in any Security Document or Engineering Report or increase the working interest for such Mineral Interest (if any) as reflected in any Security Document or Engineering Report without a corresponding increase in the corresponding net revenue interest; .

(j) rights of first refusal, purchase options and similar rights granted pursuant to joint operating agreements, joint ownership agreements, stockholders agreements, organic documents and other similar agreements and documents which are described in the Disclosure Letter;

(k) pre-judgment Liens and judgment Liens; provided no Event of Default has occurred under Section 8.1;

(l) customary Liens for the fees, costs and expenses of trustees and escrow agents pursuant to the indenture, escrow agreement or other similar agreement establishing such trust or escrow arrangement;

(m) Liens pursuant to merger agreements, stock purchase agreements, asset sale agreements and similar agreements (i) limiting the transfer of properties and assets pending consummation of the subject transaction and (ii) in respect of earnest money deposits, good faith deposits, purchase price adjustment escrows and similar deposits and escrow arrangements made or established thereunder;

(n) rights reserved to or vested in any municipality or governmental, statutory or public authority by the terms of any right, power, franchise, grant, license or permit, or by any provision of law, to terminate such right, power, franchise, grant, license or permit or to purchase, condemn, expropriate or recapture or to designate a purchaser of any of the property of such Person; rights reserved to or vested in any municipality or governmental, statutory or public authority to control or regulate any property of such Person, or to use such property in a manner which does not materially impair the use of such property for the purposes for which it is held by such Person; and any obligation or duties affecting the property of such Person to any municipality or governmental, statutory or public authority with respect to any franchise, grant, license or permit; and

(o) Liens created by or pursuant to the First Lien Loan Documents, so long as such Liens created by or pursuant to the First Lien Loan Documents are limited to assets constituting Collateral pursuant to the Security Documents and are at all times subject to the terms provided in the Intercreditor Agreement.

"Permitted Subordinated Debt" means Indebtedness in respect of subordinated notes issued by Borrower from time to time that complies with all of the following requirements:

(a) such Indebtedness is and shall remain unsecured at all times;

(b) no payment of principal of such Indebtedness is due on or before the Maturity Date as in effect on the date such Indebtedness is issued (in this definition called the "Date of Issuance");

(c) the financial covenants are no more restrictive with respect to the Restricted Persons than the financial covenants under this Agreement and all of the covenants and events of default governing such Indebtedness are not, taken as a whole, materially more restrictive with respect to the Restricted Persons than the covenants and Events of Default under this Agreement;

(d) on the Date of Issuance and after giving effect to such Indebtedness (i) Borrower is in compliance on a pro forma basis with Section 7.11, Section 7.12, Section 7.13 and Section 7.14 of this Agreement, calculated for the most recent Four-Quarter Period for which the financial statements described in Section 6.2(b) are available to Lender;

(e) no Default or Event of Default exists on the Date of Issuance or will occur as a result of the issuance of the subordinated notes evidencing such Indebtedness;

(f) the payment of such Indebtedness is subordinated to payment of the Obligations pursuant to a written agreement (whether contained in the applicable indenture or a separate subordination agreement) in form and substance acceptable to Administrative Agent, in its sole discretion; and

(g) Borrower shall have delivered to Administrative Agent a certificate in reasonable detail reflecting compliance with the foregoing requirements.

"Permitted Unsecured Debt" means Indebtedness in respect of senior unsecured notes (whether issued under a loan agreement or indenture) issued by Borrower from time to time (including guarantees thereof by its Material Domestic Subsidiaries), that complies with all of the following requirements:

(a) such Indebtedness is and shall remain unsecured at all times;

(b) no scheduled payment of principal, scheduled mandatory redemption or scheduled sinking fund payment of such Indebtedness is due on or before July 15, 2013; provided that such Indebtedness may be prepaid in connection with a refinancing thereof with other Indebtedness which is permitted by this Agreement;

(c) the financial covenants are no more restrictive with respect to the Restricted Persons than the financial covenants under this Agreement and all of the covenants and events of default governing such Indebtedness are not, taken as a whole, materially more restrictive with respect to the Restricted Persons than the covenants and Events of Default under this Agreement;

(d) on each date on which such Indebtedness is issued (in this definition defined as a "Date of Issuance") and immediately after giving effect to such Indebtedness Borrower is in compliance on a pro forma basis with Section 7.11, Section 7.12, Section 7.13 and Section 7.14 of this Agreement, calculated for the most recent Four-Quarter Period for which the financial statements described in Sections 6.2 (a) and (b) are available to Lender;

(e) no Default or Event of Default exists on the Date of Issuance or will occur as a result of the issuance of the notes evidencing such Indebtedness;

(f) such Indebtedness is not guaranteed by any Person which is not a Guarantor of all of the Secured Obligations; and

(g) Borrower shall have delivered to Administrative Agent a certificate in reasonable detail reflecting compliance with the foregoing requirements.

"Person" means an individual, corporation, partnership, limited liability company, association, joint stock company, trust or trustee thereof, estate or executor thereof, unincorporated organization or joint venture, Governmental Authority or any other legally recognizable entity.

"Present Value" of any Mineral Interest means the present value of the future net revenues attributed to such Mineral Interest in the most recent Engineering Report using a discount rate of ten percent (10%).

"Projected Gas Production" means the projected production of gas (measured by BTU equivalent, not sales price) for the term of the contracts or a particular month, as applicable, from properties and interests owned by any Restricted Person which are located in or offshore of the United States and which have attributable to them Proved Developed Producing Reserves, as such production is projected in the most recent report delivered pursuant to Section 6.2(d) or (e), after deducting projected production from any properties or interests sold or under contract for sale that had been included in such report and after adding projected production from any properties or interests that had not been reflected in such report but that are reflected in a separate or supplemental report meeting the requirements of such Section 6.2(d) or (e) above and otherwise are satisfactory to Administrative Agent.

"Projected NGL Production" means the projected production of natural gas liquids (measured by volume unit, not sales price) for the term of the contracts or a particular month, as applicable, from properties and interests owned by any Restricted Person which are located in or offshore of the United States and which have attributable to them Proved Developed Producing Reserves, as such production is projected in the most recent report delivered pursuant to Section 6.2(d) or (e), after deducting projected production from any properties or interests sold or under contract for sale that had been included in such report and after adding projected production from any properties or interests that had not been reflected in such report but that are reflected in a separate or supplemental report meeting the requirements of such Section 6.2(d) or (e) above and otherwise are satisfactory to Administrative Agent.

"Projected Oil Production" means the projected production of oil or gas (measured by volume unit, not sales price) for the term of the contracts or a particular month, as applicable, from properties and interests owned by any Restricted Person which are located in or offshore of the United States and which have attributable to them Proved Developed Producing Reserves, as such production is projected in the most recent report delivered pursuant to Section 6.2(d) or (e), after deducting projected production from any properties or interests sold or under contract for sale that had been included in such report and after adding projected production from any properties or interests that had not been reflected in such report but that are reflected in a separate or supplemental report meeting the requirements of such Section 6.2(d) or (e) above and otherwise are satisfactory to Administrative Agent.

"Proved Reserves" shall have the meaning set forth in the standards of the Petroleum Resource Management System promulgated by the Society of Petroleum Engineers ("SPE"), as may be modified by the adjustments and assumptions set forth in clauses (a) and (b) of the definition of Proved Total PV10%, or any successor standard of the SPE.

"Proved Developed Producing Reserves" means Proved Reserves, which are categorized as both "Developed" and "Producing" in the Definitions for Oil and Gas Reserves promulgated by the SPE as in effect at the time in question.

"Rating Agency" means either S & P or Moody's.

"Regulation D" means Regulation D of the Board of Governors of the Federal Reserve System as from time to time in effect.

"Related Parties" means, with respect to any Person, such Person's Affiliates and the partners, directors, officers, employees, agents and advisors of such Person and of such Person's Affiliates.

"Required Lenders" means two or more Lenders whose aggregate Percentage Shares equal or exceed sixty-six and two-thirds percent (66 2/3%).

"Reserve Requirement" means, at any time, the maximum rate at which reserves (including any marginal, special, supplemental, or emergency reserves) are required to be maintained under regulations issued from time to time by the Board of Governors of the Federal Reserve System (or any successor) by member banks of the Federal Reserve System against "Eurocurrency liabilities" (as such term is used in Regulation D). Without limiting the effect of the foregoing, the Reserve Requirement shall reflect any other reserves required to be maintained by such member banks with respect to (a) any category of liabilities which includes deposits by reference to which the Adjusted Eurodollar Rate is to be determined, or (b) any category of extensions of credit or other assets which include Eurodollar Loans.

"Responsible Officer" means, with respect to Borrower, the Chief Executive Officer, President, Chief Operating Officer, or Chief Financial Officer of Borrower, and with respect to any other Restricted Person, if such Restricted Person is a limited liability company, a Manager of such Restricted Person, and if such Restricted Person is a corporation, the President or Chief Financial Officer of such Restricted Person.

"Restricted Person" means any of Borrower and each Subsidiary of Borrower.

"S & P" means Standard & Poor's Ratings Services (a division of The McGraw-Hill Companies), or its successor.

"SEC" means the Securities and Exchange Commission, or any Governmental Authority succeeding to any of its principal functions.

"Secured Obligations" means all Obligations.

"Security Documents" means all security agreements, deeds of trust, mortgages, chattel mortgages, pledges, guaranties, financing statements, continuation statements, extension agreements, subordination agreements, intercreditor agreements, and other agreements or instruments now, heretofore, or hereafter delivered by any Restricted Person to Administrative Agent in connection with this Agreement or any transaction contemplated hereby to secure or guarantee the payment of any part of the Secured Obligations.

"Security Schedule" means Schedule 3 hereto.

"SG" means Société Générale in its capacity as the lender under the SG Money Market Facility and not as a Lender hereunder.

"SG Money Market Facility" means the Money Market Facility in the amount of $30,000,000 made available to Borrowers by SG pursuant to a Letter Agreement between Borrower and SG.

"Staff Engineers" means petroleum engineers who are employees of Borrower or of a staffing company that provides its employees to Borrower.

"Stock Repurchase" means any payment made by a Restricted Person to purchase, redeem, acquire or retire any Equity Interest in such Restricted Person or any other Restricted Person (including any option or warrant to purchase such an Equity Interest).

"Strip Price" means, at any time, (a) for the remainder of the current calendar year, the average NYMEX Pricing for the remaining months of crude oil and natural gas futures contracts in the current calendar year, (b) for each of the succeeding two complete calendar years, the average NYMEX Pricing of the twelve months crude oil and natural gas futures contracts in each such calendar year, and (c) for the succeeding third complete calendar year, and for each calendar year thereafter, the average NYMEX Pricing of the twelve months crude oil and natural gas futures contracts in such third calendar year.

"Subsidiary" means, with respect to any Person, any corporation, association, partnership, limited liability company, joint venture, or other business or corporate entity, enterprise or organization which is directly or indirectly (through one or more intermediaries) controlled by or owned fifty percent or more by such Person; provided that associations, joint ventures or other relationships (a) which are established pursuant to a standard form operating agreement or similar agreement or which are partnerships for purposes of federal income taxation only, (b) which are not corporations or partnerships (or subject to the Uniform Partnership Act) under applicable state Law, and (c) whose businesses are limited to the exploration, development and operation of oil, gas or mineral properties and interests owned directly by the parties in such associations, joint ventures or relationships, shall not be deemed to be "Subsidiaries" of such Person.

"Taxes" means all present or future taxes, levies, imposts, duties, deductions, withholdings, assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

"Termination Event" means (a) the occurrence with respect to any ERISA Plan of (i) a reportable event described in Section 4043(b)(5) or (6) of ERISA or (ii) any other reportable event described in Section 4043(b) of ERISA other than a reportable event not subject to the provision for 30-day notice to the Pension Benefit Guaranty Corporation pursuant to a waiver by such corporation under Section 4043(a) of ERISA, or (b) the withdrawal of any ERISA Affiliate from an ERISA Plan during a plan year in which it was a "substantial employer" as defined in Section 4001(a)(2) of ERISA, or (c) the filing of a notice of intent to terminate any ERISA Plan or the treatment of any ERISA Plan amendment as a termination under Section 4041 of ERISA, or (d) the institution of proceedings to terminate any ERISA Plan by the Pension Benefit Guaranty Corporation under Section 4042 of ERISA, or (e) any other event or condition which might constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any ERISA Plan.

"Total Funded Debt" means all Liabilities of the Restricted Persons of the types described in clauses (a), (b), (c),(f), (h) and (j) of the definition of Indebtedness.

"Total Proved PV10%" means, with respect to any Proved Reserves expected to be produced from the Restricted Persons' Mineral Interests, the net present value, discounted at ten percent (10%) per annum, of the future net revenues expected to accrue to the Borrower's collective interests in such proved Mineral Interests during the remaining expected economic lives of such reserves. Each calculation of such expected future net revenues shall be based on Proved Reserves, provided, that in any event (a) appropriate deductions shall be made for severance and ad valorem taxes, and for operating, gathering, transportation and marketing costs required for the production and sale of such reserves (operating expenses will not be escalated), (b) the revenue pricing assumptions used in determining Total Proved PV10% and Proved Reserves shall be based upon the Strip Price, as further modified by appropriate adjustments (i) for existing Hedging Contracts with solvent counterparties and (ii) to account for historical basis differentials, which in the case of clauses (i) and (ii) are made in a manner acceptable to the Administrative Agent, and (c) that for purposes of this calculation, the discounted value of future net revenues attributable to Proved Reserves that are not Proved Developed Producing Reserves shall be limited to no more than 40% of the Total Proved PV10%.

"Type" means, with respect to any Loans, the characterization of such Loans as either Base Rate Loans or Eurodollar Loans.

"UCC" means the Uniform Commercial Code in effect in the State of California from time to time.

"Wells Fargo" has the meaning given such term in the Recitals to this Agreement.

"WFEC" means Wells Fargo Energy Capital, Inc.

Section 1.2. Exhibits and Schedules; Additional Definitions. All Exhibits and Schedules attached to this Agreement are a part hereof for all purposes. Reference is hereby made to the Security Schedule for the meaning of certain terms defined therein and used but not defined herein, which definitions are incorporated herein by reference.

Section 1.3. Amendment of Defined Instruments. Unless the context otherwise requires or unless otherwise provided herein the terms defined in this Agreement which refer to a particular agreement, instrument or document also refer to and include all renewals, extensions, modifications, amendments and restatements of such agreement, instrument or document; provided that nothing contained in this section shall be construed to authorize any such renewal, extension, modification, amendment or restatement.

Section 1.4. References and Titles. All references in this Agreement to Exhibits, Schedules, articles, sections, subsections and other subdivisions refer to the Exhibits, Schedules, articles, sections, subsections and other subdivisions of this Agreement unless expressly provided otherwise. Exhibits and Schedules to any Loan Document shall be deemed incorporated by reference in such Loan Document. References to any document, instrument, or agreement (a) shall include all exhibits, schedules, and other attachments thereto, and (b) shall include all documents, instruments, or agreements issued or executed in replacement thereof. Titles appearing at the beginning of any subdivisions are for convenience only and do not constitute any part of such subdivisions and shall be disregarded in construing the language contained in such subdivisions. The words "this Agreement", "this instrument", "herein", "hereof", "hereby", "hereunder" and words of similar import refer to this Agreement as a whole and not to any particular subdivision unless expressly so limited. The phrases "this section" and "this subsection" and similar phrases refer only to the sections or subsections hereof in which such phrases occur. The word "or" is not exclusive, and the word "including" (in its various forms) means "including without limitation". Pronouns in masculine, feminine and neuter genders shall be construed to include any other gender, and words in the singular form shall be construed to include the plural and vice versa, unless the context otherwise requires. Accounting terms have the meanings assigned to them by GAAP, as applied by the accounting entity to which they refer. References to "days" shall mean calendar days, unless the term "Business Day" is used. Unless otherwise specified, references herein to any particular Person also refer to its successors and permitted assigns.

Section 1.5. Calculations and Determinations. All calculations under the Loan Documents shall be made on the basis of actual days elapsed (including the first day but excluding the last) and a year of 360 days. Each determination by a Lender Party of amounts to be paid under Article III or any other matters which are to be determined hereunder by a Lender Party (such as any Eurodollar Rate, Adjusted Eurodollar Rate, Business Day, Interest Period, or Reserve Requirement) shall, in the absence of manifest error, be conclusive and binding. Unless otherwise expressly provided herein or unless Majority Lenders otherwise consent all financial statements and reports furnished to any Lender Party hereunder shall be prepared and all financial computations and determinations pursuant hereto shall be made in accordance with GAAP.

Section 1.6. Joint Preparation; Construction of Indemnities and Releases. This Agreement and the other Loan Documents have been reviewed and negotiated by sophisticated parties with access to legal counsel and no rule of construction shall apply hereto or thereto which would require or allow any Loan Document to be construed against any party because of its role in drafting such Loan Document. All indemnification and release provisions of this Agreement shall be construed broadly (and not narrowly) in favor of the Persons receiving indemnification or being released.

ARTICLE II - - The Loans

Section 2.1. Commitments to Lend; Notes. Subject to the terms and conditions hereof, each Lender severally agrees to make a term loan or loans to Borrower (each, a "Loan", and together, the "Loans") on the Closing Date in an aggregate principal amount not to exceed the Commitment of such Lender. The obligation of Borrower to repay to each Lender the aggregate amount of all Loans made by such Lender, together with interest accruing in connection therewith, shall be evidenced by a single promissory note (herein called such Lender's "Note") made by Borrower payable to the order of such Lender in the form of Exhibit A with appropriate insertions. The amount of principal owing on any Lender's Note at any given time shall be the aggregate amount of all Loans theretofore made by such Lender minus all payments of principal theretofore received by such Lender on such Note. Interest on each Note shall accrue and be due and payable as provided herein and therein. Each Note shall be due and payable as provided herein and therein, and shall be due and payable in full on the Maturity Date. Once repaid or prepaid, no Loan incurred hereunder may be reborrowed.

Section 2.2. Borrowing Notice. Borrower must give to Administrative Agent written or electronic notice (or telephonic notice promptly confirmed in writing) of all requested Loans to be advanced by the Lenders hereunder on the Closing Date. Such notice constitutes a "Borrowing Notice" hereunder and must:

(a) specify (i) the aggregate amount of any such Base Rate Loans to be advanced, or (ii) the aggregate amount of any such Eurodollar Loans to be advanced and the length of the applicable Interest Period; and

(b) be received by Administrative Agent not later than 11:00 a.m., Denver, Colorado time on, (i) if the Borrower requests Base Rate Loans, the Closing Date, or (ii) if the Borrower requests Eurodollar Loans, the third Business Day preceding the Closing Date.

Such written request or confirmation must be made in the form and substance of the "Borrowing Notice" attached hereto as Exhibit B, duly completed. Such telephonic request shall be deemed a representation, warranty, acknowledgment and agreement by Borrower as to the matters which are required to be set out in such written confirmation. Upon receipt of the Borrowing Notice, Administrative Agent shall give each Lender prompt notice of the terms thereof. If all conditions precedent to such Loans have been met, each Lender will on the date requested promptly remit to Administrative Agent at Administrative Agent's office in Denver, Colorado the amount of such Lender's Loan in immediately available funds, and upon receipt of such funds, unless to its actual knowledge any conditions precedent to such Loans have been neither met nor waived as provided herein, Administrative Agent shall promptly make such Loans available to Borrower. Unless Administrative Agent shall have received prompt notice from a Lender that such Lender will not make available to Administrative Agent such Lender's Loan, Administrative Agent may in its discretion assume that such Lender has made such Loan available to Administrative Agent in accordance with this section and Administrative Agent may if it chooses, in reliance upon such assumption, make such Loan available to Borrower. In such event, if a Lender has not in fact made its Loan available to Administrative Agent, then the applicable Lender and Borrower severally agree to pay to Administrative Agent forthwith on demand such corresponding amount with interest thereon, for each day from and including the date such amount is made available to Borrower to but excluding the date of payment to Administrative Agent, at (i) in the case of a payment to be made by such Lender, the greater of the Federal Funds Rate and a rate determined by Administrative Agent in accordance with banking industry rules on interbank compensation and (ii) in the case of a payment to be made by Borrower, the interest rate applicable to Base Rate Loans. If Borrower and such Lender shall pay such interest to Administrative Agent for the same or an overlapping period, Administrative Agent shall promptly remit to Borrower the amount of such interest paid by Borrower for such period. If such Lender pays its Loan to Administrative Agent, then the amount so paid shall constitute such Lender's Loan. Any payment by Borrower shall be without prejudice to any claim Borrower may have against a Lender that shall have failed to make such payment to Administrative Agent.

Section 2.3. Continuations and Conversions of Loans. Subject to the provisions of this Agreement, prior to the Maturity Date, Borrower may make the following elections with respect to Loans outstanding: (A) convert Base Rate Loans to Eurodollar Loans, (B) convert Eurodollar Loans to Base Rate Loans on the last day of the Interest Period applicable thereto, and (C) to continue Eurodollar Loans beyond the expiration of such Interest Period by designating a new Interest Period to take effect at the time of such expiration; provided, that Borrower may not have outstanding at any time Eurodollar Loans containing more than five different Interest Periods. To make any such election, Borrower must give to Administrative Agent written notice (or telephonic notice promptly confirmed in writing) of any such Conversion or Continuation of existing Loans for each Loan converted or continued. Each such notice constitutes a "Continuation/Conversion Notice" hereunder and must:

(a) specify the existing Loans which are to be continued or converted;

(b) specify (i) the aggregate amount of Base Rate Loans into which such existing Loans are to be continued or converted and the date on which such Continuation or Conversion is to occur, or (ii) the aggregate amount of Eurodollar Loans into which such existing Loans are to be continued or converted, the date on which such Continuation or Conversion is to occur (which shall be the first day of the Interest Period which is to apply to such Eurodollar Loans), and the length of the applicable Interest Period; and

(c) be received by Administrative Agent not later than 11:00 a.m., Denver, Colorado time, on (i) the day on which any such Continuation or Conversion to Base Rate Loans is to occur, or (ii) the third Business Day preceding the day on which any such Continuation or Conversion to Eurodollar Loans is to occur.

Each such written request or confirmation must be made in the form and substance of the "Continuation/Conversion Notice" attached hereto as Exhibit C, duly completed. Each such telephonic request shall be deemed a representation, warranty, acknowledgment and agreement by Borrower as to the matters which are required to be set out in such written confirmation. Upon receipt of any such Continuation/Conversion Notice, Administrative Agent shall give each Lender prompt notice of the terms thereof. Each Continuation/Conversion Notice shall be irrevocable and binding on Borrower. During the continuance of any Default, Borrower may not make any election to convert existing Loans into Eurodollar Loans or continue existing Loans as Eurodollar Loans. If (due to the existence of a Default or for any other reason) Borrower fails to timely and properly give any Continuation/Conversion Notice with respect to existing Eurodollar Loans at least three days prior to the end of the Interest Period applicable thereto, such Eurodollar Loans shall automatically be converted into Base Rate Loans at the end of such Interest Period. No new funds shall be repaid by Borrower or advanced by any Lender in connection with any Continuation or Conversion of existing Loans pursuant to this section, and no such Continuation or Conversion shall be deemed to be a new advance of funds for any purpose; such Continuations and Conversions merely constitute a change in the interest rate applicable to already outstanding Loans.

Section 2.4. Use of Proceeds. The Loans shall be used to provide working capital for operations and for other general business purposes of Borrower and its Subsidiaries. In no event shall the funds from any Loan be used directly or indirectly by any Person for personal, family, household or agricultural purposes or for the purpose, whether immediate, incidental or ultimate, of purchasing, acquiring or carrying any "margin stock" (as such term is defined in Regulation U promulgated by the Board of Governors of the Federal Reserve System) or to extend credit to others directly or indirectly for the purpose of purchasing or carrying any such margin stock. Borrower represents and warrants that Borrower is not engaged principally, or as one of Borrower's important activities, in the business of extending credit to others for the purpose of purchasing or carrying such margin stock.

Section 2.5. Interest Rates and Fees

(a) Base Rate Loans. So long as no Event of Default has occurred and is continuing, all Base Rate Loans (exclusive of any past due principal or interest) from time to time outstanding shall bear interest on each day outstanding at the Adjusted Base Rate in effect on such day. If an Event of Default has occurred and is continuing, all Base Rate Loans (exclusive of any past due principal or interest) from time to time outstanding shall bear interest on each day outstanding at the applicable Default Rate in effect on such day. On each Interest Payment Date Borrower shall pay to the holder hereof all unpaid interest which has accrued on the Base Rate Loans to but not including such Interest Payment Date.

(b) Eurodollar Loans. So long as no Event of Default has occurred and is continuing, each Eurodollar Loan (exclusive of any past due principal or interest) shall bear interest on each day during the related Interest Period at the related Adjusted Eurodollar Rate in effect on such day. If an Event of Default has occurred and is continuing, all Eurodollar Loans (exclusive of any past due principal or interest) from time to time outstanding shall bear interest on each day outstanding at the applicable Default Rate in effect on such day. On each Interest Payment Date relating to such Eurodollar Loan, Borrower shall pay to the holder hereof all unpaid interest which has accrued on such Eurodollar Loan to but not including such Interest Payment Date.

(c) Intentionally Omitted.

(d) Past Due Principal and Interest. All past due principal of and past due interest on the Loans shall bear interest on each day outstanding at the Default Rate in effect on such day, and such interest shall be due and payable daily as it accrues.

(e) Intentionally Omitted.

(f) Administrative Agent's Fees. In addition to all other amounts due to Administrative Agent under the Loan Documents, Borrower will pay fees to Administrative Agent as described in the Fee Letter.

Section 2.6. Optional Prepayments. Subject to the applicable provisions of this Agreement and the Intercreditor Agreement, Borrower may from time to time and without premium or penalty prepay the Notes, in whole or in part, so long as the aggregate amount of Loans prepaid at any time must be equal to $3,000,000 or any higher integral multiple of $1,000,000; provided, that if Borrower prepays any Base Rate Loan, it shall give notice to Administrative Agent at least one Business Day's prior notice to the date such prepayment is made and provided, further, that if Borrower prepays any Eurodollar Loan, it shall give notice to Administrative Agent at least three Business Days' prior to the date such prepayment is made and pay to Lenders any amounts due under Section 3.5.

Section 2.7. Mandatory Termination of Commitments; Mandatory Prepayments;.

(a) The Commitments shall terminate in their entirety on the Closing Date (after giving effect to the incurrence of Loans on such date).

(b) All net proceeds of any Indebtedness under Section 7.1(g) and Section 7.1(h) and any issuance of Equity Interests under Section 7.4(b), in each case, after making any prepayment required by the First Lien Credit Agreement, shall be used to prepay the principal of the Obligations. Each prepayment of principal under this section shall be accompanied by all interest then accrued and unpaid on the principal so prepaid and any amounts due under Section 3.4. Any principal or interest prepaid pursuant to this section shall be in addition to, and not in lieu of, all payments otherwise required to be paid under the Loan Documents at the time of such prepayment

Section 2.8. Intentionally Omitted

Section 2.9. Intentionally Omitted

Section 2.10. Intentionally Omitted

Section 2.11. Intentionally Omitted

Section 2.12. Intentionally Omitted

Section 2.13. Intentionally Omitted

Section 2.14. Intentionally Omitted

Section 2.15. Intentionally Omitted

Section 2.16. Intentionally Omitted

Section 2.17. Intentionally Omitted

Section 2.18. Obligations of Lenders Several. The obligations of the Lenders hereunder to make Loans are several and not joint. The failure of any Lender to make any Loan or to make any payment under Section 10.4(b) on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Loan or to make its payment under Section 10.4(b).

ARTICLE III - - Payments to Lenders

Section 3.1. General Procedures. Borrower will make each payment which it owes under the Loan Documents to Administrative Agent for the account of the Lender Party to whom such payment is owed, in lawful money of the United States of America, without set-off, deduction or counterclaim, and in immediately available funds. Each such payment must be received by Administrative Agent not later than 11:00 a.m., Denver, Colorado time, on the date such payment becomes due and payable. Any payment received by Administrative Agent after such time will be deemed to have been made on the next following Business Day. Should any such payment become due and payable on a day other than a Business Day, the maturity of such payment shall be extended to the next succeeding Business Day, and, in the case of a payment of principal or past due interest, interest shall accrue and be payable thereon for the period of such extension as provided in the Loan Document under which such payment is due. Each payment under a Loan Document shall be due and payable at the place set forth for Administrative Agent on the Lenders Schedule. When Administrative Agent collects or receives money on account of the Obligations, Administrative Agent shall distribute all money so collected or received, and each Lender Party shall apply all such money so distributed, as follows (except as otherwise provided in Section 8.3):

(a) *first*, for the payment of all Obligations which are then due (and if such money is insufficient to pay all such Obligations, first to any reimbursements due to Administrative Agent under Section 6.9 or 10.4 and then to the partial payment of all other Obligations then due in proportion to the amounts thereof, or as the Lender Parties shall otherwise agree);

(b) *second*, for the prepayment of amounts owing under the Loan Documents (other than principal on the Notes) if so specified by Borrower;

(c) *third*, for the prepayment of principal on the Notes, together with accrued and unpaid interest on the principal so prepaid; and

(d) *last*, for the payment or prepayment of any other Obligations.

All payments applied to principal or interest on any Note shall be applied first to any interest then due and payable, then to principal then due and payable, and last to any prepayment of principal and interest in compliance with Section 2.6. All distributions of amounts described in any of subsections (b), (c) or (d) above shall be made by Administrative Agent pro rata to each Lender Party then owed Obligations described in such subsection in proportion to all amounts owed to all Lender Parties which are described in such subsection; provided that if any Lender then owes payments to Administrative Agent under Section 10.4(b), any amounts otherwise distributable under this section to such Lender shall be deemed to belong to Administrative Agent to the extent of such unpaid payments, and Administrative Agent shall apply such amounts to make such unpaid payments rather than distribute such amounts to such Lender.

Section 3.2. Increased Costs.

(a) Increased Costs Generally. If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender (except any reserve requirement reflected in the Adjusted Eurodollar Rate);

(ii) subject any Lender to any Tax of any kind whatsoever with respect to this Agreement or any Eurodollar Loan made by it, or change the basis of taxation of payments to such Lender in respect thereof (except for Indemnified Taxes or Other Taxes covered by Section 3.5 and the imposition of, or any change in the rate of, any Excluded Tax payable by such Lender); or

(iii) impose on any Lender or the London interbank market any other condition, cost or expense affecting this Agreement or Eurodollar Loans made by such Lender;

and the result of any of the foregoing shall be to increase the cost to such Lender of making or maintaining any Eurodollar Loan, or to reduce the amount of any sum received or receivable by such Lender hereunder (whether of principal, interest or any other amount) then, upon request of such Lender, Borrower will pay to such Lender such additional amount or amounts as will compensate such Lender for such additional costs incurred or reduction suffered.

(b) Capital Requirements. If any Lender determines that any Change in Law affecting such Lender or any lending office of such Lender or such Lender's holding company, if any, regarding capital requirements has or would have the effect of reducing the rate of return on such Lender's capital or on the capital of such Lender's holding company, if any, as a consequence of this Agreement, the Loans made by such Lender to a level below that which such Lender or such Lender's holding company could have achieved but for such Change in Law (taking into consideration such Lender's policies and the policies of such Lender's holding company with respect to capital adequacy), then from time to time Borrower will pay to such Lender such additional amount or amounts as will compensate such Lender or such Lender's holding company for any such reduction suffered.

(c) Certificates for Reimbursement. A certificate of a Lender setting forth the amount or amounts necessary to compensate such Lender or its holding company, as the case may be, as specified in paragraph (a) or (b) of this Section and delivered to Borrower shall be conclusive absent manifest error. Borrower shall pay such Lender the amount shown as due on any such certificate within ten days after receipt thereof.

(d) Delay in Requests. Failure or delay on the part of any Lender to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's right to demand such compensation; provided that Borrower shall not be required to compensate a Lender pursuant to this Section for any increased costs incurred or reductions suffered more than nine months prior to the date that such Lender notifies Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the nine-month period referred to above shall be extended to include the period of retroactive effect thereof).

Section 3.3. Illegality. If any Change in Law after the date hereof shall make it unlawful for any Lender Party to maintain Eurodollar Loans, then, upon notice by such Lender Party to Borrower and Administrative Agent, (a) Borrower's right to elect (i) to convert Base Rate Loans to Eurodollar Loans or (ii) to continue Eurodollar Loans as Eurodollar Loans from such Lender Party shall be suspended to the extent and for the duration of such illegality, and (b) all Eurodollar Loans of such Lender Party shall be converted automatically to Base Rate Loans on the respective last days of the then current Interest Periods with respect to such Loans or within such earlier period as required by Law. If any such Conversion of a Eurodollar Loan occurs on a day which is not the last day of the then current Interest Period with respect thereto, Borrower shall pay to such Lender Party such amounts, if any, as may be required pursuant to Section 3.4.

Section 3.4. Funding Losses. In addition to its other obligations hereunder, Borrower will indemnify each Lender Party against, and reimburse each Lender Party on demand for, any loss or expense incurred or sustained by such Lender Party (including any loss or expense incurred by reason of the liquidation or reemployment of deposits or other funds acquired by a Lender Party to fund or maintain Eurodollar Loans), as a result of (a) any payment or prepayment (whether authorized or required hereunder or otherwise) of all or a portion of a Eurodollar Loan on a day other than the day on which the applicable Interest Period ends, (b) any payment or prepayment, whether required hereunder or otherwise, of a Loan made after the delivery, but before the effective date, of a Continuation/Conversion Notice requesting the Continuation of outstanding Eurodollar Loans as, or the Conversion of outstanding Base Rate Loans to, Eurodollar Loans, if such payment or prepayment prevents such Continuation/ Conversion Notice from becoming fully effective, (c) the failure of any Loan to be made or of any Continuation/Conversion Notice requesting the Continuation of outstanding Eurodollar Loans as, or the Conversion of outstanding Base Rate Loans to, Eurodollar Loans to become effective due to any condition precedent not being satisfied or due to any other action or inaction of any Restricted Person, (d) any Conversion (whether authorized or required hereunder or otherwise) of all or any portion of any Eurodollar Loan into a Base Rate Loan or into a different Eurodollar Loan on a day other than the day on which the applicable Interest Period ends, or (e) any assignment of a Eurodollar Loan on a day other than the last day of the Interest Period therefor as a result of a request by Borrower pursuant to Section 3.7(b). Such indemnification shall be on an after-tax basis.

Section 3.5. Taxes.

(a) Payment Free of Taxes. Any and all payments by or on account of any obligation of Borrower hereunder or under any other Loan Document shall be made free and clear of and without reduction or withholding for any Indemnified Taxes or Other Taxes; provided that if Borrower shall be required by applicable law to deduct any Indemnified Taxes (including any Other Taxes) from such payments, then (i) the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section) Administrative Agent or Lender, as the case may be, receives an amount equal to the sum it would have received had no such deductions been made, (ii) Borrower shall make such deductions and (iii) Borrower shall timely pay the full amount deducted to the relevant Governmental Authority in accordance with applicable law.

(b) Payment of Other Taxes by Borrower. Without limiting the provisions of paragraph (a) above, Borrower shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

(c) Indemnification by Borrower. Borrower shall indemnify Administrative Agent and each Lender, within ten (10) days after demand therefor, for the full amount of any Indemnified Taxes or Other Taxes (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section) paid by Administrative Agent or such Lender, as the case may be, and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to Borrower by a Lender (with a copy to Administrative Agent), or by Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.

(d) Evidence of Payments. As soon as practicable after any payment of Indemnified Taxes or Other Taxes by Borrower to a Governmental Authority, Borrower shall deliver to Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to Administrative Agent.

(e) Status of Lenders. Any Foreign Lender that is entitled to an exemption from or reduction of withholding tax under the law of the jurisdiction in which Borrower is resident for tax purposes, or any treaty to which such jurisdiction is a party, with respect to payments hereunder or under any other Loan Document shall deliver to Borrower (with a copy to Administrative Agent), at the time or times prescribed by applicable law or reasonably requested by Borrower or Administrative Agent, such properly completed and executed documentation prescribed by applicable law as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if requested by Borrower or Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by Borrower or Administrative Agent as will enable Borrower or Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements.

Without limiting the generality of the foregoing, in the event that Borrower is resident for tax purposes in the United States of America, any Foreign Lender shall deliver to Borrower and Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the request of Borrower or Administrative Agent, but only if such Foreign Lender is legally entitled to do so), whichever of the following is applicable:

(i) duly completed copies of Internal Revenue Service Form W-8BEN claiming eligibility for benefits of an income tax treaty to which the United States of America is a party,

(ii) duly completed copies of Internal Revenue Service Form W-8ECI,

(iii) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under section 881(c) of the Code, (x) a certificate to the effect that such Foreign Lender is not (A) a "bank" within the meaning of section 881(c)(3)(A) of the Internal Revenue Code, (B) a "10 percent shareholder" of Borrower within the meaning of section 881(c)(3)(B) of the Internal Revenue Code, or (C) a "controlled foreign corporation" described in section 881(c)(3)(C) of the Internal Revenue Code and (y) duly completed copies of Internal Revenue Service Form W-8BEN, or

(iv) any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in United States Federal withholding tax duly completed together with such supplementary documentation as may be prescribed by applicable law to permit Borrower to determine the withholding or deduction required to be made.

(f) Treatment of Certain Refunds. If Administrative Agent or a Lender receives a refund of any Taxes or Other Taxes as to which it has been indemnified by Borrower or with respect to which Borrower has paid additional amounts pursuant to this Section, it shall pay to Borrower an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by Borrower under this Section with respect to the Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses of Administrative Agent or such Lender, as the case may be, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); provided that Borrower, upon the request of Administrative Agent or such Lender, agrees to repay the amount paid over to Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to Administrative Agent or such Lender in the event Administrative Agent or such Lender is required to repay such refund to such Governmental Authority. This subsection shall not be construed to require Administrative Agent or any Lender to make available its tax returns (or any other information relating to its taxes that it deems confidential) to Borrower or any other Person.

Section 3.6. Alternative Rate of Interest. If prior to the commencement of any Interest Period for any Eurodollar Loans:

(a) Administrative Agent determines that adequate and reasonable means do not exist for ascertaining the Eurodollar Rate for such Interest Period (any such determination shall be conclusive absent manifest error); or

(b) Administrative Agent is advised by Required Lenders that the Eurodollar Rate for such Interest Period will not adequately and fairly reflect the cost to such Lenders of maintaining any Eurodollar Loans for such Interest Period;

then Administrative Agent shall give notice thereof to Borrower and Lenders by telephone or facsimile as promptly as practicable thereafter and, until Administrative Agent notifies Borrower and Lenders that the circumstances giving rise to such notice no longer exist, any Continuation/Conversion Notice that requests the Conversion of any Base Rate Loans to Eurodollar Loans or the Continuation of any Eurodollar Loans shall be ineffective and shall only be deemed a request to continue such Loans as Base Rate Loans. Upon receipt of such notice, Borrower may revoke any pending request for the Conversion to or Continuation of Eurodollar Loans.

Section 3.7. Mitigation Obligations; Replacement of Lenders.

(a) Designation of a Different Lending Office. If any Lender requests compensation under Section 3.2, or requires Borrower to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.5, then such Lender shall use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 3.2 or 3.5, as the case may be, in the future and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) Replacement of Lenders. If any Lender requests compensation under Section 3.2, or if any Lender gives notice to Borrower under Section 3.3 that it is unlawful for such Lender to fund or maintain Eurodollar Loans, or if Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.5, or if any Lender defaults in its obligation to fund Loans hereunder, or if any Lender has been deemed insolvent or becomes the subject of a bankruptcy or insolvency proceeding, or if, in connection with any consent or approval of any proposed amendment, modification, waiver, or consent that requires consent of each Lender, the consent of Required Lenders shall have been obtained but any Lender has not so consented or approved (any such Lender, a "Non-Consenting Lender"), then Borrower may, at its sole expense and effort, upon notice to such Lender and Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 10.5), all of its interests, rights and obligations under this Agreement and the related Loan Documents to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment); provided that:

(i) Borrower shall have paid to Administrative Agent the assignment fee specified in Section 10.5;

(ii) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts under Section 3.4) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or Borrower (in the case of all other amounts);

(iii) (A) in the case of any such assignment resulting from a Lender becoming a Non-Consenting Lender, the applicable assignees shall have agreed to, and shall be sufficient (together with all other consenting Lenders) to cause the adoption of, the applicable departure, waiver or amendment of the Loan Documents and (B) in the case of any such assignment resulting from a claim for compensation under Section 3.2 or payments required to be made pursuant to Section 3.5, such assignment will result in a reduction in such compensation or payments thereafter and (C) in the case of any assignment due to illegality, such assignee can fund and maintain Eurodollar Loans; and

(iv) such assignment does not conflict with applicable law.

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling Borrower to require such assignment and delegation cease to apply. In connection with any such replacement, if any such Lender does not execute and deliver to Administrative Agent a duly executed assignment specified in Section 10.5 reflecting such replacement within five Business Days of the date on which the assignee Lender executes and delivers such assignment to such Lender, then such Lender shall be deemed to have executed and delivered such assignment without any action on the part of such Lender.

ARTICLE IV - - Conditions Precedent to Lending

Section 4.1. Documents to be Delivered. No Lender has any obligation to make its Loan under this Agreement unless Administrative Agent shall have received all of the following, at Administrative Agent's office in Denver, Colorado, duly executed and delivered and in form, substance and date satisfactory to Administrative Agent:

(a) Loan Documents. Administrative Agent shall have received counterparts of each Loan Document originally executed and delivered by each applicable Restricted Person and Lender and any other party thereto, and in such numbers as Administrative Agent or its counsel may reasonably request.

(b) Organizational Documents; Incumbency. Administrative Agent shall have received (i) copies of each Organizational Document executed and delivered by each Restricted Person, as applicable, and, to the extent applicable, certified as of a recent date by the appropriate governmental official, each dated the Closing Date or a recent date prior thereto; (ii) signature and incumbency certificates of the officers of such Person executing the Loan Documents to which it is a party; (iii) resolutions of the Board of Directors or similar governing body of each Restricted Person approving and authorizing the execution, delivery and performance of this Agreement and the other Loan Documents to which it is a party or by which it or its assets may be bound as of the Closing Date, certified as of the Closing Date by a Responsible Officer as being in full force and effect without modification or amendment; (iv) an existence and good standing certificate from the applicable Governmental Authority of each Restricted Person's jurisdiction of incorporation, organization or formation and in each jurisdiction in which it owns real property Collateral, each dated a recent date prior to the Closing Date; and (v) such other documents as Administrative Agent may reasonably request.

(c) Closing Certificate. Administrative Agent shall have received a "Closing Certificate" of a Responsible Officer of Borrower, of even date with this Agreement, in which such officer certifies to the satisfaction of each of the conditions set out in Section 4.1.

(d) Governmental Authorizations and Consents. Each Restricted Person shall have obtained all Governmental Authorizations and all consents of other Persons, in each case that are necessary or advisable in connection with the transactions contemplated by the Loan Documents and each of the foregoing shall be in full force and effect and in form and substance reasonably satisfactory to Administrative Agent. All applicable waiting periods shall have expired without any action being taken or threatened by any competent authority which would restrain, prevent or otherwise impose adverse conditions on the transactions contemplated by the Loan Documents or the financing thereof and no action, request for stay, petition for review or rehearing, reconsideration, or appeal with respect to any of the foregoing shall be pending, and the time for any applicable agency to take action to set aside its consent on its own motion shall have expired.

(e) Environmental Reports. Administrative Agent shall have received reports and other information, in form, scope and substance reasonably satisfactory to Administrative Agent, regarding environmental matters relating to Borrower's material real property assets.

(f) Evidence of Insurance. Administrative Agent shall have received a certificate from Borrower's insurance broker or other evidence reasonably satisfactory to it that all insurance required to be maintained pursuant to Section 6.8 is in full force and effect and that Administrative Agent had been named as additional insured and loss payee thereunder as its interests may appear and to the extent required under Section 6.8.

(g) Opinions of Counsel. Administrative Agent shall have received originally executed copies of the favorable written opinions of Musick, Peeler & Garrett LLP, counsel to Restricted Persons, in the form of Exhibit E and opining as to such other matters as Administrative Agent may reasonably request at least three days prior to the Closing Date, dated as of the Closing Date and otherwise in form and substance reasonably satisfactory to Administrative Agent (and each Restricted Person hereby instructs such counsel to deliver such opinions to Administrative Agent and Lenders).

(h) Fees. Administrative Agent shall have received all commitment, facility, agency, recording, filing, and other fees required to be paid to Administrative Agent or any Lender pursuant to any Loan Documents, the Fee Letter or any commitment agreement heretofore entered into.

(i) Financial Statements. Lenders shall have received the Initial Financial Statements, which shall be in form and substance reasonably satisfactory to Administrative Agent, together with a certificate by a Responsible Officer certifying the Initial Financial Statements.

(j) Initial Engineering Report. Lenders shall have received the Initial Engineering Report, which shall be in form and substance reasonably satisfactory to Administrative Agent.

(k) Title. Administrative Agent shall have received title reports, title opinions and other title information in form, substance and authorship reasonably satisfactory to Administrative Agent, with respect to the Borrowing Base Properties that are subject to the Security Documents on the Closing Date.

(l) Intentionally Omitted.

(m) No Litigation. There shall not exist any action, suit, investigation, litigation or proceeding or other legal or regulatory developments, pending or threatened in any court or before any arbitrator or Governmental Authority that, in the reasonable opinion of Administrative Agent, singly or in the aggregate, materially impairs the financing hereunder or any of the other transactions contemplated by the Loan Documents, or that could reasonably be expected to cause a Material Adverse Change.

(n) Completion of Proceedings. All partnership, corporate and other proceedings taken or to be taken in connection with the transactions contemplated hereby and all documents incidental thereto not previously found acceptable by Administrative Agent and its counsel shall be reasonably satisfactory in form and substance to Administrative Agent and such counsel, and Administrative Agent and such counsel shall have received all such counterpart originals or certified copies of such documents as Administrative Agent may reasonably request.

(o) Material Adverse Change. No event or circumstance shall have occurred or be continuing since the date of the Initial Financial Statements that has had, or could be reasonably expected to cause, either individually or in the aggregate, a Material Adverse Change.

(p) Due Diligence. Administrative Agent and Lenders shall have completed satisfactory due diligence review of the assets, liabilities, business, operations, condition (financial or otherwise) and key officers of the Restricted Persons, including, a review of their Mineral Interests and all legal, financial, accounting, governmental, environmental, tax and regulatory matters, and fiduciary aspects of the proposed financing.

(q) First Lien Loan Documents. Administrative Agent shall have received (i) copies of all of the First Lien Loan Documents and all amendments thereto and (ii) evidence that the First Lien Credit Agreement is in full force and effect as of the Closing Date.

(r) Solvency Certificate. Administrative Agent shall have received, in form and substance satisfactory to the Administrative Agent, a certificate from the Chief Financial Officer of the Borrower certifying that, as of the Closing Date, the representations and warranties contained in Section 5.16 are true and correct.

(s) UCC Searches. Administrative Agent shall have received, and be satisfied with, results of searches of the UCC Records of the Secretary of State of the States of California, Delaware, Texas and Utah, and such other states as the Administrative Agent deems necessary in its sole discretion, each search report to be from a source or sources acceptable to the Administrative Agent and reflecting no Liens, other than Permitted Liens and other Liens acceptable to Administrative Agent, against any assets of the Borrower or any of the Guarantors, as the case may be, as to which perfection of a Lien is accomplished by the filing of a financing statement.

(t) Other Documentation. Administrative Agent shall have received all documents and instruments which Administrative Agent has then reasonably requested, in addition to those described in this Section 4.1. All such additional documents and instruments shall be reasonably satisfactory to Administrative Agent in form, substance and date. For purposes of determining compliance with the conditions specified in this Section 4.1, each Lender that has executed and delivered this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto

(u) Representations and Warranties True and Correct. All representations and warranties made by any Restricted Person in any Loan Document shall be true and correct in all material respects on and as of the date of such Loan as if such representations and warranties had been made as of the date of such Loan, except to the extent that such representation or warranty was made as of a specific date or updated, modified or supplemented as of a subsequent date with the consent of Required Lenders and Administrative Agent, in which cases such representations and warranties shall have been true and correct in all material respects on and of such earlier date.

(v) No Defaults. No Default shall exist at the date of such Loan.

(w) Conditions Satisfied. Each Restricted Person shall have performed and complied with all agreements and conditions required in the Loan Documents to be performed or complied with by it on or prior to the date of such Loan.

(x) Not Prohibited by Law. The making of such Loan shall not be prohibited by any Law and shall not subject any Lender to any penalty or other onerous condition under or pursuant to any such Law.

Section 4.2. Intentionally Omitted.

ARTICLE V - - - Representations and Warranties

To confirm each Lender's understanding concerning Restricted Persons and Restricted Persons' businesses, properties and obligations and to induce each Lender to enter into this Agreement and to extend credit hereunder, Borrower represents and warrants to each Lender that:

Section 5.1. No Default. No event has occurred and is continuing which constitutes a Default.

Section 5.2. Organization and Good Standing. Each Restricted Person is duly organized, validly existing and in good standing under the Laws of its jurisdiction of organization, having all powers required to carry on its business and enter into and carry out the transactions contemplated hereby. Each Restricted Person is duly qualified, in good standing, and authorized to do business in all other jurisdictions within the United States wherein the character of the properties owned or held by it or the nature of the business transacted by it makes such qualification necessary. Each Restricted Person has taken all actions and procedures customarily taken in order to enter, for the purpose of conducting business or owning property, each jurisdiction outside the United States wherein the character of the properties owned or held by it or the nature of the business transacted by it makes such actions and procedures desirable.

Section 5.3. Authorization. Each Restricted Person has duly taken all action necessary to authorize the execution and delivery by it of the Loan Documents to which it is a party and to authorize the consummation of the transactions contemplated thereby and the performance of its obligations thereunder. Borrower is duly authorized to borrow funds hereunder.

Section 5.4. No Conflicts or Consents. The execution and delivery by the various Restricted Persons of the Loan Documents to which each is a party, the performance by each of its obligations under such Loan Documents, and the consummation of the transactions contemplated by the various Loan Documents, do not and will not (a) conflict with any provision of (i) any Law, (ii) the Organizational Documents of any Restricted Person, or (iii) any agreement, judgment, license, order or permit applicable to or binding upon any Restricted Person in any material respect, (b) result in the acceleration of any Indebtedness owed by any Restricted Person, or (c) result in or require the creation of any Lien upon any assets or properties of any Restricted Person except as expressly contemplated or permitted in the Loan Documents. Except as expressly contemplated in the Loan Documents no consent, approval, authorization or order of, and no notice to or filing with, any Governmental Authority or third party is required in connection with the execution, delivery or performance by any Restricted Person of any Loan Document or to consummate any transactions contemplated by the Loan Documents.

Section 5.5. Enforceable Obligations. This Agreement is, and the other Loan Documents when duly executed and delivered will be, legal, valid and binding obligations of each Restricted Person which is a party hereto or thereto, enforceable in accordance with their terms except as such enforcement may be limited by bankruptcy, insolvency or similar Laws of general application relating to the enforcement of creditors' rights.

Section 5.6. Initial Financial Statements. Borrower has heretofore delivered to each Lender true, correct and complete copies of the Initial Financial Statements. The Initial Financial Statements fairly present Borrower's Consolidated financial position at the respective dates thereof and the Consolidated results of Borrower's operations and Borrower's Consolidated cash flows for the respective periods thereof. Since the date of the annual Initial Financial Statements no Material Adverse Change has occurred, except as reflected in the quarterly Initial Financial Statements or in Section 5.6 of the Disclosure Letter. All Initial Financial Statements were prepared in accordance with GAAP.

Section 5.7. Other Obligations and Restrictions. No Restricted Person has any outstanding Liabilities of any kind (including contingent obligations, tax assessments, and unusual forward or long-term commitments) which are, in the aggregate, material to Borrower or material with respect to Borrower's Consolidated financial condition and not shown in the Initial Financial Statements or disclosed in Section 5.7 of the Disclosure Letter or a Disclosure Report. Except as shown in the Initial Financial Statements or disclosed in Section 5.7 of the Disclosure Letter or a Disclosure Report, no Restricted Person is subject to or restricted by any franchise, contract, deed, charter restriction, or other instrument or restriction which could reasonably be expected to cause a Material Adverse Change.

Section 5.8. Full Disclosure. No certificate, statement or other information delivered herewith or heretofore by any Restricted Person to any Lender in connection with the negotiation of this Agreement or in connection with any transaction contemplated hereby (excluding projections, estimates and Engineering Reports) contains any untrue statement of a material fact or omits to state any material fact known to any Restricted Person (other than industry-wide risks normally associated with the types of businesses conducted by Restricted Persons) necessary to make the statements contained herein or therein not misleading as of the date made or deemed made; provided that, with respect to the estimates, projections and pro forma financial information contained in the materials referenced above, Borrower only represents that they are based upon good faith estimates and assumptions believed by management of Borrower to be reasonable at the time made, it being recognized by the Lenders that such financial information as it relates to future events is not to be viewed as fact and that actual results during the period or periods covered by such financial information may differ from the projected results set forth therein by a material amount. There is no fact known to any Restricted Person (other than industry-wide risks normally associated with the types of businesses conducted by Restricted Persons) that has not been disclosed to each Lender in writing which could reasonably be expected to cause a Material Adverse Change. There are no statements or conclusions in any Engineering Report which are based upon or include misleading information or fail to take into account material information regarding the matters reported therein, it being understood that each Engineering Report is necessarily based upon professional opinions, estimates and projections and that Borrower does not warrant that such opinions, estimates and projections will ultimately prove to have been accurate. Borrower has heretofore delivered to each Lender true, correct and complete copies of the Initial Engineering Report.

Section 5.9. Litigation. Except as disclosed in the Initial Financial Statements or in Section 5.9 of the Disclosure Letter: (a) there are no actions, suits or legal, equitable, arbitrative or administrative proceedings pending, or to the knowledge of any Restricted Person threatened, against any Restricted Person or affecting any Collateral (including any which challenge or otherwise pertain to any Restricted Person's title to any Collateral) before any Governmental Authority which could reasonably be expected to cause a Material Adverse Change, (b) there are no outstanding judgments, injunctions, writs, rulings or orders by any such Governmental Authority against any Restricted Person or any Restricted Person's stockholders, partners, directors or officers or affecting any Collateral or any of its material assets or property which could reasonably be expected to cause a Material Adverse Change, and (c) there are no cease and desist, noncompliance orders or notices from the California Division of Oil, Gas and Geothermal Resources or other Governmental Authorities which could reasonably be expected to cause a Material Adverse Change.

Section 5.10. Labor Disputes and Acts of God. Except as disclosed in Section 5.10 of the Disclosure Letter or a Disclosure Report, neither the business nor the properties of any Restricted Person has been affected by any fire, explosion, accident, strike, lockout or other labor dispute, drought, storm, hail, earthquake, embargo, act of God or of the public enemy or other casualty (whether or not covered by insurance), which could reasonably be expected to cause a Material Adverse Change.

Section 5.11. ERISA Plans and Liabilities. All currently existing ERISA Plans are listed in Section 5.11 of the Disclosure Letter or a Disclosure Report. Except as disclosed in the Initial Financial Statements or in Section 5.11 of the Disclosure Letter or a Disclosure Report, no Termination Event has occurred with respect to any ERISA Plan and all ERISA Affiliates are in compliance with ERISA in all material respects. No ERISA Affiliate is required to contribute to, or has any other absolute or contingent liability in respect of, any "multiemployer plan" as defined in Section 4001 of ERISA. Except as set forth in Section 5.11 of the Disclosure Letter or a Disclosure Report: (a) no "accumulated funding deficiency" (as defined in Section 412(a) of the Internal Revenue Code) exists with respect to any ERISA Plan, whether or not waived by the Secretary of the Treasury or his delegate, and (b) the current value of each ERISA Plan's benefits does not exceed the current value of such ERISA Plan's assets available for the payment of such benefits by more than $500,000.

Section 5.12. Environmental and Other Laws. Except as disclosed in Section 5.12 of the Disclosure Letter or a Disclosure Report: (a) Restricted Persons are conducting their businesses in material compliance with all applicable Laws, including Environmental Laws, and have and are in compliance with all material licenses, permits and bonds required under any such Laws; (b) none of the operations or properties of any Restricted Person is the subject of federal, state or local investigation evaluating whether any material remedial action is needed to respond to a release of any Hazardous Materials into the environment or to the improper storage or disposal (including storage or disposal at offsite locations) of any Hazardous Materials; (c) no Restricted Person (and to the best knowledge of Borrower, no other Person) has filed any notice under any Law indicating that any Restricted Person is responsible for the improper release into the environment, or the improper storage or disposal, of any material amount of any Hazardous Materials or that any Hazardous Materials have been improperly released, or are improperly stored or disposed of, upon any property of any Restricted Person; (d) no Restricted Person has transported or arranged for the transportation of any Hazardous Material to any location which is (i) listed on the National Priorities List under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, listed for possible inclusion on such National Priorities List by the Environmental Protection Agency in its Comprehensive Environmental Response, Compensation and Liability Information System List, or listed on any similar state list or (ii) the subject of federal, state or local enforcement actions or other investigations which may lead to claims against any Restricted Person for clean-up costs, remedial work, damages to natural resources or for personal injury claims (whether under Environmental Laws or otherwise); and (e) no Restricted Person otherwise has any known material contingent liability under any Environmental Laws or in connection with the release into the environment, or the storage or disposal, of any Hazardous Materials. Each Restricted Person undertook, at the time of its acquisition of each of its material properties, all appropriate inquiry into the previous ownership and uses of the Property and any potential environmental liabilities associated therewith.

Section 5.13. Names and Places of Business. No Restricted Person has, during the preceding five years, had, been known by, or used any other trade or fictitious name, except as disclosed in Section 5.13 of the Disclosure Letter or a Disclosure Report. Except as otherwise indicated in Section 5.13 of the Disclosure Letter or a Disclosure Report, the chief executive office and principal place of business of each Restricted Person are (and for the preceding five years have been) located at the address of Borrower set out on the signature pages hereto. Except as indicated in Section 5.13 of the Disclosure Letter or a Disclosure Report, no Restricted Person has any other office or place of business.

Section 5.14. Borrower's Subsidiaries. Borrower does not presently have any Subsidiary or own any stock in any other corporation or association except those listed in Section 5.14 of the Disclosure Letter or a Disclosure Report. Neither Borrower nor any Restricted Person is a member of any general or limited partnership, joint venture or association of any type whatsoever except those listed in Section 5.14 of the Disclosure Letter or a Disclosure Report, and associations, joint ventures or other relationships (a) which are established pursuant to a standard form operating agreement or similar agreement or which are partnerships for purposes of federal income taxation only, (b) which are not corporations or partnerships (or subject to the Uniform Partnership Act) under applicable state Law, and (c) whose businesses are limited to the exploration, development and operation of oil, gas or mineral properties and interests owned directly by the parties in such associations, joint ventures or relationships. Except as otherwise revealed in a Disclosure Report, Borrower owns, directly or indirectly, the Equity Interest in each of its Subsidiaries which is indicated in Section 5.14 of the Disclosure Letter.

Section 5.15. Government Regulation. Neither Borrower nor any other Restricted Person owing Obligations is subject to regulation under the Federal Power Act, the Investment Company Act of 1940 (as any of the preceding acts have been amended) or any other Law which regulates the incurring by such Person of Indebtedness, including Laws relating to common contract carriers or the sale of electricity, gas, steam, water or other public utility services.

Section 5.16. Solvency. Upon giving effect to the issuance of the Notes, the execution of the Loan Documents by Borrower and each Guarantor and the consummation of the transactions contemplated hereby, no Restricted Person will be Insolvent.

Section 5.17. Title to Properties; Licenses. Except for those Mineral Interests disposed of in accordance with this Agreement and oil and gas leases that have expired in accordance with their terms, each Restricted Person has (a) good and defensible title to, or valid leasehold interests in, all of the Mineral Interests covered by the most recently delivered Engineering Report, free and clear of all Liens, encumbrances, or adverse claims other than Permitted Liens; and (b) good and valid title to, or valid leasehold interests in, licenses of, or rights to use, all other Collateral owned or leased by such Restricted Person, free and clear of all Liens, encumbrances, or adverse claims other than Permitted Liens, except in the case of clauses (a) and (b) of this section, defects in title or adverse claims which could not reasonably be expected to cause a Material Adverse Change; provided that no representation or warranty is made in this section with respect to any Mineral Interest to which no Proved Reserves are properly attributed. Other than changes which arise pursuant to non-consent provisions of operating agreements or other agreements (if any) described in the exhibits to any Security Document and except for properties disposed of in compliance with this Agreement or leases that have expired in accordance with their terms: (x) each Restricted Person owns the net interests in production attributable to the wells and units of such Restricted Person evaluated in the most recently delivered Engineering Report, subject only to Permitted Liens, and (y) the ownership of such properties does not in the aggregate in any material respect obligate such Restricted Person to bear the costs and expenses relating to the maintenance, development and operations of such properties in an amount materially in excess of the working interest of such properties set forth in such Engineering Report. Upon delivery of each Engineering Report furnished to the Lenders pursuant to Sections 6.2(d) and (f), the statements made in the preceding sentences of this section and in Section 5.8 shall be true with respect to such Engineering Report. Each Restricted Person possesses all licenses, permits, franchises, or otherwise has valid rights, rights to use all patents, copyrights, trademarks and trade names, and other intellectual property (or otherwise possesses the right to use such intellectual property without violation of the rights of any other Person) which are necessary to carry out its business as presently conducted and as presently proposed to be conducted hereafter, and no Restricted Person is in violation in any material respect of the terms under which it possesses such intellectual property or the right to use such intellectual property.

Section 5.18. Leases and Contracts; Performance of Obligations. Except for those Mineral Interests disposed of in accordance with this Agreement and oil and gas leases that have expired in accordance with their terms, the leases, contracts, servitudes and other agreements forming a part of the Mineral Interests of the Restricted Persons covered by the most recently delivered Engineering Report are in full force and effect unless (a) disputed in good faith by appropriate proceedings and for which adequate reserves have been maintained in accordance with GAAP, or (b) the failure to be in full force and effect could not reasonably be expected to cause a Material Adverse Change. All rents, royalties and other payments due and payable under such leases, contracts, servitudes and other agreements, or under any Permitted Liens, or otherwise attendant to the ownership or operation of any Mineral Interests covered by the most recently delivered Engineering Report, have been properly and timely paid or will be paid prior to delinquency unless (i) disputed in good faith by appropriate proceedings and for which adequate reserves have been maintained in accordance with GAAP or (ii) the failure to pay could not reasonably be expected to cause a Material Adverse Change. No Restricted Person is in default with respect to its obligations (and no Restricted Person is aware of any default by any third party with respect to such third party's obligations) under any such leases, contracts, servitudes and other agreements, or under any Permitted Liens, or otherwise attendant to the ownership or operation of any part of the Mineral Interests covered by the Engineering Report, where such failure could reasonably be expected to cause a Material Adverse Change. No Restricted Person is currently accounting for any royalties, or overriding royalties or other payments out of production, on a basis (other than delivery in kind) less favorable to such Restricted Person than proceeds received by such Restricted Person (calculated at the well) from sale of production, and no Restricted Person has any liability (or alleged liability) to account for the same on any such less favorable basis.

Section 5.19. Gas Imbalances, Prepayments. Except as listed on the Disclosure Letter, on a net basis there are no gas imbalances, take or pay or other prepayments (excluding firm transportation contracts entered into in the ordinary course of business) which would require any Restricted Person to deliver Mineral Interests produced from its oil and gas properties at some future time without then or thereafter receiving full payment therefor exceeding 1 Bcf of gas or the energy equivalent for oil in the aggregate. Except for contracts listed in the Disclosure Letter or included in the most recently delivered Engineering Report (with respect to all of which contracts the Borrower represents that it or its Subsidiaries are receiving a price for all production sold thereunder which is computed substantially in accordance with the terms of the relevant contract and are not having deliveries curtailed substantially below the subject property's delivery capacity except as disclosed in the Disclosure Letter or the most recently delivered Engineering Report), no material agreements exist which are not cancelable on 120 days notice or less without penalty or detriment for the sale of production from the Borrower's or its Subsidiaries' Mineral Interests (including, without limitation, calls on or other rights to purchase, production, whether or not the same are currently being exercised) that (a) pertain to the sale of production at a fixed price and (b) have a maturity or expiry date of longer than six (6) months.

Section 5.20. Operation of Mineral Interests. Except for those Mineral Interests disposed of in accordance with this Agreement and oil and gas leases that have expired in accordance with their terms, the Mineral Interests covered by the most recently delivered Engineering Report (and all properties unitized therewith) are being (and, to the extent the same could adversely affect the ownership or operation of the Mineral Interests covered by the most recently delivered Engineering Report after the date hereof, have in the past been) maintained, operated and developed in a good and workmanlike manner, in accordance with prudent industry standards and in conformity with all applicable Laws and in conformity with all oil, gas or other mineral leases and other contracts and agreements forming a part of the Mineral Interest covered by the most recently delivered Engineering Report and in conformity with the Permitted Liens except where the failure to do so could not reasonably be expect to have a Material Adverse Change. No Mineral Interest covered by the most recently delivered Engineering Report is subject to having allowable production after the date hereof reduced below the full and regular allowable (including the maximum permissible tolerance) because of any overproduction (whether or not the same was permissible at the time) prior to the date hereof and none of the wells located on the Mineral Interests covered by the most recently delivered Engineering Report (or properties unitized therewith) are or will be deviated from the vertical more than the maximum permitted by applicable laws, regulations, rules and orders, and such wells are bottomed under and producing from, with the well bores wholly within, the Mineral Interests covered by the most recently delivered Engineering Report (or, in the case of wells located on properties unitized therewith, such unitized properties) except where such matter could not reasonably be expect to have a Material Adverse Change. Each Restricted Person has all governmental licenses, permits and bonds necessary or appropriate to own and operate its Mineral Interests covered by the most recently delivered Engineering Report, and no Restricted Person has received notice of any violations in respect of any such licenses or permits, except where the failure to do, or any such violation, so could not reasonably be expect to have a Material Adverse Change.

Section 5.21. Regulation U. Neither Borrower nor any of its Subsidiaries are engaged in the business of extending credit for the purpose of purchasing or carrying margin stock, and no proceeds of any Loans will be used for a purpose which violates Regulation U.

Section 5.22. Taxes; Tax Returns. Each Restricted Person has duly and properly filed its United States income tax returns and all other tax returns which are required to be filed and has paid all taxes shown as due from it thereon, except such as are being contested in good faith and as to which adequate provisions and disclosures have been made. The respective charges and reserves on its books with respect to taxes and other governmental charges are adequate.

Section 5.23. Security Documents. The provisions of each Security Document executed by the Borrower are effective to create, in favor of the Administrative Agent, a legal, valid and enforceable Lien in all of any Restricted Person's right, title, and interest in the Collateral described therein, which Lien, assuming the accomplishment of recording and filing in accordance with applicable Laws prior to the intervention of rights of other Persons, constitutes a fully perfected second-priority Lien (subject only to Permitted Liens) on all of any Restricted Person's right, title, and interest in the Collateral described therein.

ARTICLE VI - - Affirmative Covenants of Borrower

To conform with the terms and conditions under which each Lender is willing to have credit outstanding to Borrower, and to induce each Lender to enter into this Agreement and extend credit hereunder, Borrower warrants, covenants and agrees that until the full and final payment of the Obligations and the termination of this Agreement, unless Majority Lenders have previously agreed otherwise:

Section 6.1. Payment and Performance. Borrower will pay all amounts due under the Loan Documents in accordance with the terms thereof and will observe, perform and comply with every covenant, term and condition expressed or implied in the Loan Documents. Borrower will cause each other Restricted Person to observe, perform and comply with every such term, covenant and condition in any Loan Document.

Section 6.2. Books, Financial Statements and Reports. Each Restricted Person will at all times maintain full and accurate books of account and records. Borrower will maintain and will cause its Subsidiaries to maintain a standard system of accounting, will maintain its Fiscal Year, and will furnish the following statements and reports to each Lender Party at Borrower's expense:

(a) Annual Financial Statements. As soon as available, and in any event within 90 days after the end of each Fiscal Year, complete Consolidated and consolidating financial statements of Borrower together with all notes thereto, prepared in reasonable detail in accordance with GAAP, together with an unqualified opinion, based on an audit using generally accepted auditing standards, by independent certified public accountants selected by Borrower and acceptable to Majority Lenders, stating that such Consolidated financial statements have been so prepared. These financial statements shall contain a Consolidated and consolidating balance sheet as of the end of such Fiscal Year and Consolidated and consolidating statements of earnings, of cash flows, and of changes in owners' equity for such Fiscal Year, each setting forth in comparative form the corresponding figures for the preceding Fiscal Year.

(b) Quarterly Financial Statements. As soon as available, and in any event within 45 days after the end of each of the first three Fiscal Quarters in each Fiscal Year, Borrower's Consolidated and consolidating balance sheet as of the end of such Fiscal Quarter and Consolidated and consolidating statements of Borrower's earnings and cash flows for the period from the beginning of the then current Fiscal Year to the end of such Fiscal Quarter, all in reasonable detail and prepared in accordance with GAAP, subject to changes resulting from normal year-end adjustments. In addition Borrower will, together with each set of financial statements furnished under Section 6.2(a) and this Section 6.2(b), furnish a certificate in the form of Exhibit D signed by the Chief Financial Officer or the Treasurer of Borrower stating that such financial statements are accurate and complete (subject to normal year-end adjustments), stating that he has reviewed the Loan Documents, containing calculations showing compliance (or non-compliance) at the end of such Fiscal Quarter with the requirements of Section 7.11, Section 7.12, Section 7.13 and Section 7.14 and stating that no Default exists at the end of such Fiscal Quarter or at the time of such certificate or specifying the nature and period of existence of any such Default.

(c) Stockholder Documents; Filings. As soon as available, and in any event within 15 days after the date required to be delivered to the SEC, Borrower will deliver copies of all financial statements, reports, notices and proxy statements sent by any Restricted Person to its stockholders and all registration statements, periodic reports and other statements and schedules filed by any Restricted Person with any securities exchange, the SEC or any similar governmental authority. Documents required to be delivered pursuant to Section 6.2(a), (b) or (c) (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which Borrower posts such documents, or provides a link thereto, on Borrower's website on the Internet at the website address listed in the Disclosure Letter; or (ii) on which such documents are posted on Borrower's behalf on IntraLinks / IntraAgency or another relevant website, if any, including, but not limited to any filings made on EDGAR to which each Lender and Administrative Agent have access (whether a commercial, third-party website or whether sponsored by Administrative Agent); provided that: (A) Borrower shall deliver paper copies of such documents to Administrative Agent or any Lender that requests Borrower to deliver such paper copies until a written request to cease delivering paper copies is given by Administrative Agent or such Lender and (B) Borrower shall notify (which may be by facsimile or electronic mail) Administrative Agent and each Lender of the posting of any such documents and provide to Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. Notwithstanding anything contained herein, in every instance Borrower shall be required to provide paper copies of the certificates required by Section 6.2(b) to Administrative Agent and each of the Lenders. Except for such certificates, Administrative Agent shall have no obligation to request the delivery or to maintain copies of the documents referred to above, and in any event shall have no responsibility to monitor compliance by Borrower with any such request for delivery, and each Lender shall be solely responsible for requesting delivery to it or maintaining its copies of such documents.

(d) Engineering Reports. By March 1 of each year, Borrower will deliver an Engineering Report prepared by the Independent Engineers, dated as of January 1 of such year, concerning all oil and gas properties and interests owned by any Restricted Person which are located in or offshore of the United States and which have attributable to them Proved Reserves. This report shall be satisfactory to Administrative Agent, shall contain sufficient information to enable Borrower to meet the reporting requirements concerning oil and gas reserves contained in Regulations S-K and S-X promulgated by the SEC and shall contain information and analysis comparable in scope to that contained in the Initial Engineering Report. This report shall distinguish (or shall be delivered together with a certificate from an appropriate officer of Borrower which distinguishes) those properties treated in the report which are Collateral from those properties treated in the report which are not Collateral.

(e) Additional Engineering Reports. (i) By September 1 of each year and (ii) promptly following notice of any unscheduled redeterminations of the Borrowing Base under Section 2.9(b) and Section 2.9(d) of the First Lien Credit Agreement, Borrower will deliver an Engineering Report prepared by Staff Engineers consistent in form and scope of the Engineering Reports described in Section 6.2(d) above and dated as of the date specified in Section 2.9(c) of the First Lien Credit Agreement.

(f) Lease Operating Statements. Together with each Engineering Report required under Section 6.2(d) and Section 6.2(e), Borrower will furnish lease operating statements for the twelve consecutive calendar months then ended, which include lease operating statements for such period and for each month during such period, for properties covered by such Engineering Report.

(g) Hedging Reports. Together with each set of financial statements furnished under Section 6.2(a) and Section 6.2(b), Borrower will furnish a report (in form reasonably satisfactory to Administrative Agent) of all Hedging Contracts of Borrower and each of its Subsidiaries, setting forth the type, term, effective date, termination date and notional amounts or volumes and the counterparty to each such agreement.

(h) Production Reports. As soon as available, and in any event within 45 days after the end of each calendar quarter, Borrower will deliver a report describing by lease or unit the gross volume of production and sales attributable to production during such quarter from the properties described in the most recent Engineering Report and describing the related severance taxes, other taxes, leasehold operating expenses and capital costs attributable thereto and incurred during such quarter.

(i) Asset Acquisition Pro Forma Financial Statements. When any Restricted Person acquires assets during any Four-Quarter Period and such assets are included in the calculation of Adjusted EBITDAX for such Four-Quarter Period, Borrower shall deliver to Administrative Agent and Lenders, together with the financial statements described in Section 6.2(b), pro forma financial statements of Borrower for such period prepared on a Consolidated basis as if such assets had been acquired by Borrower or such Subsidiary on the first day of such Four-Quarter Period.

(j) Imbalance Reports. Concurrently with the reports referred to in Section 6.2(d), Borrower will deliver a report describing material gas imbalances and curtailments of production for the Collateral.

(k) Total Proved PV10% Reports. Concurrently with (i) the delivery of Engineering Reports under Section 6.2(d) and Section 6.2(e), (ii) any material acquisition or divestiture of oil and gas properties by any Restricted Person, and (iii) any Material Hedging Modification, Borrower will deliver (A) a report, in form and substance reasonably satisfactory to Administrative Agent, prepared by the Staff Engineers (or Independent Engineers with respect to reports delivered concurrently with Engineering Reports provided under Section 6.2(d)), which report shall set forth, as of the effective date of the applicable Engineering Report, the date of such material acquisition or divestiture, or the date of such Material Hedging Modification, as the case may be, the calculation of the Total Proved PV10% attributable to all of the Borrower's Mineral Interests, based on the parameters set forth in the definition of "Total Proved PV10%", and (B) a certificate of a Responsible Officer of the Borrower showing, in reasonable detail, the compliance by the Borrower with Section 7.14.

Section 6.3. Other Information and Inspections. Each Restricted Person will furnish to each Lender any information which Administrative Agent may from time to time reasonably request concerning any provision of the Loan Documents, any Collateral, or any matter in connection with Restricted Persons' businesses, properties, prospects, financial condition and operations. Each Restricted Person will permit representatives appointed by Administrative Agent (including independent accountants, auditors, Administrative Agents, attorneys, appraisers and any other Persons) to visit and inspect during normal business hours any of such Restricted Person's property, including its books of account, other books and records, and any facilities or other business assets, and to make extra copies therefrom and photocopies and photographs thereof, and to write down and record any information such representatives obtain, and each Restricted Person shall permit Administrative Agent or its representatives to investigate and verify the accuracy of the information furnished to Administrative Agent or any Lender in connection with the Loan Documents and to discuss all such matters with its officers, employees and representatives.

Section 6.4. Notice of Material Events and Change of Address. Borrower will promptly notify each Lender in writing, stating that such notice is being given pursuant to this Agreement, of:

(a) occurrence of any Material Adverse Change,

(b) the occurrence of any Default,

(c) the acceleration of the maturity of any Indebtedness owed by any Restricted Person or of any default by any Restricted Person under any indenture, mortgage, agreement, contract or other instrument to which any of them is a party or by which any of them or any of their properties is bound, if such acceleration or default could cause a Material Adverse Change,

(d) the occurrence of any Termination Event,

(e) any claim of $10,000,000 or more, any notice of potential liability under any Environmental Laws which might exceed such amount, or any other material adverse claim asserted against any Restricted Person or with respect to any Restricted Person's properties, and

(f) the filing of any suit or proceeding against any Restricted Person in which an adverse decision could reasonably be expected to cause a Material Adverse Change.

Upon the occurrence of any of the foregoing Restricted Persons will take all necessary or appropriate steps to remedy promptly any such Material Adverse Change, Default, acceleration, default or Termination Event, to protect against any such adverse claim, to defend any such suit or proceeding, and to resolve all controversies on account of any of the foregoing. Borrower will also notify Administrative Agent and Administrative Agent's counsel in writing at least 20 Business Days prior to the date that any Restricted Person changes its name or the location of its chief executive office or principal place of business or the place where it keeps its books and records, furnishing with such notice any necessary financing statement amendments or requesting Administrative Agent and its counsel to prepare the same.

Section 6.5. Maintenance of Properties. Each Restricted Person will maintain, preserve, protect, and keep all Collateral and all other property used or useful in the conduct of its business in good condition and in compliance with all applicable Laws in all material respects, and will from time to time make all repairs, renewals and replacements needed to enable the business and operations carried on in connection therewith to be promptly and advantageously conducted at all times.

Section 6.6. Maintenance of Existence and Qualifications. Each Restricted Person will maintain and preserve its existence and its rights and franchises in full force and effect and will qualify to do business in all states or jurisdictions where required by applicable Law, except where the failure so to qualify will not cause a Material Adverse Change. The foregoing shall not restrict (a) any merger or consolidation permitted by Section 7.4 or (b) the liquidation or dissolution of any Subsidiary if Borrower determines in good faith that such liquidation or dissolution is in the best interests of Borrower and is not materially disadvantageous to the Lenders.

Section 6.7. Payment of Trade Liabilities, Taxes, etc. Each Restricted Person will (a) timely file all required tax returns; (b) timely pay all taxes, assessments, and other governmental charges or levies imposed upon it or upon its income, profits or property; (c) pay all Liabilities owed by it on ordinary trade terms to vendors, suppliers and other Persons providing goods and services used by it in the ordinary course of its business within a period of time after the invoice date that is customary in the oil and gas industry; (d) pay and discharge when due all other Liabilities now or hereafter owed by it; and (e) maintain appropriate accruals and reserves for all of the foregoing in accordance with GAAP. Each Restricted Person may, however, delay paying or discharging any of the foregoing so long as (i) it is in good faith contesting the validity thereof by appropriate proceedings and has set aside on its books adequate reserves therefor or (ii) the nonpayment or nondischarge could not reasonably be expected to cause a Material Adverse Change.

Section 6.8. Insurance.

(a) Each Restricted Person shall at all times maintain (at its own expense) insurance for its property in accordance with the Insurance Schedule in at least such amounts, with at least such limitations on deductibles, and against such risks, in such form and with such financially sound and reputable insurers as shall be reasonably satisfactory to Administrative Agent from time to time. Each Restricted Person shall at all times maintain insurance against its liability for injury to persons or property in accordance with the Insurance Schedule, which insurance shall be by financially sound and reputable insurers.

(b) All insurance policies shall be modified or endorsed as necessary to (A) name the Administrative Agent as loss payee on policies insuring loss or damage of Collateral and as additional insured on policies insuring against liability for injury to persons or property, and (B) prevent any expiration, or cancellation of the coverage provided by such policies without at least thirty (30) days prior written notice to Administrative Agent by the insurer. Each Restricted Person shall, if so requested by Administrative Agent, deliver to Administrative Agent original or duplicate policies of such insurance and, as often as Administrative Agent may reasonably request, a report of a reputable insurance broker with respect to such insurance. Administrative Agent shall, upon the occurrence and during the continuance of an Event of Default, have the right to collect and Borrower hereby assigns to Administrative Agent for the benefit of Lenders (and hereby agrees to cause each other Restricted Person to assign), any and all moneys that may become payable under any such policies of insurance by reason of damage, loss or destruction of any of the Collateral or any part thereof and to apply such moneys to the payment of the Obligations as herein provided. Reimbursement under any liability insurance maintained by Restricted Persons pursuant to this Section 6.8 may be paid directly to the Person who has incurred the liability covered by such insurance.

Section 6.9. Performance on Borrower's Behalf. If any Restricted Person fails to pay any taxes, insurance premiums, expenses, attorneys' fees or other amounts it is required to pay under any Loan Document, Administrative Agent may pay the same. Borrower shall immediately reimburse Administrative Agent for any such payments and each amount paid by Administrative Agent shall constitute an Obligation owed hereunder which is due and payable on the date such amount is paid by Administrative Agent.

Section 6.10. Interest. Borrower hereby promises to each Lender Party to pay interest at the Default Rate applicable to Base Rate Loans on all Obligations (including Obligations to pay fees or to reimburse or indemnify any Lender) which Borrower has in this Agreement promised to pay to such Lender Party and which are not paid when due. Such interest shall accrue from the date such Obligations become due until they are paid.

Section 6.11. Compliance with Agreements and Law. Each Restricted Person will perform all material obligations it is required to perform under the terms of each indenture, mortgage, deed of trust, security agreement, lease, franchise, agreement, contract or other instrument or obligation to which it is a party or by which it or any of its properties is bound, except when failure to do so could not reasonably be expected to cause a Material Adverse Change. Each Restricted Person will conduct its business and affairs in compliance with all Laws applicable thereto and will maintain in good standing all licenses that may be necessary or appropriate to carry on its business.

Section 6.12. Environmental Matters; Environmental Reviews.

(a) Except in each case where failure to do so could not reasonably be expected to cause a Material Adverse Change, each Restricted Person will comply in all material respects with all Environmental Laws now or hereafter applicable to such Restricted Person, as well as all contractual obligations and agreements with respect to environmental remediation or other environmental matters, and shall obtain, at or prior to the time required by applicable Environmental Laws, all environmental, health and safety permits, licenses and other authorizations necessary for its operations and will maintain such authorizations in full force and effect. Except in each case where failure to do so could not reasonably be expected to cause a Material Adverse Change, no Restricted Person will do anything or permit anything to be done which will subject any of its properties to any remedial obligations under, or result in noncompliance with applicable permits and licenses issued under, any applicable Environmental Laws, assuming disclosure to the applicable governmental authorities of all relevant facts, conditions and circumstances. Upon Administrative Agent's reasonable request, at any time and from time to time, Borrower will provide at its own expense an environmental inspection of any of the Restricted Persons' material real properties and audit of their environmental compliance procedures and practices, in each case from an engineering or consulting firm reasonably acceptable to Administrative Agent. Administrative Agent and Lenders will use their best efforts to protect any attorney client privilege that exists with respect to reports or audits prepared by such engineers or consultants.

(b) Borrower will promptly furnish to Administrative Agent all written notices of violation, orders, claims, citations, complaints, penalty assessments, suits or other proceedings received by any Restricted Person, or of which Borrower otherwise has notice, pending or threatened against any Restricted Person by any Governmental Authority with respect to any alleged violation of or non-compliance with any Environmental Laws or relating to potential responsibility with respect to any investigation or clean-up of Hazardous Material at any location, in each case which involves a claim or liability in excess of $10,000,000.

Section 6.13. Evidence of Compliance. Each Restricted Person will furnish to each Lender at such Restricted Person's or Borrower's expense all evidence which Administrative Agent from time to time reasonably requests in writing as to the accuracy and validity of or compliance with all representations, warranties and covenants made by any Restricted Person in the Loan Documents, the satisfaction of all conditions contained therein, and all other matters pertaining thereto.

Section 6.14. Bank Accounts; Offset. To secure the repayment of the Obligations Borrower hereby grants to each Lender a security interest, a lien, and a right of offset, each of which shall be in addition to all other interests, liens, and rights of any Lender at common Law, under the Loan Documents, or otherwise, and each of which shall be upon and against (a) any and all moneys, securities or other property (and the proceeds therefrom) of Borrower now or hereafter held or received by or in transit to any Lender from or for the account of Borrower, whether for safekeeping, custody, pledge, transmission, collection or otherwise, (b) any and all deposits (general or special, time or demand, provisional or final) of Borrower with any Lender, and (c) any other credits and claims of Borrower at any time existing against any Lender, including claims under certificates of deposit. At any time and from time to time after the occurrence of any Default, each Lender is hereby authorized to foreclose upon, or to offset against the Obligations then due and payable (in either case without notice to Borrower), any and all items hereinabove referred to. The remedies of foreclosure and offset are separate and cumulative, and either may be exercised independently of the other without regard to procedures or restrictions applicable to the other.

Section 6.15. Guaranties of Borrower's Subsidiaries. Each Domestic Subsidiary of Borrower that is a Material Subsidiary now existing or created, acquired or coming into existence after the date hereof shall, promptly upon request by Administrative Agent, execute and deliver to Administrative Agent an absolute and unconditional guaranty of the timely repayment of the Obligations and the due and punctual performance of the obligations of Borrower hereunder, which guaranty shall be satisfactory to Administrative Agent in form and substance. Each such Domestic Subsidiary of Borrower that is a Material Subsidiary existing on the date hereof shall duly execute and deliver such a guaranty prior to the making of any Loan hereunder. Borrower will cause each such Domestic Subsidiary to deliver to Administrative Agent, simultaneously with its delivery of such a guaranty, written evidence satisfactory to Administrative Agent and its counsel that such Domestic Subsidiary has taken all company action necessary to duly approve and authorize its execution, delivery and performance of such guaranty and any other documents which it is required to execute.

Section 6.16. Pledge of Stock of Foreign Subsidiaries. Borrower shall execute and deliver to Administrative Agent (and shall cause each Restricted Person to execute and deliver to Administrative Agent) a pledge agreement covering sixty-six percent (66%) of its Equity Interest in each Foreign Subsidiary of Borrower that is a Material Subsidiary now existing or created, acquired or coming into existence after the date hereof and securing the Obligations, in form and substance acceptable to Administrative Agent. Borrower shall also deliver to Administrative Agent all certificates (or other evidence acceptable to Administrative Agent) evidencing Borrower's Equity Interest in such Foreign Subsidiary which shall be duly endorsed or accompanied by stock powers executed in blank (as applicable) as Administrative Agent shall deem necessary or appropriate to grant, evidence and perfect a first priority Lien in Borrower's Equity Interest in such Foreign Subsidiary.

Section 6.17. Collateral.

(a) At all times the Secured Obligations shall be secured by first and prior Liens (subject only to Permitted Liens) covering and encumbering (i) not less than the Minimum Collateral Amount (but in no event less or more than the amount of Mineral Interests covered by the First Lien Security Documents), and all cogeneration facilities and transportation and gathering systems owned by any Restricted Person used in connection with the production and development of the Mineral Interests included therein, and (ii) all of the issued and outstanding Equity Interest of each Subsidiary of Borrower owned by any Restricted Person subject to the limitation with respect to Foreign Subsidiaries set forth in Section 6.16, and (iii) all other personal property of the Restricted Persons that can be perfected by the filing of a financing statement under the UCC (excluding filings in the real property records), except for the Excluded Property. On the Closing Date, Borrower and its Subsidiaries shall deliver to Administrative Agent for the ratable benefit of each Lender, Security Documents covering the foregoing, each in form and substance acceptable to Administrative Agent.

(b) To the extent necessary to comply with the first sentence of Section 6.17(a), (i) within 30 days after each redetermination of the Borrowing Base under Section 2.9(a) of the First Lien Credit Agreement, Borrower and its Subsidiaries shall execute and deliver to Administrative Agent, for the ratable benefit of each Lender, deeds of trust, mortgages, chattel mortgages, security agreements and financing statements in form and substance acceptable to Administrative Agent and duly executed by Borrower and any such Subsidiary (as applicable) together with such other assignments, conveyances, amendments, agreements and other writings (each duly authorized and executed) as Administrative Agent shall deem necessary or appropriate to grant, evidence and perfect the Liens required by this Section 6.17.

(c) Borrower also agrees to deliver favorable title information, title opinions or updates of title opinions in form, substance and authorship reasonable satisfactory to Administrative Agent with respect to the properties described in subsection (b) immediately above and confirming that such Restricted Person has good and defensible title to such properties and interests, free and clear of all Liens other than Permitted Liens.

Section 6.18. Agreement to Deliver Security Documents. Borrower agrees to deliver and to cause each other Restricted Person to deliver to further secure the Secured Obligations, whenever requested by Administrative Agent in its reasonable discretion, deeds of trust, mortgages, chattel mortgages, security agreements, financing statements and other Security Documents in form and substance satisfactory to Administrative Agent for the purpose of (i) granting, confirming, and perfecting first and prior liens or security interests (subject to Permitted Liens) in any real or personal property which is at such time Collateral or which was required or intended to be Collateral pursuant to this Agreement or any Security Document previously executed and not then released by Administrative Agent, and (ii) maintaining compliance with all applicable Laws, including those of any applicable Indian tribe, the Bureau of Indian Affairs, and the U.S. Bureau of Land Management. Each Restricted Person hereby authorizes Administrative Agent to file one or more financing or continuation statements, and amendments thereto, relative to all or any part of the collateral describing the Collateral as "all assets" without the signature of any Restricted Person. Furthermore, Borrower agrees to deliver and to cause each other Restricted Person to deliver, whenever requested by Administrative Agent upon the occurrence and during the continuance of an Event of Default, transfer orders or letters in lieu thereof with respect to the production and proceeds of production from the Collateral, in form and substance satisfactory to Administrative Agent.

Section 6.19. Production Proceeds. Notwithstanding that, by the terms of the various Security Documents, the Restricted Persons are and will be assigning to Administrative Agent and Lenders all of the "Production Proceeds" (as defined therein) accruing to the property covered thereby, so long as no Event of Default has occurred, the Restricted Persons may continue to receive from the purchasers of production all such Production Proceeds, subject, however, to the Liens created under the Security Documents, which Liens are hereby affirmed and ratified. Upon the occurrence of an Event of Default, Administrative Agent and Lenders may exercise all rights and remedies granted under the Security Documents subject to the terms thereof, including the right to obtain possession of all Production Proceeds then held by Restricted Persons or to receive directly from the purchasers of production all other Production Proceeds. In no case shall any failure, whether intentioned or inadvertent, by Administrative Agent or Lenders to collect directly any such Production Proceeds constitute in any way a waiver, remission or release of any of their rights under the Security Documents, nor shall any release of any Production Proceeds by Administrative Agent or Lenders to Restricted Persons constitute a waiver, remission, or release of any other Production Proceeds or of any rights of Administrative Agent or Lenders to collect other Production Proceeds thereafter.

Section 6.20. Mortgaged Property Covenants. Each Restricted Person will carry out its sales of production, will operate the Mineral Interests, and will otherwise deal with the Mineral Interests and the production therefrom, in such a way that the representations and warranties in Section 5.18 through 5.20 remain true and correct at, and as of, all times that this Agreement is in effect (and not just at, and as of, the times such representations and warranties are made).

Section 6.21. Intentionally Omitted.

ARTICLE VII - - Negative Covenants of Borrower

To conform with the terms and conditions under which each Lender is willing to have credit outstanding to Borrower, and to induce each Lender to enter into this Agreement and make the Loans, Borrower warrants, covenants and agrees that until the full and final payment of the Obligations and the termination of this Agreement, unless Majority Lenders have previously agreed otherwise:

Section 7.1. Indebtedness. No Restricted Person will in any manner owe or be liable for Indebtedness except:

(a) the Obligations;

(b) Liabilities for taxes and governmental assessments in the ordinary course of business that are not yet due;

(c) Indebtedness arising under Hedging Contracts permitted under Section 7.3;

(d) Liability for that certain royalty associated with production from Borrower's Formax properties;

(e) intercompany Indebtedness arising from loans made by (i) Borrower to its wholly-owned Subsidiaries that are Guarantors, or (ii) any Subsidiary of Borrower to Borrower; provided, however, that upon the request of Administrative Agent at any time, any such Indebtedness shall be evidenced by promissory notes having terms reasonably satisfactory to Administrative Agent, and the sole originally executed counterparts of which shall be pledged and delivered to Administrative Agent, for the benefit of Administrative Agent and Lenders, as security for the Obligations;

(f) Intentionally Omitted;

(g) Permitted Subordinated Debt; provided, that if a Borrowing Base Deficiency exists upon the date of issuance thereof, the net proceeds from such issuance shall be applied (i) *first*, to the prepayment of such Borrowing Base Deficiency, (ii) *second*, to any other prepayment required by the First Lien Credit Agreement, and (iii) *third*, to the prepayment of the Notes in accordance with Section 2.7(b); and provided further, that if no Borrowing Base Deficiency exists upon the date of issuance thereof, the net proceeds from such issuance shall be applied (x) *first*, to any prepayment required by the First Lien Credit Agreement and (y) *second*, to the prepayment of the Notes in accordance with Section 2.7(b);

(h) Permitted Unsecured Debt and Permitted Convertible Debt; provided, that the issuance thereof shall be subject to the provisions of Sections 2.9(b) and 2.9(c) of the First Lien Credit Agreement; provided further, that if a Borrowing Base Deficiency exists upon the date of issuance thereof, the net proceeds from such issuance shall be applied (i) *first*, to the prepayment of such Borrowing Base Deficiency, (ii) *second*, to any other prepayment required by the First Lien Credit Agreement, and (iii) *third*, to the prepayment of the Notes in accordance with Section 2.7(b); and provided further, that if no Borrowing Base Deficiency exists upon the date of issuance thereof, the net proceeds from such issuance shall be applied (x) *first*, to any prepayment required by the First Lien Credit Agreement and (y) *second*, to the prepayment of the Notes in accordance with Section 2.7(b);

(i) Intentionally Omitted;

(j) Indebtedness pursuant to the First Lien Loan Documents, in a principal amount not to exceed $1,500,000,000; and

(k) miscellaneous items of Indebtedness not described in subsections (a) through (j) of this section, the outstanding amount of which does not in the aggregate (taking into account all such Indebtedness of all Restricted Persons) exceed at any one time an amount equal to five percent (5%) of the Net Worth of Borrower at such time.

Section 7.2. Limitation on Liens. Except for Permitted Liens, no Restricted Person will create, assume or permit to exist any Lien upon any of the properties or assets which it now owns or hereafter acquires.

Section 7.3. Hedging Contracts. No Restricted Person will be a party to or in any manner be liable on any Hedging Contract except:

(a) Oil. Contracts entered into with the purpose and effect of fixing prices on oil expected to be produced, sold or transported by Restricted Persons from its oil and gas properties, provided that at all times: (i) no such contract fixes a price for a term of more than 60 months except (x) contracts that are directly hedged to offset a longer term fixed rate contract and (y) contracts covering oil and gas properties in the Midway-Sunset Field which have a term not to exceed 84 months; (ii) the aggregate monthly production covered by all such contracts (determined, in the case of contracts that are not settled on a monthly basis, by a monthly proration acceptable to the Administrative Agent and the First Lien Agent) for any single month does not in the aggregate exceed 90% of the Restricted Persons' aggregate Projected Oil Production anticipated to be sold in the ordinary course of the Restricted Persons' businesses for such month, and the aggregate monthly production covered by all such contracts having a term of more than 60 months but not more than 84 months shall not in the aggregate exceed 60% of the Restricted Persons' aggregate Projected Oil Production from the Midway-Sunset Field anticipated to be sold in the ordinary course of such Persons' business for such month, (iii) except for letters of credit and the Collateral under the First Lien Security Documents with respect to First Lien Lender Hedging Obligations, no such contract requires any Restricted Person to put up money, assets or other security against the event of its nonperformance prior to actual default by such Restricted Person in performing its obligations thereunder, and (iv) each such contract is with a counterparty or has a guarantor of the obligation of the counterparty who (unless such counterparty is a Lender or one of its Affiliates) at the time the contract is made has long-term obligations rated A1 by Moody's or A+ by S & P, or better, respectively, by either Rating Agency.

(b) Gas. Contracts entered into with the purpose and effect of fixing prices on gas expected to be produced, sold or transported by Restricted Persons from its oil and gas properties or gas expected to be purchased by Restricted Persons for use in oil production by such Restricted Persons, provided that at all times: (i) no such contract fixes a price for a term of more than 60 months except contracts that are directly hedged to offset a longer term fixed rate contract; (ii) the aggregate monthly production or purchase volume, respectively, covered by all such contracts (determined, in the case of contracts that are not settled on a monthly basis, by a monthly proration acceptable to the Administrative Agent and the First Lien Agent) for any single month does not exceed 90% of Restricted Persons' aggregate Projected Gas Production anticipated to be sold in the case of contracts on gas sales volumes, or 90% of Restricted Persons' aggregate volume of projected gas purchases anticipated in the ordinary course of Restricted Persons' businesses for such month, (iii) except for letters of credit and the Collateral under the First Lien Security Documents with respect to First Lien Lender Hedging Obligations, no such contract requires any Restricted Person to put up money, assets or other security against the event of its nonperformance prior to actual default by such Restricted Person in performing its obligations thereunder, and (iv) each such contract is with a counterparty or has a guarantor of the obligation of the counterparty who (unless such counterparty is a Lender or one of its Affiliates) at the time the contract is made has long-term obligations rated A1 by Moody's or A+ by S & P, or better, respectively, by either Rating Agency.

(c) NGL. Contracts entered into with the purpose and effect of fixing prices on natural gas liquids expected to be produced, sold or transported by Restricted Persons from its oil and gas properties, provided that at all times: (i) no such contract fixes a price for a term of more than 60 months except contracts that are directly hedged to offset a longer term fixed rate contract; (ii) the aggregate monthly production covered by all such contracts (determined, in the case of contracts that are not settled on a monthly basis, by a monthly proration acceptable to the Administrative Agent and the First Lien Agent) for any single month does not in the aggregate exceed 90% of Restricted Persons' aggregate Projected NGL Production anticipated to be sold in the ordinary course of Restricted Persons' businesses for such month, (iii) except for letters of credit and the Collateral under the First Lien Security Documents with respect to First Lien Lender Hedging Obligations, no such contract requires any Restricted Person to put up money, assets or other security against the event of its nonperformance prior to actual default by such Restricted Person in performing its obligations thereunder, and (iv) each such contract is with a counterparty or has a guarantor of the obligation of the counterparty who (unless such counterparty is a Lender or one of its Affiliates) at the time the contract is made has long-term obligations rated A1 by Moody's or A+ by S & P, or better, respectively, by either Rating Agency.

(d) Interest Rates. Contracts entered into by a Restricted Person with the purpose and effect of fixing or capping interest rates on a principal amount of indebtedness of such Restricted Person that is accruing interest at a variable rate, provided that (i) the aggregate notional amount of such contracts never exceeds eighty percent (80%) of the anticipated outstanding principal balance of the indebtedness to be hedged by such contracts or an average of such principal balances calculated using a generally accepted method of matching interest hedging contracts to declining principal balances, (ii) the floating rate index of each such contract generally matches the index used to determine the floating rates of interest on the corresponding indebtedness to be hedged by such contract, (iii) except for letters of credit and the Collateral under the First Lien Security Documents with respect to First Lien Lender Hedging Obligations, no such contract requires any Restricted Person to put up money, assets or other security against the event of its nonperformance prior to actual default by such Restricted Person in performing its obligations thereunder, and (iv) each such contract is with a counterparty or has a guarantor of the obligation of the counterparty who (unless such counterparty is a Lender or one of its Affiliates) at the time the contract is made has long-term obligations rated A1 by Moody's or A+ by S & P, or better.

(e) Electricity. Contracts entered into with the purpose and effect of fixing prices on electricity expected to be produced or sold by Restricted Persons, provided that at all times: (i) no such contract fixes a price for a term of more than sixty (60) months, (ii) the aggregate monthly production covered by all such contracts (determined, in the case of contracts that are not settled on a monthly basis, by a monthly proration acceptable to the Administrative Agent and the First Lien Agent) for any single month does not in the aggregate exceed ninety percent (90%) of Restricted Persons' aggregate Projected Electricity Production anticipated to be sold in the ordinary course of Restricted Persons' businesses for such month, (iii) except for letters of credit and Collateral under the First Lien Security Documents with respect to First Lien Lender Hedging Obligations, no such contract requires any Restricted Person to put up money, assets or other security against the event of its nonperformance prior to actual default by such Restricted Person in performing its obligations thereunder, and (iv) each such contract is with a counterparty or has a guarantor of the obligation of the counterparty who (unless such counterparty is a Lender or one of its Affiliates) at the time the contract is made has long-term obligations rated A1 by Moody's or A+ by S&P, or better, respectively, by either Rating Agency. As used in this subsection, the term "Projected Electricity Production" means the projected production of electricity (measured by volume unit or megawatt per hour equivalent, not sales price) for the term of the contracts or a particular month, as applicable, from generating facilities owned by any Restricted Person which are located in the United States and projected by Restricted Persons.

(f) Put Options; Cap Transactions. Notwithstanding the foregoing provisions of this Section 7.3, there shall be no limitations on the purchase by the Restricted Persons of put options or floor transactions with respect to oil, gas, natural gas liquids or electricity produced by, call options or cap transactions with respect to gas expected to be purchased by, or cap transactions with respect to principal balances of indebtedness of, the Restricted Person; provided, however, that any such put or call options or cap or floor transactions shall be solely for hedging, and not for speculative purposes, and the Restricted Person shall have no obligations thereunder other than payment of the applicable premium for any such put or call options or cap or floor transactions.

(g) Modifications. Except as set forth in Section 7.3(g) of the First Lien Credit Agreement, the Restricted Persons shall maintain in effect for its full term and shall not amend, modify, cancel, sell, assign, novate or terminate any Hedging Contract on which the First Lien Agent and the First Lien Lenders have relied in determining the Borrowing Base under the First Lien Credit Agreement.

Section 7.4. Limitation on Mergers, Issuances of Securities.

(a) No Restricted Person will merge or consolidate with or into any other Person; provided that so long as no Default has occurred and is continuing or will occur as a result thereof (i) Borrower may merge or consolidate with another Person so long as Borrower is the surviving business entity, (ii) any wholly-owned Subsidiary of Borrower may be merged into or consolidated with another Person so long as Borrower or a wholly-owned Subsidiary of Borrower is the surviving business entity, and (iii) any Subsidiary of Borrower may merge or consolidate with another Person so long as Borrower or a Subsidiary of Borrower is the surviving business entity.

(b) Borrower will not issue any Equity Interests other than (i) shares of Borrower's common stock and any options or warrants giving the holders thereof only the right to acquire such shares of common stock, and (ii) shares of Borrower's preferred stock, which are not treated as Indebtedness under GAAP, which cannot be redeemed for cash (whether such redemption is mandatory or contingent) prior to the Maturity Date, and which cannot be converted into any debt instrument prior to such date.

(c) No Subsidiary of Borrower will issue any additional shares of its capital stock or other Equity Interests or any options, warrants or other rights to acquire such additional shares or other Equity Interests except to Borrower and only to the extent not otherwise forbidden under the terms hereof.

Section 7.5. Limitation on Sales of Property. No Restricted Person will sell, transfer, lease, exchange, alienate or dispose of any of its material assets or properties or any material interest therein or portions thereof, or discount, sell, pledge or assign any notes payable to it, accounts receivable or future income, except, to the extent not otherwise forbidden under the Security Documents:

(a) equipment which is worthless or obsolete or which is replaced by equipment of equal suitability and value;

(b) inventory (including oil and gas sold as produced and seismic data) which is sold in the ordinary course of business on ordinary trade terms;

(c) capital stock of any of Borrower's Subsidiaries which is transferred to Borrower or a wholly owned Subsidiary of Borrower;

(d) interests in oil and gas properties or portions thereof, to which no Proved Reserves of oil, gas or other liquid or gaseous hydrocarbons are properly attributed;

(e) leases of drilling rigs in the ordinary course of business and sales of drilling rigs which are described in Schedule 4;

(f) gathering pipelines and compression and dehydration equipment located in the Piceance Basin in Colorado and the Darko and Oakes Field in East Texas;

(g) exchanges of (i) Restricted Persons' oil and gas leasehold interests in non-producing zones, to which no Proved Reserves of oil, gas or other liquid or gaseous hydrocarbons are properly attributed, whether or not such interests are subject to Liens in favor of Administrative Agent, for (ii) other oil and gas leasehold interests in producing or non-producing zones owned by other Persons;

(h) transfers among Borrower and Guarantors; and

(i) sales and dispositions of other property for a purchase price paid in cash or Mineral Interests in an amount at least equal to the fair market value thereof; provided that if the aggregate sales price for all such property sold during any period between any two sequential calculations of Total Proved PV10% exceeds five percent (5%) of the then effective Total Proved PV10%, the Total Proved PV10% shall be reduced effective immediately upon such sale or disposition by an amount equal to the value assigned to such property in the most recent calculation of Total Proved PV10%.

Section 7.6. Limitation on Dividends, Stock Repurchases and Subordinated Debt.

(a) No Restricted Person will declare or make any Dividends or Stock Repurchases other than (i) Dividends payable to Borrower or Subsidiaries of Borrower, (ii) so long as no Default has occurred and is continuing or will occur as a result thereof, (A) Dividends payable to Borrower's shareholders and (B) Stock Repurchases, to the extent that the aggregate value of all such Dividends and Stock Repurchases made during any Four-Quarter Period does not exceed the greater of $20,000,000 or seventy-five percent (75%) of Net Income for such Four-Quarter Period, and (iii) Dividends made with the net cash proceeds received from a substantially concurrent issue of new shares of its common stock or other common Equity Interests.

(b) No Restricted Person shall make any payment of principal, interest or fees on Permitted Subordinated Debt, except to the extent expressly permitted by the applicable subordination agreement with Administrative Agent.

Section 7.7. Limitation on Acquisitions, Investments; and New Businesses. Except as expressly permitted by this section, no Restricted Person will make any acquisitions of, or capital contributions to, or other Investments in any Person or property; provided that the Restricted Persons (i) may make Permitted Investments and Core Acquisitions and Investments without limitation, and (ii) may make Non-Core Acquisitions and Investments so long as the aggregate amount expended on Non-Core Acquisitions and Investments during the period from the date hereof until the Maturity Date never exceeds 10% of Borrower's Net Worth at any time during such period. No Restricted Person will engage directly or indirectly in any business or conduct any operations except in connection with or incidental to its present businesses and operations, and (iii) transactions permitted by Section 7.8.

Section 7.8. Limitation on Credit Extensions. Except for Permitted Investments, no Restricted Person will extend credit, make advances or make loans other than (a) normal and prudent extensions of credit to customers buying goods and services in the ordinary course of business, which extensions shall not be for longer periods than those extended by similar businesses operated in a normal and prudent manner and (b) seller financing for the sale of the drilling rigs described in Section 7.5(e) of this Agreement.

Section 7.9. Transactions with Affiliates. Neither Borrower nor any of its Subsidiaries nor any Guarantor will engage in any material transaction with any of its Affiliates on terms which are less favorable to it than those which would have been obtainable at the time in arm's-length dealing with Persons other than such Affiliates; provided that such restriction shall not apply to transactions among Borrower and its wholly owned Subsidiaries.

Section 7.10. Prohibited Contracts.

(a) Except as expressly provided for in the Loan Documents, no Restricted Person will, directly or indirectly, enter into, create, or otherwise allow to exist any contract or other consensual restriction on (i) the ability of any Subsidiary of Borrower to (1) pay dividends or make other distributions to Borrower, (2) to redeem Equity Interests held in it by Borrower, (3) to repay loans and other indebtedness owing by it to Borrower, or (4) to transfer any of its assets to Borrower or (ii) on the ability of any Restricted Person to grant to Administrative Agent and the Lenders Liens on its assets, except:

(A) any customary encumbrance or restriction with respect to a Subsidiary imposed pursuant to a merger agreement or an agreement entered into for the sale or disposition of all or substantially all the capital stock or assets of such Subsidiary pending the closing of such sale or disposition; and

(B) with respect to the above clauses (i)(4) and (ii) above only,

(i) any such encumbrance or restriction consisting of customary non-assignment provisions (including provisions forbidding subletting or sublicensing) in agreements, leases governing leasehold interests and licenses to the extent such provisions restrict the transfer of the agreement, lease or license or the property leased, or licensed thereunder;

(ii) customary restrictions contained in asset sale agreements limiting the transfer of such assets pending the closing of such sale;

(iii) restrictions in the instruments creating Permitted Liens described in clause (d) or (h) of the definition of Permitted Liens, limiting Liens on the property subject to such Permitted Liens;

(iv) restrictions on Equity Interests constituting minority Investments permitted by Section 7.7;

(v) existing restrictions with respect to a Person acquired by Borrower or any of its Subsidiaries (except to the extent such restrictions were put in place in connection with or in contemplation of such acquisition), which restrictions are not applicable to any Person, or the properties or assets of any Person other than the Person, or the property or assets of the Person, so acquired; and

(vi) customary supermajority voting provisions and other customary provisions with respect to the disposition or distribution of assets, each contained in corporate charters, bylaws, stockholders' agreements, limited liability company agreements, partnership agreements, joint venture agreements and other similar agreements entered into in the ordinary course of business of Borrower and its Subsidiaries.

(b) Except as permitted by Section 5.19, no Restricted Person will enter into any "take-or-pay" contract or other contract or arrangement for the purchase of goods or services which obligates it to pay for such goods or services regardless of whether they are delivered or furnished to it, excluding firm transportation contracts entered into in the ordinary course of business. No Restricted Person will amend or permit any amendment to any contract or lease which releases, qualifies, limits, makes contingent or otherwise detrimentally affects the rights and benefits of Administrative Agent or any Lender under or acquired pursuant to any Security Documents. No ERISA Affiliate will incur any obligation to contribute to any "multiemployer plan" as defined in Section 4001 of ERISA.

Section 7.11. Current Ratio. Beginning with the Fiscal Quarter ending June 30, 2009, the ratio of Borrower's Current Assets to Borrower's Current Liabilities will never be less than 1.0 to 1.0.

Section 7.12. Total Funded Debt to EBITDAX Ratio. As of the end of each Fiscal Quarter beginning with the Fiscal Quarter ending June 30, 2009, the ratio of (a) Total Funded Debt to (b) Adjusted EBITDAX for the Four-Quarter Period then ended, will not be greater than the amount set forth below with respect to such Fiscal Quarter:

Fiscal Quarter ended June 30, 2009 through Fiscal Quarter ended December 31, 2009	5.45 to 1.0
Fiscal Quarter ended March 31, 2010 through Fiscal Quarter ended December 31, 2010	5.15 to 1.0
Fiscal Quarter ended March 31, 2011 and each Fiscal Quarter thereafter	4.60 to 1.0

Borrower will report for the fourth quarter of 2008 a $38,500,000 bad debt expense (in this Section defined as the "Bad Debt Expense") arising from its sales of production to Big West Oil, which has filed for bankruptcy protection. For purposes of the calculation of the financial ratios described in Sections 7.12 and 7.13, EBITDAX shall be calculated treating the Bad Debt Expense as an extraordinary loss and any recovery with respect to the Bad Debt Expense as an extraordinary gain.

Section 7.13. Senior Secured Debt to EBITDAX Ratio. As of the end of each Fiscal Quarter beginning June 30, 2009, the ratio of (a) the First Lien Obligations then outstanding to (b) Adjusted EBITDAX for the Four-Quarter Period then ended, will not be greater than the amount set forth below with respect to such Fiscal Quarter:

Fiscal Quarter ended June 30, 2009 through Fiscal Quarter ended September 30, 2010	4.30 to 1.0
Fiscal Quarter ended December 31, 2010 and Fiscal Quarter ended March 31, 2011	4.00 to 1.0
Fiscal Quarter ended June 30, 2011 and Fiscal Quarter ended September 30, 2011	3.70 to 1.0
Fiscal Quarter ended December 31, 2011 and each Fiscal Quarter thereafter	3.45 to 1.0

Section 7.14. Asset Coverage Test. As of (a) each March 1 and September 1 of each year, beginning on September 1, 2009, (b) each material acquisition or divestiture of any Restricted Person's oil and gas properties, and (c) each Material Hedging Modification, the Borrower will maintain a ratio of Total Proved PV10% to Total Funded Debt of not less than 1.5 to 1.0.

Section 7.15. Limitations on Layering, Etc.. No Restricted Person will, except as otherwise permitted herein or in the Intercreditor Agreement:

(a) directly or indirectly, incur any Indebtedness that is or purports to be by its terms (or by the terms of any agreement governing such Indebtedness) contractually subordinated and/or junior in right of payment to any Indebtedness of the Borrower or any of the Guarantors, unless such Indebtedness is contractually subordinated and/or junior in right of payment to the Loans and the other Obligations under the Loan Documents at least to the same extent as contractually subordinated or junior in right of payment to such other Indebtedness; or

(b) directly or indirectly, create, incur, assume or suffer to exist any Lien that secures obligations under any Indebtedness on any asset or property of the Borrower or any of the Guarantors (other than obligations under the First Lien Loan Documents or as otherwise permitted by the Intercreditor Agreement) on a basis that is senior to the Liens securing the Obligations under this Agreement, unless such Liens are permitted under Section 7.2 and are also senior to the Liens securing the First Lien Secured Obligations.

ARTICLE VIII - - Events of Default and Remedies

Section 8.1. Events of Default. Each of the following events constitutes an Event of Default under this Agreement:

(a) Any Restricted Person fails to pay any principal component of any Obligation when due and payable, whether at a date for the payment of a fixed installment or as a contingent or other payment becomes due and payable or as a result of acceleration or otherwise;

(b) Any Restricted Person fails to pay any Obligation (other than the Obligations in subsection (a) above) when due and payable, whether at a date for the payment of a fixed installment or as a contingent or other payment becomes due and payable or as a result of acceleration or otherwise, within three Business Days after the same becomes due;

(c) Any "default" or "event of default" occurs under any Loan Document which defines either such term, and the same is not remedied within the applicable period of grace (if any) provided in such Loan Document;

(d) Any Restricted Person fails to duly observe, perform or comply with any covenant, agreement or provision of Section 6.4 or Article VII;

(e) Any Restricted Person fails (other than as referred to in subsections (a), (b), (c) or (d) above) to duly observe, perform or comply with any covenant, agreement, condition or provision of any Loan Document, and such failure remains unremedied for a period of 30 days after notice of such failure is given by Administrative Agent to Borrower;

(f) Any representation or warranty previously, presently or hereafter made in writing by or on behalf of any Restricted Person in connection with any Loan Document shall prove to have been false or incorrect in any material respect on any date on or as of which made, or any Loan Document at any time ceases to be valid, binding and enforceable as warranted in Section 5.5 for any reason other than its release or subordination by Administrative Agent;

(g) Any Restricted Person (i) fails to pay any portion, when such portion is due, (A) of any Permitted Subordinated Debt, Permitted Unsecured Debt, Permitted Second Lien Debt or Permitted Convertible Debt, or (B) of any of its other Indebtedness in excess of $25,000,000, or (ii) breaches or defaults in the performance of any agreement or instrument by which the Permitted Subordinated Debt, the Permitted Unsecured Debt, the Permitted Second Lien Debt, the Permitted Convertible Debt or any such other Indebtedness in excess of $25,000,000 is issued, evidenced, governed, or secured, and any such failure, breach or default continues beyond any applicable period of grace provided thereof;

(h) Either (i) any "accumulated funding deficiency" (as defined in Section 412(a) of the Internal Revenue Code) in excess of $5,000,000 exists with respect to any ERISA Plan, whether or not waived by the Secretary of the Treasury or his delegate, or (ii) any Termination Event occurs with respect to any ERISA Plan and the then current value of such ERISA Plan's benefit liabilities exceeds the then current value of such ERISA Plan's assets available for the payment of such benefit liabilities by more than $5,000,000 (or in the case of a Termination Event involving the withdrawal of a substantial employer, the withdrawing employer's proportionate share of such excess exceeds such amount);

(i) Any Change of Control occurs;

(j) Any Restricted Person:

(i) suffers the entry against it of a judgment, decree or order for relief by a Governmental Authority of competent jurisdiction in an involuntary proceeding commenced under any applicable bankruptcy, insolvency or other similar Law of any jurisdiction now or hereafter in effect, including the federal Bankruptcy Code, as from time to time amended, or has any such proceeding commenced against it which remains undismissed for a period of sixty days; or

(ii) commences a voluntary case under any applicable bankruptcy, insolvency or similar Law now or hereafter in effect, including the federal Bankruptcy Code, as from time to time amended; or applies for or consents to the entry of an order for relief in an involuntary case under any such Law; or makes a general assignment for the benefit of creditors; or fails generally to pay (or admits in writing its inability to pay) its debts as such debts become due; or takes corporate or other action to authorize any of the foregoing; or

(iii) suffers the appointment of or taking possession by a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official of all or a substantial part of its assets in a proceeding brought against or initiated by it, and such appointment or taking possession is neither made ineffective nor discharged within sixty days after the making thereof, or such appointment or taking possession is at any time consented to, requested by, or acquiesced to by it; or

(iv) suffers the entry against it of a final judgment for the payment of money in excess of $5,000,000 (not covered by insurance satisfactory to Administrative Agent in its discretion), unless the same is discharged within sixty days after the date of entry thereof or an appeal or appropriate proceeding for review thereof is taken within such period and a stay of execution pending such appeal is obtained; or

(v) suffers a writ or warrant of attachment or any similar process to be issued by any Governmental Authority against all or any substantial part of its assets, and such writ or warrant of attachment or any similar process is not stayed or released within sixty days after the entry or levy thereof or after any stay is vacated or set aside;

(k) Any "Event of Default" occurs under the First Lien Credit Agreement that is not remedied within any applicable grace period contained in the First Lien Credit Agreement; and

(l) The Intercreditor Agreement or any material provision thereof shall cease to be in full force and effect (other than (i) as a result of any action by Administrative Agent or the First Lien Agent or (ii) in accordance with the terms thereof); and

(m) Any Indebtedness is incurred under the SG Money Market Facility.

Upon the occurrence of an Event of Default described in subsection (j)(i), (j)(ii) or (j)(iii) of this section with respect to Borrower, all of the Obligations shall thereupon be immediately due and payable, without demand, presentment, notice of demand or of dishonor and nonpayment, protest, notice of protest, notice of intention to accelerate, declaration or notice of acceleration, or any other notice or declaration of any kind, all of which are hereby expressly waived by Borrower and each Restricted Person who at any time ratifies or approves this Agreement. Upon any such acceleration, any obligation of any Lender to make any further Loans hereunder shall be permanently terminated. During the continuance of any other Event of Default, Administrative Agent at any time and from time to time may (and upon written instructions from Majority Lenders, Administrative Agent shall), without notice to Borrower or any other Restricted Person, do either or both of the following: (1) terminate any obligation of Lenders to make Loans hereunder, and (2) declare any or all of the Obligations immediately due and payable, and all such Obligations shall thereupon be immediately due and payable, without demand, presentment, notice of demand or of dishonor and nonpayment, protest, notice of protest, notice of intention to accelerate, declaration or notice of acceleration, or any other notice or declaration of any kind, all of which are hereby expressly waived by Borrower and each Restricted Person who at any time ratifies or approves this Agreement.

Section 8.2. Remedies. If any Default shall occur and be continuing, each Lender Party may protect and enforce its rights under the Loan Documents by any appropriate proceedings, including proceedings for specific performance of any covenant or agreement contained in any Loan Document, and each Lender Party may enforce the payment of any Obligations due it or enforce any other legal or equitable right which it may have. All rights, remedies and powers conferred upon Lender Parties under the Loan Documents shall be deemed cumulative and not exclusive of any other rights, remedies or powers available under the Loan Documents or at Law or in equity.

Section 8.3. Application of Proceeds After Acceleration. After the exercise of remedies provided for in Section 8.2 (or after the Loans have automatically become immediately due and payable), any amounts received on account of the Secured Obligations shall be applied by Administrative Agent in the following order:

First, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (including fees, charges and disbursements of counsel to Administrative Agent (including fees and time charges for attorneys who may be employees of Agent) and amounts payable under Article III) payable to Administrative Agent in its capacity as such;

Second, to payment of that portion of the Secured Obligations constituting fees, indemnities and other amounts (other than principal and interest) payable to the Lenders (including fees, charges and disbursements of counsel to the respective Lenders and amounts payable under Article III), ratably among them in proportion to the respective amounts described in this clause Second payable to them;

Third, to payment of that portion of the Secured Obligations constituting accrued and unpaid interest on the Loans, ratably among Lenders in proportion to the respective amounts described in this clause Third payable to them;

Fourth, to payment of that portion of the Secured Obligations constituting unpaid principal of the Loans, ratably among Lenders in proportion to the respective amounts described in this clause Fourth held by them; and

Last, the balance, if any, after all of the Secured Obligations have been indefeasibly paid in full, to Borrower or as otherwise required by Law.

ARTICLE IX - - Administrative Agent

Section 9.1. Appointment and Authority. Each of the Lenders hereby irrevocably appoints WFEC to act on its behalf as Administrative Agent hereunder and under the other Loan Documents and authorizes Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article are solely for the benefit of Administrative Agent and the Lenders and neither Borrower nor any other Restricted Person shall have rights as a third party beneficiary of any of such provisions.

Section 9.2. Exculpation Provisions. Administrative Agent shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents. Without limiting the generality of the foregoing, Administrative Agent:

(a) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing;

(b) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of Lenders as shall be expressly provided for herein or in the other Loan Documents); provided that Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose Administrative Agent to liability or that is contrary to any Loan Document or applicable law; and

(c) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to Borrower or any of its Affiliates that is communicated to or obtained by the Person serving as Administrative Agent or any of its Affiliates in any capacity.

(d) Administrative Agent shall not be liable for any action taken or not taken by it (i) with the consent or at the request of Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 10.1 and 8.2) or (ii) in the absence of its own gross negligence or willful misconduct. Administrative Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given to Administrative Agent by Borrower or a Lender.

(e) Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document, or (v) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to Administrative Agent.

Section 9.3. Reliance by Administrative Agent. Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan that by its terms must be fulfilled to the satisfaction of a Lender, Administrative Agent may presume that such condition is satisfactory to such Lender unless Administrative Agent shall have received notice to the contrary from such Lender prior to the making of such Loan. Administrative Agent may consult with legal counsel (who may be counsel for Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

Section 9.4. Non-Reliance on Administrative Agent and Other Lenders. Each Lender acknowledges that it has, independently and without reliance upon Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.

Section 9.5. Rights as Lender. The Person serving as Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not Administrative Agent and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as Administrative Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with Borrower or any Subsidiary or other Affiliate thereof as if such Person were not Administrative Agent hereunder and without any duty to account therefor to the Lenders.

Section 9.6. Sharing of Set-Offs and Other Payments. Each Lender Party agrees that if it shall, whether through the exercise of rights under Security Documents or rights of banker's lien, set off, or counterclaim against Borrower or otherwise, obtain payment of a portion of the aggregate Obligations owed to it, taking into account all distributions made by Administrative Agent under Section 3.1, and such payment causes such Lender Party to have received more than it would have received had such payment been received by Administrative Agent and distributed pursuant to Section 3.1, then (a) it shall be deemed to have simultaneously purchased and shall be obligated to purchase interests in the Obligations as necessary to cause all Lender Parties to share all payments as provided for in Section 3.1, and (b) such other adjustments shall be made from time to time as shall be equitable to ensure that Administrative Agent and all Lender Parties share all payments of Obligations as provided in Section 3.1; provided, however, that nothing herein contained shall in any way affect the right of any Lender Party to obtain payment (whether by exercise of rights of banker's lien, set-off or counterclaim or otherwise) of indebtedness other than the Obligations. Borrower expressly consents to the foregoing arrangements and agrees that any holder of any such interest or other participation in the Obligations, whether or not acquired pursuant to the foregoing arrangements, may to the fullest extent permitted by Law exercise any and all rights of banker's lien, set-off, or counterclaim as fully as if such holder were a holder of the Obligations in the amount of such interest or other participation. If all or any part of any funds transferred pursuant to this section is thereafter recovered from the seller under this section which received the same, the purchase provided for in this section shall be deemed to have been rescinded to the extent of such recovery, together with interest, if any, if interest is required pursuant to the order of a Governmental Authority order to be paid on account of the possession of such funds prior to such recovery.

Section 9.7. Investments. Whenever Administrative Agent in good faith determines that it is uncertain about how to distribute to Lender Parties any funds which it has received, or whenever Administrative Agent in good faith determines that there is any dispute among Lender Parties about how such funds should be distributed, Administrative Agent may choose to defer distribution of the funds which are the subject of such uncertainty or dispute. If Administrative Agent in good faith believes that the uncertainty or dispute will not be promptly resolved, or if Administrative Agent is otherwise required to invest funds pending distribution to Lender Parties, Administrative Agent shall invest such funds pending distribution; all interest on any such Investment shall be distributed upon the distribution of such Investment and in the same proportion and to the same Persons as such Investment. All moneys received by Administrative Agent for distribution to Lender Parties (other than to the Person who is Administrative Agent in its separate capacity as a Lender Party) shall be held by Administrative Agent pending such distribution solely as Administrative Agent for such Lender Parties, and Administrative Agent shall have no equitable title to any portion thereof.

Section 9.8. Resignation of Administrative Agent. Administrative Agent may at any time give notice of its resignation to the Lenders and Borrower. Upon receipt of any such notice of resignation, Required Lenders shall have the right, in consultation with Borrower, to appoint a successor, which shall be a bank with an office in the United States, or an Affiliate of any such bank with an office in the United States. If no such successor shall have been so appointed by Required Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its resignation, then the retiring Administrative Agent may on behalf of the Lenders, appoint a successor Administrative Agent meeting the qualifications set forth above; provided that if Administrative Agent shall notify Borrower and the Lenders that no qualifying Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice and (a) the retiring Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any Collateral held by Administrative Agent on behalf of the Lenders under any of the Loan Documents, the retiring Administrative Agent shall continue to hold such Collateral until such time as a successor Administrative Agent is appointed) and (b) all payments, communications and determinations provided to be made by, to or through Administrative Agent shall instead be made by or to each Lender directly, until such time as Required Lenders appoint a successor Administrative Agent as provided for above in this Section. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Administrative Agent, and the retiring Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Section). The fees payable by Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between Borrower and such successor. After the retiring Administrative Agent's resignation hereunder and under the other Loan Documents, the provisions of this Article and Section 10.4 shall continue in effect for the benefit of such retiring Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring Administrative Agent was acting as Administrative Agent.

Section 9.9. Delegation of Duties. Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by Administrative Agent. Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent

Section 9.10. No Other Duties, etc. Anything herein to the contrary notwithstanding, none of the Co-Bookrunners, the Syndication Agent, the Co-Documentation Agents, or the Co-Lead Arrangers listed on the cover page hereof shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as Administrative Agent or a Lender hereunder.

Section 9.11. Administrative Agent May File Proofs of Claim. In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to any Restricted Person, Administrative Agent (irrespective of whether the principal of any Loan shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether Administrative Agent shall have made any demand on Borrower) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of Lenders and Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of Lenders and Administrative Agent and their respective agents and counsel and all other amounts due Lenders and Administrative Agent under Section 2.5 and 10.4) allowed in such judicial proceeding; and

(b) to collect and receive any moneys or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender to make such payments to Administrative Agent and, in the event that Administrative Agent shall consent to the making of such payments directly to Lenders, to pay to Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of Administrative Agent and its agents and counsel, and any other amounts due Administrative Agent under Sections 2.5 and 10.4. Nothing contained herein shall be deemed to authorize Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or to authorize Administrative Agent to vote in respect of the claim of any Lender in any such proceeding.

Section 9.12. Guaranty Matters. Each Lender hereby irrevocably authorizes Administrative Agent, at its option and in its discretion, to release any Guarantor from its obligations under any guaranty made by it in connection with this Agreement if such Person ceases to be a Subsidiary as a result of a transaction permitted hereunder. Upon request by Administrative Agent at any time, each Lender will confirm in writing Administrative Agent's authority to release any Guarantor from its obligations under any guaranty made by it in connection with this Agreement pursuant to this Section 9.12.

Section 9.13. Collateral Matters.

(a) Each Lender hereby irrevocably authorizes and directs Administrative Agent to enter into the Security Documents for the benefit of such Lender. Each Lender hereby agrees, and each holder of any Note by the acceptance thereof will be deemed to agree, that, except as otherwise set forth in Section 10.1, any action taken by the Required Lenders, in accordance with the provisions of this Agreement or the Security Documents, and the exercise by the Required Lenders of the powers set forth herein or therein, together with such other powers as are reasonably incidental thereto, shall be authorized and binding upon all of Lenders. Administrative Agent is hereby authorized (but not obligated) on behalf of all of Lenders, without the necessity of any notice to or further consent from any Lender, from time to time prior to an Event of Default, to take any action with respect to any Collateral or Security Documents which may be necessary to perfect and maintain perfected the Liens upon the Collateral granted pursuant to the Security Documents.

(b) Each Lender hereby irrevocably authorize Administrative Agent, at its option and in its discretion,

(i) to release any Lien on any property granted to or held by Administrative Agent under any Loan Document (A) upon payment in full of all Obligations (other than contingent indemnification obligations), except as otherwise provided in the Security Documents, (B) that is sold or to be sold as part of or in connection with any sale permitted hereunder or under any other Loan Document, (C) subject to Section 10.1, if approved, authorized or ratified in writing by the Required Lenders, or (D) in connection with any foreclosure sale or other disposition of Collateral after the occurrence of an Event of Default; and

(ii) to subordinate any Lien on any property granted to or held by Administrative Agent under any Loan Document to the holder of any Lien on such property that is permitted by this Agreement or any other Loan Document.

Upon request by Administrative Agent at any time, each Lender will confirm in writing Administrative Agent's authority to release or subordinate its interest in particular types or items of Collateral pursuant to this Section 9.13.

(c) Subject to Section 9.13(b), Administrative Agent shall and is hereby irrevocably authorized by each Lender to execute such documents as may be necessary to evidence the release or subordination of the Liens granted to Administrative Agent for the benefit of Administrative Agent and Lenders herein or pursuant hereto upon the applicable Collateral; provided that (i) Administrative Agent shall not be required to execute any such document on terms which, in Administrative Agent's opinion, would expose Administrative Agent to or create any liability or entail any consequence other than the release or subordination of such Liens without recourse or warranty and (ii) such release or subordination shall not in any manner discharge, affect or impair the Obligations or any Liens upon (or obligations of Borrower or any other Restricted Person in respect of) all interests retained by Borrower or any other Restricted Person, including the proceeds of the sale, all of which shall continue to constitute part of the Collateral. In the event of any sale or transfer of Collateral, or any foreclosure with respect to any of the Collateral, Administrative Agent shall be authorized to deduct all expenses reasonably incurred by Administrative Agent from the proceeds of any such sale, transfer or foreclosure.

(d) Administrative Agent shall have no obligation whatsoever to any Lender or any other Person to assure that the Collateral exists or is owned by Borrower or any other Restricted Person or is cared for, protected or insured or that the Liens granted to Administrative Agent herein or in any of the Security Documents or pursuant hereto or thereto have been properly or sufficiently or lawfully created, perfected, protected or enforced or are entitled to any particular priority, or to exercise or to continue exercising at all or in any manner or under any duty of care, disclosure or fidelity any of the rights, authorities and powers granted or available to Administrative Agent in this Section 9.13 or in any of the Security Documents, it being understood and agreed that in respect of the Collateral, or any act, omission or event related thereto, Administrative Agent may act in any manner it may deem appropriate, in its sole discretion, given Administrative Agent's own interest in the Collateral as one of Lenders and that Administrative Agent shall have no duty or liability whatsoever to the Lenders.

(e) Each Lender hereby appoints each other Lender as agent for the purpose of perfecting Lenders' security interest in assets which, in accordance with Article 9 of the UCC can be perfected only by possession. Should any Lender (other than Administrative Agent) obtain possession of any such Collateral, such Lender shall notify Administrative Agent thereof, and, promptly upon Administrative Agent's request therefor shall deliver such Collateral to Administrative Agent or in accordance with Administrative Agent's instructions.

Section 9.14. Intercreditor Agreement. Each Lender hereby irrevocably authorizes Administrative Agent to execute and, by such execution, to bind such Lender to the terms of the Intercreditor Agreement and to take all actions (and execute all documents) required (or deemed advisable) by the Administrative Agent in accordance with the terms of the Intercreditor Agreement, and each of the Lenders agrees to be bound by the terms of the Intercreditor Agreement as fully as if a signatory thereto.

ARTICLE X - - - Miscellaneous

Section 10.1. Waivers and Amendments; Acknowledgments.

(a) Waivers and Amendments. No failure or delay (whether by course of conduct or otherwise) by any Lender in exercising any right, power or remedy which such Lender Party may have under any of the Loan Documents shall operate as a waiver thereof or of any other right, power or remedy, nor shall any single or partial exercise by any Lender Party of any such right, power or remedy preclude any other or further exercise thereof or of any other right, power or remedy. No waiver of any provision of any Loan Document and no consent to any departure therefrom shall ever be effective unless it is in writing and signed as provided below in this section, and then such waiver or consent shall be effective only in the specific instances and for the purposes for which given and to the extent specified in such writing. No notice to or demand on any Restricted Person shall in any case of itself entitle any Restricted Person to any other or further notice or demand in similar or other circumstances. This Agreement and the other Loan Documents set forth the entire understanding between the parties hereto with respect to the transactions contemplated herein and therein and supersede all prior discussions and understandings with respect to the subject matter hereof and thereof, and no waiver, consent, release, modification or amendment of or supplement to this Agreement or the other Loan Documents shall be valid or effective against any party hereto unless the same is in writing and signed by (i) if such party is Borrower, by Borrower, (ii) if such party is Administrative Agent, by such party, and (iii) if such party is a Lender, by such Lender or by Administrative Agent on behalf of Lenders with the written consent of Majority Lenders (which consent has already been given as to the termination of the Loan Documents as provided in Section 10.9). Notwithstanding the foregoing or anything to the contrary herein, Administrative Agent shall not, without the prior consent of each individual Lender, execute and deliver on behalf of such Lender any waiver or amendment which would: (1) waive any of the conditions specified in Section 4.1 (provided that Administrative Agent may in its discretion withdraw any request it has made under Section 4.1(a)), (2) increase the maximum amount which such Lender is committed hereunder to lend, (3) reduce any fees payable to such Lender hereunder, or the principal of, or interest on, such Lender's Note, (4) postpone any date fixed for any payment of any such fees, principal or interest, (5) amend the definition herein of "Majority Lenders" or "Required Lenders" or otherwise change the aggregate amount of Percentage Shares which is required for Administrative Agent, Lenders or any of them to take any particular action under the Loan Documents, (6) amend the definition of "Maximum Credit Amount" to mean an amount higher than $140,000,000, (7) release Borrower from its obligation to pay such Lender's Note, or any Guarantor from its guaranty of such payment, (8) release all or substantially all of the Collateral, except for such releases relating to sales or dispositions of property permitted by the Loan Documents, or (9) amend this Section 10.1(a).

(b) Acknowledgments and Admissions. Borrower hereby represents, warrants, acknowledges and admits that (i) it has been advised by counsel in the negotiation, execution and delivery of the Loan Documents to which it is a party, (ii) it has made an independent decision to enter into this Agreement and the other Loan Documents to which it is a party, without reliance on any representation, warranty, covenant or undertaking by Administrative Agent or any Lender, whether written, oral or implicit, other than as expressly set out in this Agreement or in another Loan Document delivered on or after the date hereof, (iii) there are no representations, warranties, covenants, undertakings or agreements by any Lender as to the Loan Documents except as expressly set out in this Agreement or in another Loan Document delivered on or after the date hereof, (iv) no Lender has any fiduciary obligation toward Borrower with respect to any Loan Document or the transactions contemplated thereby, (v) the relationship pursuant to the Loan Documents between Borrower and the other Restricted Persons, on one hand, and each Lender, on the other hand, is and shall be solely that of debtor and creditor, respectively, (vi) no partnership or joint venture exists with respect to the Loan Documents between any Restricted Person and any Lender, (vii) Administrative Agent is not Borrower's Administrative Agent, but Administrative Agent for Lenders, (viii) should a Default occur or exist, each Lender will determine in its sole discretion and for its own reasons what remedies and actions it will or will not exercise or take at that time, (ix) without limiting any of the foregoing, Borrower is not relying upon any representation or covenant by any Lender, or any representative thereof, and no such representation or covenant has been made, that any Lender will, at the time of a Default, or at any other time, waive, negotiate, discuss, or take or refrain from taking any action permitted under the Loan Documents with respect to any such Default or any other provision of the Loan Documents, and (x) all Lender Parties have relied upon the truthfulness of the acknowledgments in this section in deciding to execute and deliver this Agreement and to become obligated hereunder.

(c) Joint Acknowledgment. **THIS WRITTEN AGREEMENT AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES.**

THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

Section 10.2. Survival of Agreements; Cumulative Nature. All Restricted Persons' various representations, warranties, covenants and agreements in the Loan Documents shall survive the execution and delivery of this Agreement and the other Loan Documents and the performance hereof and thereof, including the making or granting of the Loans and the delivery of the Notes and the other Loan Documents, and shall further survive until all of the Obligations are paid in full to each Lender Party and all of Lender Parties' obligations to Borrower are terminated. All statements and agreements contained in any certificate or other instrument delivered by any Restricted Person to any Lender Party under any Loan Document shall be deemed representations and warranties by Borrower or agreements and covenants of Borrower under this Agreement. The representations, warranties, indemnities, and covenants made by Restricted Persons in the Loan Documents, and the rights, powers, and privileges granted to Lender Parties in the Loan Documents, are cumulative, and, except for expressly specified waivers and consents, no Loan Document shall be construed in the context of another to diminish, nullify, or otherwise reduce the benefit to any Lender Party of any such representation, warranty, indemnity, covenant, right, power or privilege. In particular and without limitation, no exception set out in this Agreement to any representation, warranty, indemnity, or covenant herein contained shall apply to any similar representation, warranty, indemnity, or covenant contained in any other Loan Document, and each such similar representation, warranty, indemnity, or covenant shall be subject only to those exceptions which are expressly made applicable to it by the terms of the various Loan Documents.

Section 10.3. Notices; Effectiveness; Electronic Communication.

(a) Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile as follows and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) if to Borrower or any other Restricted Person or Administrative Agent; to the address, facsimile number, electronic mail address or telephone number specified for such person on the signature pages hereto;

(ii) if to any other Lender Party, to it at its address, facsimile number, electronic mail address or telephone number as specified on the Lenders Schedule.

Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). Notices delivered through electronic communications to the extent provided in subsection (b) below, shall be effective as provided in said subsection (b).

(b) Electronic Communications.

(i) Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by Administrative Agent, provided that the foregoing shall not apply to notices to any Lender pursuant to Article II if such Lender has notified Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. Administrative Agent or Borrower or any other Restricted Person may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications.

(ii) Unless Administrative Agent otherwise prescribes, (A) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement); provided that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient, and (B) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (A) of notification that such notice or communication is available and identifying the website address therefor.

(c) Change of Address, Etc. Each of Borrower, any other Restricted Person and Administrative Agent may change its address, facsimile or telephone number for notices and other communications hereunder by notice to the other parties hereto. Each other Lender Party may change its address, facsimile or telephone number for notices and other communications hereunder by notice to Borrower and Administrative Agent.

Section 10.4. Payment of Expenses; Indemnity.

(a) Payment of Expenses. Whether or not the transactions contemplated by this Agreement are consummated, Borrower will promptly (and in any event, within 30 days after any invoice or other statement or notice) pay: (i) all transfer, stamp, documentary or other similar taxes, assessments or charges levied by any governmental or revenue authority in respect of this Agreement or any of the other Loan Documents or any other document or transaction referred to herein or therein, (ii) all reasonable costs and expenses incurred by or on behalf of Administrative Agent (including without limitation attorneys' fees and engineering fees, travel costs and miscellaneous expenses) in connection with (1) the negotiation, preparation, execution and delivery of the Loan Documents, and any and all consents, waivers or other documents or instruments relating thereto, (2) the borrowings hereunder and other action reasonably required in the course of administration hereof, (3) monitoring or confirming (or preparation or negotiation of any document related to) any Restricted Person's compliance with any covenants or conditions contained in this Agreement or in any Loan Document, and (iii) all reasonable costs and expenses incurred by or on behalf of any Lender Party (including without limitation attorneys' fees, consultants' fees and accounting fees) in connection with the preservation of any rights under the Loan Documents or the defense or enforcement of any of the Loan Documents (including this section), any attempt to cure any breach thereunder by any Restricted Person, or the defense of any Lender Party's exercise of its rights thereunder. In addition to the foregoing, until all Obligations have been paid in full, Borrower will also pay or reimburse Administrative Agent for all reasonable out-of-pocket costs and expenses of Administrative Agent or its Administrative Agents or employees in connection with the continuing administration of the Loans and the related due diligence of Administrative Agent, including reasonable travel and miscellaneous expenses and fees and expenses of Administrative Agent's outside counsel, reserve engineers and consultants engaged in connection with the Loan Documents.

(b) Reimbursement by Lenders**.** To the extent that Borrower for any reason fails to indefeasibly pay any amount required under paragraph (a) or (b) of this Section to be paid by it to Administrative Agent (or any sub-agent thereof) or any Related Party of any of the foregoing, each Lender severally agrees to pay to Administrative Agent (or any such sub-agent) or such Related Party, as the case may be, such Lender's Percentage Share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount; provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against Administrative Agent (or any such sub-agent) in its capacity as such, or against any Related Party of any of the foregoing acting for Administrative Agent (or any such sub-agent) in connection with such capacity. The obligations of the Lenders under this paragraph (c) are subject to the provisions of Section 2.18.

(c) **Indemnity. Borrower agrees to indemnify each Lender Party, upon demand, from and against any and all liabilities, obligations, broker's fees, claims, losses, damages, penalties, fines, actions, judgments, suits, settlements, costs, expenses or disbursements (including reasonable fees of attorneys, accountants, experts and advisors) of any kind or nature whatsoever (in this section collectively called "liabilities and costs") which to any extent (in whole or in part) may be imposed on, incurred by, or asserted against such Lender Party growing out of, resulting from or in any other way associated with the Loan Documents and the transactions and events (including the enforcement or defense thereof) at any time associated therewith or contemplated therein (whether arising in contract or in tort or otherwise). Among other things, the foregoing indemnification covers all liabilities and costs incurred by any Lender Party related to any breach of a Loan Document by a Restricted Person, any bodily injury to any Person or damage to any Person's property, or any violation or noncompliance with any Environmental Laws by any Lender Party or any other Person or any liabilities or duties of any Lender Party or any other Person with respect to Hazardous Materials found in or released into the environment.**

THE FOREGOING INDEMNIFICATION SHALL APPLY WHETHER OR NOT SUCH LIABILITIES AND COSTS ARE IN ANY WAY OR TO ANY EXTENT OWED, IN WHOLE OR IN PART, UNDER ANY CLAIM OR THEORY OF STRICT LIABILITY OR CAUSED, IN WHOLE OR IN PART BY ANY NEGLIGENT ACT OR OMISSION OF ANY KIND BY ANY LENDER PARTY;

provided only that no Lender Party shall be entitled under this section to receive indemnification for that portion, if any, of any liabilities and costs which is proximately caused by its own individual gross negligence or willful misconduct, as determined in a final judgment. If any Person (including Borrower or any of its Affiliates) ever alleges such gross negligence or willful misconduct by any Lender Party, the indemnification provided for in this section shall nonetheless be paid upon demand, subject to later adjustment or reimbursement, until such time as a court of competent jurisdiction enters a final judgment as to the extent and effect of the alleged gross negligence or willful misconduct. As used in this section the term "Lender Party" shall refer not only to each Person designated as such in Section 1.1 but also to each director, officer, Administrative Agent, agent, advisor, trustee, attorney, employee, representative and Affiliate of or for such Person.

Section 10.5. Successors and Assigns; Assignments.

(a) Successors and Assigns Generally. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that neither Borrower nor any other Restricted Person may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of Administrative Agent and each Lender, and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an Eligible Assignee in accordance with the provisions of paragraph (b) of this Section, (ii) by way of participation in accordance with the provisions of paragraph (d) of this Section or (iii) by way of pledge or assignment of a security interest subject to the restrictions of paragraph (f) of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in paragraph (d) of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by Lenders. Any Lender may at any time assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of the Loans at the time owing to it); provided that:

(i) except in the case of an assignment of the entire remaining amount of the assigning Lender's Loans at the time owing to it or in the case of an assignment to a Lender or an Affiliate of a Lender or an Approved Fund with respect to a Lender, the principal outstanding balance of the Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to Administrative Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date) shall not be less than $1,000,000;

(ii) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the portion of the Loan assigned;

(iii) any assignment of a Loan (or portion of a Loan) must be approved by Administrative Agent (such approval not to be unreasonably withheld or delayed), unless the Person that is the proposed assignee is itself a Lender with Loans outstanding under this Agreement (whether or not the proposed assignee would otherwise qualify as an Eligible Assignee);

(iv) any assignment of a Loan (or portion of a Loan) must be approved by the Borrower (such approval not to be unreasonably withheld or delayed) unless an Event of Default exists at such time;

(v) the parties to each assignment shall execute and deliver to Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of $3,000, and the Eligible Assignee, if it shall not be a Lender, shall deliver to Administrative Agent an Administrative Questionnaire.

Subject to acceptance and recording thereof by Administrative Agent pursuant to paragraph (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the Eligible Assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Article III and Section 10.4 and Section 10.12 with respect to facts and circumstances occurring prior to the effective date of such assignment. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this paragraph shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (d) of this Section.

(c) Register. Administrative Agent, acting solely for this purpose as an agent of Borrower, shall maintain at one of its offices a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders and the and principal amounts of the Loans owing to each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive, and Borrower, Administrative Agent and the Lenders may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(d) Participations. Any Lender may at any time, without the consent of, or notice to, Borrower or Administrative Agent, sell participations to any Person (other than a natural person or Borrower or any of Borrower's Affiliates or Subsidiaries) (each, a "Participant") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of the Loans owing to it); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) Borrower, Administrative Agent and the Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement.

Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in the fifth sentence of Section 10.1(a) that affects such Participant. Subject to paragraph (e) of this Section, Borrower agrees that each Participant shall be entitled to the benefits of Article III to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 6.14 as though it were a Lender, provided such Participant agrees to be subject to Section 9.6 as though it were a Lender.

(e) Limitations upon Participant Rights. A Participant shall not be entitled to receive any greater payment under Article III than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with Borrower's prior written consent. A Participant that would be a Foreign Lender if it were a Lender shall not be entitled to the benefits of Section 3.5 unless Borrower is notified of the participation sold to such Participant and such Participant agrees, for the benefit of Borrower, to comply with Section 3.5(e) as though it were a Lender.

(f) Certain Pledges. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

Section 10.6. Confidentiality. Each Lender Party agrees to keep confidential any information furnished or made available to it by any Restricted Person pursuant to this Agreement that is marked confidential; provided that nothing herein shall prevent any Lender Party from disclosing such information (a) to any other Lender Party or any Affiliate of any Lender Party, or any officer, director, employee, Administrative Agent, or advisor of any Lender Party or Affiliate of any Lender Party, (b) to any other Person if reasonably incidental to the administration of the credit facility provided herein, (c) as required by any Law, (d) upon the order of any court or administrative agency, (e) upon the request or demand of any Governmental Authority, (f) that is or becomes available to the public or that is or becomes available to any Lender Party other than as a result of a disclosure by any Lender Party prohibited by this Agreement, (g) in connection with any litigation to which such Lender Party or any of its Affiliates may be a party; provided that such Lender Party makes reasonable efforts to obtain from the applicable court protective orders or similar confidential procedures protecting such confidential information, (h) to the extent necessary in connection with the exercise of any right or remedy under this Agreement or any other Loan Document, and (i) subject to provisions substantially similar to those contained in this section, to (1) any actual or proposed participant or assignee or (2) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to Borrower and its obligations.

Section 10.7. Governing Law; Submission to Process. Except to the extent that the law of another jurisdiction is expressly elected in a Loan Document, the Loan Documents shall be deemed contracts and instruments made under the laws of the State of California and shall be construed and enforced in accordance with and governed by the laws of the State of California and the laws of the United States of America, without regard to principles of conflicts of law. Borrower hereby irrevocably submits itself to the non-exclusive jurisdiction of the state and federal courts sitting in the Northern District of California for the United States District Court and agrees and consents that service of process may be made upon it in any legal proceeding relating to the Loan Documents or the Obligations by any means allowed under California or federal law.

Section 10.8. Limitation on Interest. Lender Parties, Restricted Persons and the other parties to the Loan Documents intend to contract in strict compliance with applicable usury Law from time to time in effect. In furtherance thereof such persons stipulate and agree that none of the terms and provisions contained in the Loan Documents shall ever be construed to provide for interest in excess of the maximum amount of interest permitted to be contracted for, charged, or received by applicable Law from time to time in effect. Neither any Restricted Person nor any present or future guarantors, endorsers, or other Persons hereafter becoming liable for payment of any Obligation shall ever be liable for unearned interest thereon or shall ever be required to pay interest thereon in excess of the maximum amount that may be lawfully contracted for, charged, or received under applicable Law from time to time in effect, and the provisions of this section shall control over all other provisions of the Loan Documents which may be in conflict or apparent conflict herewith.

Section 10.9. Termination; Limited Survival. In its sole and absolute discretion Borrower may, at any time that no Obligations are owing, elect in a written notice delivered to Administrative Agent to terminate this Agreement. Upon receipt by Administrative Agent of such a notice, if no Obligations are then owing, this Agreement and all other Loan Documents shall thereupon be terminated and the parties thereto released from all prospective obligations thereunder, except as otherwise provided in such Loan Documents. Notwithstanding the foregoing or anything herein to the contrary, any waivers or admissions made by any Restricted Person in any Loan Document, any Obligations under Sections 3.2 through Section 3.5, any obligations which any Person may have to indemnify or compensate any Lender Party and the provisions of Article IX and Section 10.1(a) with respect to any Security Documents which remain in effect after the termination of this Agreement, shall survive any termination of this Agreement or any other Loan Document. At the request and expense of Borrower, Administrative Agent shall prepare and execute all necessary instruments to reflect and effect such termination of the Loan Documents. Administrative Agent is hereby authorized to execute all such instruments on behalf of all Lenders, without the joinder of or further action by any Lender.

Section 10.10. Severability. If any term or provision of any Loan Document shall be determined to be illegal or unenforceable all other terms and provisions of the Loan Documents shall nevertheless remain effective and shall be enforced to the fullest extent permitted by applicable Law.

Section 10.11. Counterparts; Fax. This Agreement may be separately executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to constitute one and the same Agreement. This Agreement and the Loan Documents may be validly executed and delivered by facsimile or other electronic transmission.

SECTION 10.12. WAIVER OF JURY TRIAL, PUNITIVE DAMAGES, ETC. BORROWER AND EACH LENDER PARTY HEREBY KNOWINGLY, VOLUNTARILY, INTENTIONALLY, AND IRREVOCABLY (A) WAIVES, TO THE MAXIMUM EXTENT NOT PROHIBITED BY LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR DIRECTLY OR INDIRECTLY AT ANY TIME ARISING OUT OF, UNDER OR IN CONNECTION WITH THE LOAN DOCUMENTS OR ANY TRANSACTION CONTEMPLATED THEREBY OR ASSOCIATED THEREWITH, BEFORE OR AFTER MATURITY; (B) WAIVES, TO THE MAXIMUM EXTENT NOT PROHIBITED BY LAW, ANY RIGHT IT MAY HAVE TO CLAIM OR RECOVER IN ANY SUCH LITIGATION ANY "SPECIAL DAMAGES", AS DEFINED BELOW, (C) CERTIFIES THAT NO PARTY HERETO NOR ANY REPRESENTATIVE OR ADMINISTRATIVE AGENT OR COUNSEL FOR ANY PARTY HERETO HAS REPRESENTED, EXPRESSLY OR OTHERWISE, OR IMPLIED THAT SUCH PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVERS, AND (D) ACKNOWLEDGES THAT IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT, THE OTHER LOAN DOCUMENTS AND THE TRANSACTIONS CONTEMPLATED HEREBY AND THEREBY BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS CONTAINED IN THIS SECTION. AS USED IN THIS SECTION, "SPECIAL DAMAGES" INCLUDES ALL SPECIAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES (REGARDLESS OF HOW NAMED), BUT DOES NOT INCLUDE ANY PAYMENTS OR FUNDS WHICH ANY PARTY HERETO HAS EXPRESSLY PROMISED TO PAY OR DELIVER TO ANY OTHER PARTY HERETO. NO "ADMINISTRATIVE AGENT" REFERRED TO IN 10.4 ABOVE, AND NO "LENDER PARTY" REFERRED TO IN SECTION 10.4 ABOVE, SHALL BE LIABLE FOR ANY DAMAGES ARISING FROM THE USE BY UNINTENDED RECIPIENTS OF ANY INFORMATION OR OTHER MATERIALS DISTRIBUTED BY IT THROUGH TELECOMMUNICATIONS, ELECTRONIC OR OTHER INFORMATION TRANSMISSION SYSTEMS IN CONNECTION WITH THIS AGREEMENT OR THE OTHER LOAN DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.

Section 10.13. Controlling Agreement. In the event of a conflict between the provisions of this Agreement and those of any other Loan Document (other than the Intercreditor Agreement), the provisions of this Agreement shall control. Each Lender acknowledges that the Intercreditor Agreement provides certain rights to the First Lien Agent and the First Lien Lenders and agrees that in the event of any conflict between the provisions of this Agreement and the Security Documents on the one hand and the Intercreditor Agreement on the other hand, the Intercreditor Agreement shall control.

Section 10.14. Disposition of Collateral. Notwithstanding any term or provision, express or implied, in any of the Security Documents, but subject to applicable provisions of this Agreement and the Intercreditor Agreement, the realization, liquidation, foreclosure, or any other disposition on or of any or all of the Collateral shall be in the order and manner and determined in the sole discretion of the Administrative Agent; provided, however, that in no event shall the Administrative Agent violate applicable Law or exercise rights and remedies other than those provided in such Security Documents or otherwise existing at Law or in equity.

Section 10.15. USA Patriot Act Notice. Each Lender hereby notifies the Borrower that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (as used in this section, the "USA Patriot Act"), it is required to obtain, verify and record information that identifies the Borrower and its Subsidiaries, which information includes the name and address of the Borrower and its Subsidiaries and other information that will allow such Lender to identify the Borrower and its Subsidiaries in accordance with the USA Patriot Act.

[*Signatures Pages Follow*]

IN WITNESS WHEREOF, this Agreement is executed as of the date first written above.

BERRY PETROLEUM COMPANY,
Borrower

By: /s/ David D. Wolf
David D. Wolf
Executive Vice President and
Chief Financial Officer

Address:

1999 Broadway, Suite 3700
Denver, Colorado 80202
Attention: David D. Wolf

Telephone: (303) 999-4400
Fax: (303) 999-4401
Email: ddw@bry.com

WELLS FARGO ENERGY CAPITAL, INC., as Administrative Agent and Lender

By: /s/ Michael Nepveux
Michael Nepveux
Senior Vice President

Address:

1000 Louisiana St., 9th Floor
Houston, TX 77002
Attention: Bryan McDavid

Telephone: (713) 319-1611
Fax: (713) 652-5874
Email: Bryan.M.McDavid@wellsfargo.com

[Signature Page to Second Lien Credit Agreement]

THE ROYAL BANK OF SCOTLAND plc, Lender

By: /s/ Lucy Walker
Name: Lucy Walker
Title: Vice President

[Signature Page to Second Lien Credit Agreement]

CALYON NEW YORK BRANCH, Lender

By: /s/ Dennis E. Petito
Name: Dennis E. Petito
Title: Managing Director

By: /s/ Tom Byargeon
Name: Tom Byargeon
Title: Managing Director

[Signature Page to Second Lien Credit Agreement]

SOCIÉTÉ GÉNÉRALE, Lender

By: /s/ Stephen D. Warfel
Name: Stephen D. Warfel
Title: Managing Director

[Signature Page to Second Lien Credit Agreement]

UNIONBANCAL EQUITIES, INC., Lender

By: /s/ Ted McNulty
Name: Ted McNulty
Title: Senior Vice President

By: /s/ John W. Schmidt
Name: John W. Schmidt
Title: Vice President

[Signature Page to Second Lien Credit Agreement]

SCHEDULE 1

LENDERS SCHEDULE

LENDER	PERCENTAGE SHARE	COMMITMENT
Wells Fargo Energy Capital, Inc.	28.57%	$40,000,000
The Royal Bank of Scotland, plc	28.57%	$40,000,000
Calyon New York Branch	17.86%	$25,000,000
Societe Generale	14.29%	$20,000,000
UnionBanCal Equities, Inc.	10.71%	$15,000,000
TOTAL	**100.00%**	**$140,000,000**

[Lender Schedule to Second Lien Credit Agreement]

SCHEDULE 2

INSURANCE SCHEDULE

See attached.

SCHEDULE 3

SECURITY SCHEDULE

1. Security Agreement of even date herewith from Borrower to Administrative Agent for the benefit of Lenders (the "Security Agreement").

2. Deed of Trust Assignment, Security Agreement, Fixture Filing and Financing Statement of even date herewith from Borrower to Administrative Agent for the benefit of Lenders covering properties located in California (the "California Deed of Trust").

3. Deed of Trust Assignment, Security Agreement, Fixture Filing and Financing Statement of even date herewith from Borrower to Administrative Agent for the benefit of Lenders covering properties located in Texas (the "Texas Deed of Trust").

4. Deed of Trust Assignment, Security Agreement, Fixture Filing and Financing Statement of even date herewith from Borrower to Administrative Agent for the benefit of Lenders covering properties located in Utah (the "Utah Deed of Trust").

DRILLING RIGS PERMITTED TO BE SOLD

UNDER SECTION 7.5(e)

RIG 1

MAST: Lee C. Moore 127'H x 13'6"W Cantilever Mast 236,000# Hook Load Capacity
SUBSTRUCTURE: Gee Bee Welding 12' 6"H x 38'L Box Type Sub 250,000# Setback
DRAWWORKS: Superior 400 HP Drawworks, Lebus 1 1/8" Line, TSM 22S Water Brake, Crown-O-Matic Hydraulic Catheads.
ENGINE: (New) Detroit Series 60 450 HP Diesel Engine.
MUD PUMPS: (2) Gardner Denver PZ8 Triplex Pumps p/b (New) Detroit Series 2000 Engines
GENERATORS: (2) Caterpillar SR-4 210 KW p/b (1) Caterpillar 3306 and (1) Caterpillar 3406 Diesel Engines
BLOCK / HOOK: Sowa Model 0636-4 150-Ton w/ (4) 36" Sheaves
ROTARY TABLE: National C-175, 17 1/2"
SWIVEL: Ideco TL200
BOP RAMS: (New) Townsend 11" Double 3,000 PSI
BOP ANNULAR: (New) Townsend 11" 3,000 Type 90 Annular
CHOKE MANIFOLD: (New) 3,000#
CLOSING UNIT: Mayco Electric 5-Station
MUD PIT: (New) 6' 6"H x 11'W x 45'L 570 BBL (5) Compartments, Swaco Linear Motion Shaker (2) Mission Magnum Mixing Pumps, 7.5 HP Mud Agitator, Degasser, Mud Hopper Mud Guns, Walkways and Rails.
FUEL TANK: 5,000 Gallons
WATER TANK: 400 BBL
DOGHOUSE: 9'W x 16'L
DRILL PIPE: 8,000 FT (New) 4.5" E 16.60#
DRILL COLLARS: (26) (New) 6 1/2" (12) (New) 8"
SPINNERS: (New) Graychain Hyd Drill Pipe Spinner, Foster Kelly Spinner

RIG 5

DRAWWORKS: One (1) Cooper LTO-550 Single Drum
CARRIER: Cooper LTO-550 Self Propelled
ENGINE: One (1) Detroit Series 60
MAST: One (1) Premco 112', 300,000# Static Hook Load Mast w/(6) Sheave Crown and Racking Board,
SUBSTRUCTURE: One (1) 10'H Box Type Substucture w/ Mud Boat Ramp 5'H x 30'L V-Door, Stairs & Safety Rails
MUD PUMPS: Two (2) Gardner-Denver PZ-8 Triplex
ENGINES: Two (2) (New) Detroit Series 60
GENERATORS: One (2) Detroit Series 60 Diesel Engines w/Marathon 350KW
BLOCK / HOOK: One (1) McKissick 150-Ton
ROTARY TABLE: One (1) Cooper 27-1/2" Rotary Table w/Master Bushing,
SWIVEL: One (1) Gardner-Denver SW-200 200-Ton
BOP RAMS: One (1) Townsend 11' 3000 PSI Double
BOP ANNULAR: One (1) Townsend 11" 3,000 PSI
CHOKE MANIFOLD: 3,000 PSI
MUD PITS: (New) 800 BBL
SHALE SHAKER: (New) Derrick Linear Motion Shaker
DESANDER: One (1) Mud Cleaner c/w 8 each Desilter Cones
FUEL TANK: One (1) 6000 gallon
WATER TANK: One (1) 280 bbl

DOGHOUSE: One (1) Dog House 8' x 8' x 16'
DRILL PIPE: 6000 FT 4” E 14.40#
DRILL COLLARS: (16) 6 1/2"
MISCELLANEOUS: Pipe Spinner, Kelly Spinner, and Miscellaneous Handling Tools

RIG 9

DRAWWORKS: Gardner Denver 1000 HP Electric Drawworks w/ (2) 600 HP Electric Motors.
MAST: Partec 136’ Boot Strap, Rated 480,000# Static Hook Load Capacity.
SUBSTRUCTURE: Partec 21’ Box Substructure w/ 4’ Skid Structure, 80’ Long.
GENERATORS: (3) (New) Detroit Series 2000 Diesel Engines w/600 Volt Generators for SCR.
SCR: (1) (New) Omron 3x3
TOP DRIVE: (New) Tesco 250T A/C Drive
MUD PUMPS: (2) (New) 1300 HP China F1300 Triplex, Belt Driven w/ (2) GE 752 Hi torque motors.
ROTARY TABLE: Rebuilt National 23”
SWIVEL: Rebuilt Gardner Denver 300 Ton
BLOCK/HOOK: Rebuilt Gardner Denver 300 Ton unitized
BOP RAMS: (New) China 11’ 5000# Double Ram BOP
BOP ANNULAR: (New) China 11’ 5000# Annular
CHOKE MANIFOLD: 5000# Choke Manifold
CLOSING UNIT: (New) 5 Station 110 Gallon Closing Unit
MUD SYSTEM: (New) 800 BBL Mud System w/ 6 x 8 centrifugal mixing pumps, low pressure mixing guns, shaker, agitators.
SHALE SHAKER: (2) (New) Derrick Linear Motion Shale Shaker
FUEL TANK: (New) 12,000 gallon
WATER TANK: (New) 500 BBL
DOGHOUSE: (New) 10' x 8' x 30'
DRILL PIPE: 13,000’ (New) 4.5” G105 16.60#
DRILL COLLARS: (21) New 6.5"
MISCELLANEOUS: Toolpusher’s quarters, Catwalk, Six (6) Pipe Racks, Pipe Spinner, Kelly Spinner, and Miscellaneous Handling Tools.

SCHEDULE 5

ADDRESSES OF LENDERS FOR NOTICES

WELLS FARGO ENERGY CAPITAL, INC.
1000 Louisiana St., 9th Floor
Houston, TX 77002
Attention: Bryan McDavid
Tel: 713-319-1611
Fax: 713-652-5874
Email: Bryan.M.McDavid@wellsfargo.com

THE ROYAL BANK OF SCOTLAND plc
101 Park Avenue – 6th Floor
New York, New York 10178
Attention: Claudio R. Truglia
Tel: 203.971.7658
Fax: 212.401.1494
Email: claudio.truglia@rbs.com

600 Travis Street, Suite 6500
Houston, TX 77002
Attention: Mark Lumpkin, Jr.
Tel: 713.221.2419
Fax: 713.221.2428
Email: mark.lumpkin@RBS.com

CALYON NEW YORK BRANCH
1301 Travis Suite 2100
Houston, TX 77002
Attention: Mark Roche
Tel: 713-890-8617
Fax: 713-890-8668
Email: mark.roche@us.calyon.com

1301 Avenue of the Americas
New York, NY 10019
Attention: Gener David
Tel: 212-261-7741
Fax: 917-849-5440
Email: gener.david@us.calyon.com

SOCIÉTÉ GÉNÉRALE
1111 Bagby, Suite 2020
Houston, Texas 77002
Attention: Josh Rogers
Tel: 713.759.6315
Fax: 713.650.0824
Email: josh.rogers@us.socgen.com

UNIONBANCAL EQUITIES, INC.
445 S. Figueroa Street, 21st Floor
Los Angeles, CA 90071
Attention: Ted McNulty
Tel: 213-236-4224
Fax: 213-236-7619
Email: ted.mcnulty@uboc.com

EXHIBIT A

PROMISSORY NOTE

[_____], 2009

FOR VALUE RECEIVED, the undersigned, Berry Petroleum Company, a Delaware corporation (herein called "Borrower"), hereby promises to pay to the order of [_____] (herein called "Lender"), the principal sum equal to the amount of such Lender's Commitment, or, if less, the aggregate unpaid principal amount of the Loans made under this Note by Lender to Borrower pursuant to the terms of the Credit Agreement (as hereinafter defined), together with interest on the unpaid principal balance thereof as hereinafter set forth, both principal and interest payable as herein provided in lawful money of the United States of America at the offices of Administrative Agent under the Credit Agreement, 1740 Broadway, 4th Floor, Denver, Colorado 80274, or at such other place as from time to time may be designated by the holder of this Note.

This Note (a) is issued and delivered under that certain Second Lien Credit Agreement of even date herewith among Borrower, Wells Fargo Energy Capital, Inc., as Administrative Agent, and the lenders (including Lender) referred to therein (herein, as from time to time supplemented, amended or restated, called the "Credit Agreement"), and is a "Note" as defined therein, (b) is subject to the terms and provisions of the Credit Agreement, which contains provisions for payments and prepayments hereunder and acceleration of the maturity hereof upon the happening of certain stated events, and (c) is secured by and entitled to the benefits of certain Security Documents (as identified and defined in the Credit Agreement). Payments of principal and interest on this Note shall be made and applied as provided herein and in the Credit Agreement. Reference is hereby made to the Credit Agreement for a description of certain rights, limitations of rights, obligations and duties of the parties hereto and for the meanings assigned to terms used and not defined herein and to the Security Documents for a description of the nature and extent of the security thereby provided and the rights of the parties thereto.

The principal amount of this Note, together with all interest accrued hereon, shall be due and payable in full on the Maturity Date.

If this Note is placed in the hands of an attorney for collection after default, or if all or any part of the indebtedness represented hereby is proved, established or collected in any court or in any bankruptcy, receivership, debtor relief, probate or other court proceedings, Borrower and all endorsers, sureties and guarantors of this Note jointly and severally agree to pay reasonable attorneys' fees and collection costs to the holder hereof in addition to the principal and interest payable hereunder.

Borrower and all endorsers, sureties and guarantors of this Note hereby severally waive demand, presentment, notice of demand and of dishonor and nonpayment of this Note, protest, notice of protest, notice of intention to accelerate the maturity of this Note, declaration or notice of acceleration of the maturity of this Note, diligence in collecting, the bringing of any suit against any party and any notice of or defense on account of any extensions, renewals, partial payments or changes in any manner of or in this Note or in any of its terms, provisions and covenants, or any releases or substitutions of any security, or any delay, indulgence or other act of any trustee or any holder hereof, whether before or after maturity.

This Note and the rights and duties of the parties hereto shall be governed by the Laws of the State of California (without regard to principles of conflicts of law), except to the extent the same are governed by applicable federal Law.

BERRY PETROLEUM COMPANY

By: _____
Name:
Title:

[Exhibit A to Second Lien Credit Agreement]

EXHIBIT B

BORROWING NOTICE

Reference is made to that certain Second Lien Credit Agreement dated as of [_____], 2009 (as from time to time amended, the "Agreement"), by and among Berry Petroleum Company ("Borrower"), Wells Fargo Energy Capital, Inc., as Administrative Agent, and certain financial institutions ("Lenders"). Terms which are defined in the Agreement are used herein with the meanings given them in the Agreement. Pursuant to the terms of the Agreement, Borrower hereby requests a borrowing of Loans to be advanced pursuant to Section 2.2 of the Agreement as follows:

Aggregate amount of borrowing:	$_____
Type of Loans in borrowing:	_____
Date on which Loans are to be advanced:	_____
Length of Interest Period for Eurodollar Loans (1, 2, 3, 6, 9 or 12 months):	_____months

To induce Lenders to make such Loans, Borrower hereby represents, warrants, acknowledges, and agrees to and with Administrative Agent and each Lender that:

(a) The officer of Borrower signing this instrument is the duly elected, qualified and acting officer of Borrower as indicated below such officer's signature hereto having all necessary authority to act for Borrower in making the request herein contained.

(b) The representations and warranties of Borrower set forth in the Agreement and the other Loan Documents are true and correct in all material respects on and as of the date hereof as if such representations and warranties have been made as of the date hereof, except to the extent that such representations or warranties were made as of a specific date or updated, modified or supplemented as of a subsequent date with the consent of Required Lenders and Administrative Agent, in which case such representations and warranties shall have been true and correct in all material respects on and of such date.

(c) There does not exist on the date hereof any condition or event which constitutes a Default which has not been waived in writing as provided in Section 10.1(a) of the Agreement; nor will any such Default exist upon Borrower's receipt and application of the Loans requested hereby. Borrower will use the Loans hereby requested in compliance with Section 2.4 of the Agreement.

(d) Except to the extent waived in writing as provided in Section 10.1(a) of the Agreement, Borrower has performed and complied with all agreements and conditions in the Agreement required to be performed or complied with by Borrower on or prior to the date hereof, and each of the conditions precedent to Loans contained in the Agreement remains satisfied.

(e) The Loans requested hereby are not in excess of the Aggregate Commitments.

(f) The Loan Documents have not been modified, amended or supplemented by any unwritten representations or promises, by any course of dealing, or by any other means not provided for in Section 10.1(a) of the Agreement. The Agreement and the other Loan Documents are hereby ratified, approved, and confirmed in all respects.

The officer of Borrower signing this instrument hereby certifies that, to the best of his knowledge after due inquiry, the above representations, warranties, acknowledgments, and agreements of Borrower are true, correct and complete.

IN WITNESS WHEREOF, this instrument is executed as of [_____], 2009.

BERRY PETROLEUM COMPANY

By: _____
Name:
Title:

EXHIBIT C

CONTINUATION/CONVERSION NOTICE

Reference is made to that certain Second Lien Credit Agreement dated as of [_____], 2009 (as from time to time amended, the "Agreement"), by and among Berry Petroleum Company ("Borrower"), Wells Fargo Energy Capital, Inc., as Administrative Agent, and the lenders referred to therein ("Lenders"). Terms which are defined in the Agreement are used herein with the meanings given them in the Agreement.

Borrower hereby requests a Conversion or Continuation of existing Loans pursuant to Section 2.3 of the Agreement as follows:

Existing Loan(s) to be continued or converted:

$_____ of Eurodollar Loans with Interest Period ending _____

$_____ of Base Rate Loans

Aggregate amount of borrowing: $_____

Type of Loans in new borrowing: _____

Date of Continuation or Conversion: _____

Length of Interest Period for Eurodollar Loans (1, 2, 3, 6, 9 or 12 months): _____months

To meet the conditions set out in the Agreement for such Conversion/Continuation, Borrower hereby represents, warrants, acknowledges, and agrees to and with Administrative Agent and each Lender that:

(a) The officer of Borrower signing this instrument is the duly elected, qualified and acting officer of Borrower as indicated below such officer's signature hereto having all necessary authority to act for Borrower in making the request herein contained.

(b) There does not exist on the date hereof any condition or event which constitutes a Default which has not been waived in writing as provided in Section 10.1(a) of the Agreement.

(c) The Loan Documents have not been modified, amended or supplemented by any unwritten representations or promises, by any course of dealing, or by any other means not provided for in Section 10.1(a) of the Agreement. The Agreement and the other Loan Documents are hereby ratified, approved, and confirmed in all respects.

The officer of Borrower signing this instrument hereby certifies that, to the best of his knowledge after due inquiry, the above representations, warranties, acknowledgments, and agreements of Borrower are true, correct and complete.

IN WITNESS WHEREOF this instrument is executed as of [_____], 20__.

BERRY PETROLEUM COMPANY

By: _____
Name:
Title:

EXHIBIT D

CERTIFICATE ACCOMPANYING
FINANCIAL STATEMENTS

Reference is made to that certain Second Lien Credit Agreement dated as of [_____], 2009 (as from time to time amended, the "Agreement"), by and among Berry Petroleum Company ("Borrower"), Wells Fargo Energy Capital, Inc., as Administrative Agent, and certain financial institutions ("Lenders"), which Agreement is in full force and effect on the date hereof. Terms which are defined in the Agreement are used herein with the meanings given them in the Agreement.

This Certificate is furnished pursuant to Section 6.2(b) of the Agreement. Together herewith Borrower is furnishing to Administrative Agent and each Lender Borrower's *[audited/unaudited] financial statements (the "Financial Statements") as at _____ (the "Reporting Date"). Borrower hereby represents, warrants, and acknowledges to Administrative Agent and each Lender that:

(a) the officer of Borrower signing this instrument is the duly elected, qualified and acting _____ of Borrower and as such is Borrower's Chief Financial Officer;

(b) the Financial Statements are accurate and complete and satisfy the requirements of the Agreement;

(c) attached hereto is a schedule of calculations showing Borrower's compliance as of the Reporting Date with the requirements of Section 7.11, Section 7.12, Section 7.13 and Section 7.14 of the Agreement *[and Borrower's non-compliance as of such date with the requirements of Section(s) _____ of the Agreement];

(d) on the Reporting Date Borrower was, and on the date hereof Borrower is, in full compliance with the disclosure requirements of Section 6.4 of the Agreement, and no Default otherwise existed on the Reporting Date or otherwise exists on the date of this instrument *[except for Default(s) under Section(s) _____ of the Agreement, which *[is/are] more fully described on a schedule attached hereto].

(e) *[Unless otherwise disclosed on a schedule attached hereto,] The representations and warranties of Borrower set forth in the Agreement and the other Loan Documents are true and correct in all material respects on and as of the date hereof as if such representations and warranties have been made as of the date hereof, except to the extent that such representations or warranties were made as of a specific date or updated, modified or supplemented as of a subsequent date with the consent of Required Lenders and Administrative Agent, in which case such representations and warranties shall have been true and correct in all material respects on and of such date.

The officer of Borrower signing this instrument hereby certifies that he has reviewed the Loan Documents and the Financial Statements and has otherwise undertaken such inquiry as is in his opinion necessary to enable him to express an informed opinion with respect to the above representations, warranties and acknowledgments of Borrower and, to the best of his knowledge, such representations, warranties, and acknowledgments are true, correct and complete.

[Exhibit D to Second Lien Credit Agreement]

IN WITNESS WHEREOF, this instrument is executed as of _____, 20__.

BERRY PETROLEUM COMPANY

By: _____
Name:
Title:

[Exhibit D to Second Lien Credit Agreement]

EXHIBIT E

OPINION OF COUNSEL FOR RESTRICTED PERSONS

[Exhibit E to Second Lien Credit Agreement]

EXHIBIT F

ASSIGNMENT AND ASSUMPTION

This Assignment and Assumption (this "Assignment and Assumption") is dated as of the Effective Date set forth below and is entered into by and between [*Insert name of Assignor*] (the "Assignor") and [*Insert name of Assignee*] (the "Assignee"). Capitalized terms used but not defined herein shall have the meanings given to them in the Credit Agreement identified below (as from time to time amended, the "Credit Agreement"). The Standard Terms and Conditions set forth in Annex 1 attached hereto are hereby agreed to and incorporated herein by reference and made a part of this Assignment and Assumption as if set forth herein in full. The Assignee hereby acknowledges receipt of copies of the Credit Agreement and the Intercreditor Agreement identified below.

For an agreed consideration, the Assignor hereby irrevocably sells and assigns to the Assignee, and the Assignee hereby irrevocably purchases and assumes from the Assignor, subject to and in accordance with the Standard Terms and Conditions attached hereto as Annex 1 and the Credit Agreement, as of the Effective Date inserted by Administrative Agent as contemplated below (i) all of the Assignor's rights and obligations in its capacity as a Lender under the Credit Agreement and any other documents or instruments delivered pursuant thereto to the extent related to the amount and percentage interest identified below of all of such outstanding rights and obligations of the Assignor under the respective facilities identified below (including, without limitation, the Letters of Credit or guarantees included in such facilities) and (ii) to the extent permitted to be assigned under applicable law, all claims, suits, causes of action and any other right of the Assignor (in its capacity as a Lender) against any Person, whether known or unknown, arising under or in connection with the Credit Agreement, any other documents or instruments delivered pursuant thereto or the loan transactions governed thereby or in any way based on or related to any of the foregoing, including, but not limited to, contract claims, tort claims, malpractice claims, statutory claims and all other claims at law or in equity related to the rights and obligations sold and assigned pursuant to clause (i) above (the rights and obligations sold and assigned pursuant to clauses (i) and (ii) above being referred to herein collectively as, the "Assigned Interest"). Such sale and assignment is without recourse to the Assignor and, except as expressly provided in this Assignment and Assumption, without representation or warranty by the Assignor.

1. Assignor: _____

2. Assignee: _____ [and is an Affiliate/Approved Fund of [*identify Lender*]]

3. Borrower: Berry Petroleum Company

4. Administrative Agent: Wells Fargo Energy Capital, Inc., as Administrative Agent under the Credit Agreement

5. Credit Agreement: Second Lien Credit Agreement dated as of [_____], 2009, by and among Borrower, Administrative Agent, and certain financial institutions ("Lenders")

6. Assigned Interest:

Aggregate Amount of Commitment/Loans for all Lenders*	Amount of Commitment/Loans Assigned	Percentage Assigned of Commitment/Loans
$_____	$_____	_____%
$_____	$_____	_____%
$_____	$_____	_____%

[7. Trade Date: _____]

8. Intercreditor Agreement: Intercreditor Agreement, dated as of [_____], 2009, by and among Administrative Agent and Wells Fargo Bank, National Association, as administrative agent under the First Lien Credit Agreement.

Effective Date: _____, 20__ [TO BE INSERTED BY ADMINISTRATIVE AGENT AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER IN THE REGISTER THEREFOR.]

The terms set forth in this Assignment and Assumption are hereby agreed to:

ASSIGNOR
[NAME OF ASSIGNOR]

By: _____
Name:
Title:

ASSIGNEE
[NAME OF ASSIGNEE]

By: _____
Name:
Title:

[Consented to and] Accepted:

WELLS FARGO ENERGY CAPITAL, INC.,
as Administrative Agent

By: _____
Name:
Title:

[Consented to:]

By: _____
Name:
Title:

[Exhibit F to Second Lien Credit Agreement]

ANNEX 1 TO ASSIGNMENT AND ASSUMPTION

STANDARD TERMS AND CONDITIONS FOR

ASSIGNMENT AND ASSUMPTION

1. Representations and Warranties.

1.1. Assignor. The Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of the Assigned Interest, (ii) the Assigned Interest is free and clear of any lien, encumbrance or other adverse claim and (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby; and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the Credit Agreement or any other Loan Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Documents or any collateral thereunder, (iii) the financial condition of Borrower, any of its Subsidiaries or Affiliates or any other Person obligated in respect of any Loan Document or (iv) the performance or observance by Borrower, any of its Subsidiaries or Affiliates or any other Person of any of their respective obligations under any Loan Document.

1.2. Assignee. The Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) it meets all requirements of an Eligible Assignee under the Credit Agreement (subject to receipt of such consents as may be required under the Credit Agreement), (iii) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement as a Lender thereunder and, to the extent of the Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it has received a copy of the Credit Agreement, together with copies of the most recent financial statements delivered pursuant to Section 6.2(a) and (b) thereof, as applicable, and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption and to purchase the Assigned Interest on the basis of which it has made such analysis and decision independently and without reliance on Administrative Agent or any other Lender, and (v) if it is a Foreign Lender, attached to the Assignment and Assumption is any documentation required to be delivered by it pursuant to the terms of the Credit Agreement, duly completed and executed by the Assignee; and (b) agrees that (i) it will, independently and without reliance on Administrative Agent, the Assignor or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Loan Documents, and (ii) it will perform in accordance with their terms all of the obligations which by the terms of the Loan Documents are required to be performed by it as a Lender.

2. Payments. From and after the Effective Date, Administrative Agent shall make all payments in respect of the Assigned Interest (including payments of principal, interest, fees and other amounts) to the Assignor for amounts which have accrued to but excluding the Effective Date and to the Assignee for amounts which have accrued from and after the Effective Date.

3. General Provisions. This Assignment and Assumption shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. This Assignment and Assumption may be executed in any number of counterparts, which together shall constitute one instrument. Delivery of an executed counterpart of a signature page of this Assignment and Assumption by telecopy shall be effective as delivery of a manually executed counterpart of this Assignment and Assumption. This Assignment and Assumption shall be governed by, and construed in accordance with, the law of the State of California.

EXHIBIT G

DISCLOSURE LETTER

[Exhibit G to Second Lien Credit Agreement]

Exhibit 31.1

Certification of Chief Executive Officer
Pursuant to Section 302 of Sarbanes Oxley Act of 2002

I, Robert F. Heinemann, President, Chief Executive Officer and Director certify that:

1. I have reviewed this report on Form 10-Q of Berry Petroleum Company (the Company);

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the Company as of, and for, the periods presented in this report;

4. The Company's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a - 15(e) and 15d - (e) and internal control over financial reporting (as defined in Exchange Act Rules 13a - 15(f) and 15d - 15(f)) for the Company and have:

   a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Company is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designated under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   c) evaluated the effectiveness of the Company's disclosure controls and procedures and presented in this report our conclusions abut the effectiveness of the disclosure controls and procedures as of the end of the period covered by this report based on such evaluation; and

   d) disclosed in this report any change in the Company's internal control over financial reporting that occurred during the Company's most recent fiscal quarter that has materially affected or is reasonably likely to materially affect the Company's internal control over financial reporting.

5. The Company's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the Company's auditors and the audit committee of the Company's board of directors:

   a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Company's ability to record, process, summarize and report financial information and have identified for the registrant's auditors any material weaknesses in internal controls; and

   b) any fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal controls over financial reporting.

/s/Robert F. Heinemann
Robert F. Heinemann
President, Chief Executive Officer and Director

April 30, 2009

Exhibit 31.2

Certification of Chief Financial Officer

Pursuant to Section 302 of Sarbanes Oxley Act of 2002

I, David D. Wolf, Executive Vice President and Chief Financial Officer, certify that:

1. I have reviewed this report on Form 10-Q of Berry Petroleum Company (the Company);

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the Company as of, and for, the periods presented in this report;

4. The Company's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a - 15(e) and 15d - (e) and internal control over financial reporting (as defined in Exchange Act Rules 13a - 15(f) and 15d - 15(f)) for the Company and have:

   a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the Company is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designated under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   c) evaluated the effectiveness of the Company's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures as of the end of the period covered by this report based on such evaluation; and

   d) disclosed in this report any change in the Company's internal control over financial reporting that occurred during the Company's most recent fiscal quarter that has materially affected or is reasonably likely to materially affect the Company's internal control over financial reporting;

5. The Company's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting to the Company's auditors and the audit committee of the Company's board of directors:

   a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the Company's ability to record, process, summarize and report financial information; and

   b) any fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal controls over financial reporting.

/s/ David D. Wolf
David D. Wolf

Executive Vice President and Chief Financial Officer

April 30, 2009

Exhibit 32.1

Certification of Chief Executive Officer

Pursuant to Section 906 of Sarbanes Oxley Act of 2002

In Connection with the Quarterly Report of Berry Petroleum Company (the "Company") on Form 10-Q for the period ending March 31, 2009 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Robert F. Heinemann, President, Chief Executive Officer and Director of the Company, certify, pursuant to 18 U.S.C. 1350, as adopted pursuant to 906 of the Sarbanes-Oxley Act of 2002, that:

1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Robert F. Heinemann

Robert F. Heinemann

April 30, 2009

President, Chief Executive Officer and Director

Exhibit 32.2

Certification of Chief Financial Officer

Pursuant to Section 906 of Sarbanes Oxley Act of 2002

In Connection with the Quarterly Report of Berry Petroleum Company (the "Company") on Form 10-Q for the period ending March 31, 2009 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, David D. Wolf, Executive Vice President and Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. 1350, as adopted pursuant to 906 of the Sarbanes-Oxley Act of 2002, that:

1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ David D. Wolf

David D. Wolf

April 30, 2009

Executive Vice President and Chief Financial Officer