

Edgar Filing: MILLER PETROLEUM INC - Form 10QSB/A

MILLER PETROLEUM INC  
Form 10QSB/A  
October 31, 2005

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

FORM 10-QSB/A

QUARTERLY REPORT UNDER SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the quarterly period ended July 31, 2005

TRANSITION REPORT UNDER SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission File No. 33-2249-FW

MILLER PETROLEUM, INC.

(Exact name of small business issuer as specified in its Charter)

TENNESSEE

62-1028629

-----  
(State or Other Jurisdiction of  
incorporation or organization)

-----  
(I.R.S. Employer I.D. No.)

3651 Baker Highway  
Huntsville, Tennessee 37756

-----  
(Address of principal executive offices)

(423) 663-9457

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Issuer's telephone number

N/A  
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APPLICABLE ONLY TO ISSUERS INVOLVED IN BANKRUPTCY  
PROCEEDINGS DURING THE PRECEDING FIVE YEARS

Not applicable.  
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APPLICABLE ONLY TO CORPORATE ISSUERS

State the number of shares outstanding of each of the  
issuer's classes of common equity, as of the latest  
practicable date:

September 14, 2005  
9,396,856 Common Shares

Transitional Small Business Issuer Format Yes  No

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## PART I - FINANCIAL INFORMATION

### Item 1. Financial Statements

#### EXPLANATORY NOTE

We are filing this amendment on Form 10-QSB/A to our Quarterly Report on Form 10-QSB for the quarter ended July 31, 2005 (the "Original Form 10-QSB"), which was originally filed with the Securities and Exchange Commission (the "SEC") on September 20, 2005, in order to restate our Consolidated Financial Statements for the quarter ended July 31, 2005. Our Consolidated Financial Statements for the quarter ended July 31, 2004 are also restated in this Form 10-QSB/A. The Consolidated Notes to the Financial Statements in Original Form 10-QSB were amended to include Note 2, "Restatement of Consolidated Financials," Note 3, "Long Term Debt" and Note 4, "Accrued Drilling and Expense." Please refer to Note 2, "Restatement of Consolidated Financials" in this Form 10-QSB for a discussion of the nature of the restatement adjustments and the impact of the restatement adjustments on net income loss.

The following items of the Original Form 10-QSB were modified or revised in this Form 10-QSB/A to reflect the following restatements:

- o Part I, Item 1. Financial Statements.
- o Part I, Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.
- o Part I, Item 3. Controls and Procedures.

In addition, the financial statements contained in the Original Form 10-QSB were not, as required by SEC rules, reviewed by our independent auditors. Accordingly, the filing was deficient. This filing constitutes an amendment to that report to correct that deficiency of the Original Form 10-QSB. This Form 10-QSB/A also revises and restates in its entirety Exhibits 31.1 and 31.2 to make certain corrections to Exhibits 31.1 and 31.2 of the Original Form 10-QSB.

This Form 10-QSB/A does not otherwise modify or update disclosure presented in the Original Form 10-QSB, except as required to reflect the effects of the restatements, and does not modify or update disclosure in the Original Form 10-QSB to reflect facts or events occurring subsequent to the date of the original filing.

Our financial statements required to be filed with this quarterly report, were prepared by our management. In the opinion of management, these financial statements fairly present our financial condition as of the end of the quarter ended July 31, 2005.

#### MILLER PETROLEUM, INC. CONSOLIDATED BALANCE SHEETS

	As Restated	
	July 31	April 30
	2005	2005
	Unaudited	
ASSETS		
CURRENT ASSETS		

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Cash	\$ 989,446	\$ 2,362
Accounts receivable	214,087	182,951
Participant receivables	231,223	--
Accrued drilling income	126,015	-0-
Current portion of note receivable	42,000	47,000
Inventory	67,389	67,389
Deferred offering costs	88,842	88,842
Prepaid expenses	291,022	-0-
Loan Fees	402,710	--
	-----	-----
Total Current Assets	2,452,734	388,544
FIXED ASSETS		
Machinery and equipment	970,842	941,601
Vehicles	333,583	333,583
Buildings	313,335	313,335
Office Equipment	76,490	72,549
Less: accumulated depreciation	(955,212)	(939,579)
	-----	-----
Total Fixed assets	739,038	721,489
OIL AND GAS PROPERTIES (On the basis of successful efforts accounting)	3,111,013	2,941,832
PIPELINE FACILITIES	203,211	206,298
OTHER ASSETS		
Land	496,500	496,500
Investments	500	500
Equipment held for sale	431,462	431,462
Cash - restricted	162,358	71,000
	-----	-----
Total Other Assets	1,090,820	999,462
	-----	-----
TOTAL ASSETS	\$ 7,596,816	\$ 5,257,625
	=====	=====

See notes to consolidated financial statements.

MILLER PETROLEUM, INC.  
CONSOLIDATED BALANCE SHEETS

	As Restated July 31 2005 Unaudited	April 30 2005
LIABILITIES AND STOCKHOLDERS' EQUITY		
CURRENT LIABILITIES		
Accounts payable - trade	\$ 179,310	\$ 330,620
Accrued expenses	362,927	224,306
Current portion of notes payable - Other	4,172,290	0

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Total Current Liabilities	4,714,527	554,926
LONG-TERM LIABILITIES		
Notes payable-Related parties	0	1,673,693
Other	328,312	655,646
Total Long-Term Liabilities	328,312	2,329,339
Total Liabilities	5,042,839	2,884,265
STOCKHOLDERS' EQUITY		
Common Stock: 500,000,000 shares authorized at \$0.0001 par value, 9,396,856 shares issued and outstanding		
	939	939
Additional paid-in capital	4,865,890	4,495,498
Retained Earnings	(2,312,852)	(2,123,077)
Total Stockholders' Equity	2,553,977	2,373,360
TOTAL LIABILITIES AND STOCKHOLDERS'S EQUITY	\$ 7,596,816 =====	\$ 5,257,625 =====

See notes to consolidated financial statements.

MILLER PETROLEUM, INC.  
CONSOLIDATED STATEMENTS OF OPERATIONS  
(UNAUDITED)

	As Restated For the Three Months Ended July 31, 2005	As Restated For the Three Months Ended July 31, 2004
REVENUES		
Oil and gas revenue	\$ 185,821	\$ 226,944
Service and drilling revenue	1,298,199	31,813
Retail sales	0	27,900
Other revenue	46	649
Total Revenue	1,484,066	287,306
COSTS AND EXPENSES		
Cost of sales	980,558	42,151
Selling, general and administrative	371,469	202,744
Salaries and wages	76,416	33,706
Depreciation, depletion and amortization	74,218	41,056

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Total Costs and Expenses	\$ 1,502,661	\$ 319,657
Loss FROM OPERATIONS	(18,595)	(32,351)
OTHER INCOME (EXPENSE)		
Interest Income	51	59
Gain on sale of equipment	300	6,500
Interest expense	(171,531)	(56,930)
Total Other Income (Expense)	(171,180)	(50,371)
Net Loss	\$ (189,775)	\$ (82,722)
NET LOSS PER SHARE	\$ (0.02)	\$ (0.01)
WEIGHTED AVERAGE NUMBER OF SHARES OUTSTANDING	9,396,856	8,753,856

See notes to consolidated financial statements.

MILLER PETROLEUM, INC  
CONSOLIDATED STATEMENT OF STOCKHOLDERS' EQUITY  
(UNAUDITED)

	Common Shares	Shares Amount	Additional Paid-in Capital	Retained Earnings
Restated balance, April 30, 2005	9,396,856	\$ 939	4,495,498	(2,123,077)
Issuance of warrants As prepayment of Financing costs			370,392	
Net loss for the three months ended July 31, 2005	--	--	--	(189,775)
Restated balance, July 31, 2005	9,396,856	\$ 939	\$ 4,865,890	\$ (2,312,852)

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See notes to consolidated financial statements.

### MILLER PETROLEUM, INC. CONSOLIDATED STATEMENT OF CASH FLOWS (UNAUDITED)

	As Restated For the Three Months Ended July 31, 2005	As Restated For the Three Months Ended July 31, 2004
<b>CASH FLOWS FROM OPERATING ACTIVITIES:</b>		
Net Income (Loss)	\$ (189,775)	\$ (82,722)
Adjustments to Reconcile Net Income to Net Cash Provided (Used) by Operating Activities:		
Depreciation, depletion and amortization	74,218	52,056
Gain on sale of equipment	300	0
Issuance of stock for services	--	110,000
Accretion of warrant costs	79,370	
Changes in Operating Assets and Liabilities:		
Decrease (increase) in accounts receivable	(31,136)	7,685
Decrease (increase) in accrued drilling income	(126,015)	0
Decrease (increase) in participant receivables	(231,223)	--
Decrease (increase) in loan fees	(402,710)	0
Decrease (increase) in prepaid expenses	0	25,175
Increase (decrease) in accounts payable	(151,310)	(57,242)
Increase (decrease) in accrued expenses	138,621	138
	-----	-----
Net Cash Provided (Used) by Operating Activities	(839,660)	55,090
<b>CASH FLOWS FROM INVESTING ACTIVITIES:</b>		
Purchase of Equipment	(27,480)	0
Net additions to oil and gas properties	(230,681)	(118,125)
	-----	-----
Net Cash (Used) by Investing Activities	(258,161)	(118,125)
<b>CASH FLOWS FROM FINANCING ACTIVITIES:</b>		
Payments on notes payable	(1,978,737)	(23,628)
Proceeds from borrowing	4,150,000	31,388
Net proceeds from issuance of common stock	0	96,001
Increase in restricted cash	(91,358)	0
Change in note receivable	5,000	0
	-----	-----
Net Cash Provided (Used) by Financing Activities	2,084,905	103,761
	-----	-----
<b>NET INCREASE IN CASH</b>	<b>987,084</b>	<b>40,726</b>
<b>CASH AND CASH EQUIVALENTS,</b>		

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BEGINNING OF PERIOD	2,362	73,416
CASH AND CASH EQUIVALENTS, END OF PERIOD	\$ 989,446	114,142
	-----	-----
CASH PAID FOR INTEREST	\$ (92,161)	\$(45,930)
INCOME TAXES	0	0

See notes to consolidated financial statements.

### MILLER PETROLEUM, INC. NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS

(1) Certain information and footnote disclosures normally included in the financial statements prepared in accordance with generally accepted accounting principles has been condensed or omitted. It is suggested that these financial statements be read in conjunction with the Registrant's April 30, 2005 Annual Report on Form 10-KSB. The results of operations for the period ended July 31, 2005 are not necessarily indicative of operating results for the full year. The consolidated financial statements and other information furnished herein reflect all adjustments which are, in the opinion of management of the Registrant, necessary for a fair presentation of the results of the interim periods covered by this report.

#### (2) RESTATEMENT OF CONSOLIDATED FINANCIAL STATEMENTS

We amended our Consolidated Financial Statements for the quarter ended July 31, 2005 to reflect \$250,000 of accrued expenses and \$126,000 of accrued revenues, to properly record accruals of drilling revenues and expenses incurred in fulfillment of our turn-key drilling contracts. A reclassification of \$172,000 between the cost of sales and revenues was necessary in order to adequately record the reimbursement of expenses. Our Consolidated Financial Statements for the quarter ended July 31, 2004 are also restated in this Form 10-QSB/A to reflect an \$11,000 amortization of prepaid financing costs and \$110,000 in selling, general and administrative expenses to record stock issued for services. The effect of the restatements on net loss was to increase net loss by \$123,986 and \$121,000 for the quarters ended July 31, 2005 and 2004, respectively.

#### (3) LONG-TERM DEBT, WARRANTS AND RESTRICTED CASH

On May 9, 2005, we entered into a credit agreement, under which terms, we received \$4,150,000 in debt financing under two convertible promissory notes of \$3,150,000 and \$ 1,000,000, respectively. Repayment must be made on or before June 30, 2006, with monthly interest only payments during the interim. These notes are convertible into common stock at the lesser price of \$1.50 per share or the price of common stock issued to investors in our planned equity offering. The lenders were also granted registration rights to any shares issued on conversion of the notes.

The notes are secured by all of our assets and a security interest in a debt service account provided for by the agreement, under which \$160,000 was placed in escrow to provide the lenders a reserve for future interest payments. The account is subject to draw-downs under specified conditions, and its balance of \$ 85,358 is included on the balance sheet among restricted cash at July 31, 2005.

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To secure the funding, an aggregate total of 1,000,000 non-callable five year warrants exercisable at \$0.50 per share, were also issued, with Registration rights requiring us to register the common stock into which the warrants can be converted. The warrants were recorded, at fair value, as \$370,392 of prepaid financing costs. Fair value was computed as the estimated present value at grant date of the warrants using the Black-Scholes option-pricing model with the following assumptions: expected volatility of 50%; a risk free interest rate of 4.50% and an expected option life of 2 year, six months. The options will be amortized to interest expense over the term of the loan which is payable on June 30, 2006. Interest expense connected with warrants was \$79,370 for the quarter ended July 31, 2005. The balance of the amount, \$291,022, is included on the accompanying balance sheet at July 31, 2005, among prepaid expenses.

#### (4) ACCRUED DRILLING INCOME AND EXPENSE

Accrued drilling income of approximately \$126,000 and drilling related expenses of \$250,000 included among accrued expenses on the July 31, 2005 balance sheet, represent amounts incurred but unbilled on our turn-key drilling contracts at July 31, 2005. These amounts reflect substantial completion of the related contracts.

#### (5) RELATED PARTY TRANSACTIONS

None

#### (6) RECENT ACCOUNTING PRONOUNCEMENTS

In June 2003, the FASB approved SFAS 150, "Accounting for Certain Financial Instruments with Characteristics of both Liabilities and Equity" SFAS 150 establishes standards for how an issuer classifies and measures certain financial instruments with characteristics of both liabilities and equity. This Statement is effective for financial instruments entered into or modified after May 31, 2003, and otherwise was effective at the beginning of the first interim period beginning after June 15, 2003. SFAS 150 did not have an effect our financial position.

In December 2003, the FASB issued a revised interpretation No. 46, "Consolidation of Variable Interest Entities." The interpretation clarifies the application of Accounting Research Bulletin No. 51, "Consolidated Financial Statements," to certain types of entities. Adoption did not have an impact on our financial statements.

In March 2004, The Emerging Issues Task Force ("EITF") reached a consensus that mineral rights, as defined in EITF Issue No. 04-02, Whether Mineral Rights are "Tangible or Intangible Asset," are tangible assets and that they should be removed as examples of intangibles assets in SFAS Nos. 141 and 142. The FASB has recently ratified this consensus and directed the FASB staff to amend SFAS Nos. 141 and 142 through the issuance of FASB Staff Positions FSP FAS 141-1 and FSP FAS 142-1. Historically we have included the cost of such mineral rights as tangible assets, which is consistent with the EITF's consensus. As such, EITF 04-02 is not expected to affect our Consolidated Financial Statements.

In December 2004, The FASB issued SFAS No. 123R, "Share-Based Payment." This statement is a revision to SFAS No. 123, "Accounting for Stock-Based Compensation" and supersedes APB Opinion No. 25, "Accounting for Stock Issued to Employees." This statement establishes standards for the accounting for transactions in which an entity exchanges its equity instruments for goods or services, primarily focusing on the accounting for transactions. Companies will be required to measure the cost of employee services received in exchange for an



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award of equity instruments based on the grant date fair value of the award (with limited exceptions). That cost will be recognized over the period during which an employee is required to provide service, the requisite service period (usually the vesting period), in exchange for the award. The grant date fair value of employee share options and similar instruments will be estimated using option-pricing models.

If an equity award is modified after the grant date, incremental compensation cost will be recognized in an amount equal to the excess of the fair value of the modified award over the fair value of the original award immediately before the modifications for small business issuers. SFAS No. 123R will be effective for periods beginning after December 15, 2005. Accordingly, we will adopt SFAS No. 123R in its fourth quarter of fiscal 2006. We are currently evaluating the provisions of SFAS No. 123R and has not determined the impact that this Statement will have on its results of operations or financial position.

In April 2005, the FASB issued Staff Interpretation No. 19-1 ("FSP FAS 19C1") "Accounting for Suspended Well Costs," which provides guidance on the accounting for exploratory well costs and proposes an amendment to FASB Statement No. 19 ("FASB 19"), Financial Accounting and Reporting By Oil and Gas Producing Companies. The guidance in FSP FAS 19-1 applies to enterprises that use the successful efforts method of accounting as described in FASB 19. The guidance in FSP FAS 19-1 is not expected to impact the consolidated financial position, result of operations or cash flows.

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

We have more than 43,000 acres under lease in Tennessee. About 90% of these leases are held by production. Most of our current oil and gas production is from the Big Lime Formation. However, there are more than 160 development drilling locations that target the Devonian (Chattanooga Shale) as well as the Big Lime Formation.

Currently, we are offering ten to twenty well drilling programs to "accredited investors" or "sophisticated investors" to help spread the risk associated with drilling projects and to facilitate investor returns. We will sell up to a 70% working interest to investors while retaining a 30% working interest. Each program will be made up of five to fifteen Chattanooga Shale wells on our Koppers South acreage.

We completed the drilling and fracing of the first five wells on the Koppers North and Carden Prospect in Campbell County, Tennessee. These are the Koppers 6A and 7A and the Carden 1A, 2A and 3A. The wells have been drilled to approximately 3000 feet in depth, to fully penetrate a thickened Devonian Shale, with up to 828 feet of potential hydrocarbon entry. Average open flows are 130 Mcfd of natural gas each. Gathering lines have been installed to begin immediate gas sales.

We are engaging in drilling and development on the Koppers North and Carden in a joint venture with Golden Triangle Energy (GTC), Inc., Houston, Texas and Norwest Energy NL, Perth, Australia. We will serve as operator and retain a twenty percent carried net revenue interest for the first twenty wells and a twenty five percent working interest in the remaining wells drilled by the joint venture.

In June 2001, we made a conventional Big Lime gas discovery, on the Lindsay Land Company lease that we jointly own with Delta Producers, Inc. Currently there are six producing wells on the property. Two wells were drilled

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in June, 2005 the Lindsay #16 and #17. These wells fully penetrated the Big Lime and Devonian Shale to depths of approximately 4700 feet. The Lindsay #17 has been foam fraced in the Devonian Shale and will be fraced in the Big Lime when testing is completed in the shale. There are at a minimum twenty three additional drill sites on this 3,400 acre lease which is situated near Caryville, Tennessee.

We are continuing our leasing efforts in the Eastern Tennessee portion of the Eastern Overthrust Belt, which runs from Eastern Canada through Appalachia into Alabama. Acreage is being leased there in selected areas.

### Liquidity and Capital Resources

During the fiscal years ended April 30, 2004 and 2005, our principal sources of liquidity were revenue from the production of oil and gas, the sale of drilling contracts and the proceeds from our \$4,150,000 debt financing in May of 2005. Private placements of our common stock have been our principal external sources of liquidity. In fiscal year 2004, our access to funding depended upon borrowing transactions with related parties and directors. In 2005 with the increase in the volatility of markets for petroleum products our access to sources of funds was enhanced. Accordingly subsequent to our year end, on May 9, 2005 we entered into a credit agreement with Prospect Energy Corporation, Inc and Petro Capital III, LP. Under the agreement, we received an aggregate of \$4,150,000 in debt financing under two convertible promissory notes with Prospect and Petro, for \$3,150,000 and \$1,000,000, respectively. Proceeds from this borrowing were used to satisfy substantially all the obligations existing at the balance sheet date. Remaining funds after retirement of debt were used to institute the drilling program. The notes are interest only accruing at 12%, payable on June 30, 2006. The notes are convertible into common stock at the lesser of \$1.50 or the price at which common stock will be issued to investors in our planned equity offering. We have commitments to refinance the \$4,150,000 in loans by June 30, 2006.

### Results of Operations

We had revenues of \$1,484,066 for the first quarter of fiscal 2005, up from the \$287,306 in revenues recognized during the first quarter of fiscal 2004. This is primarily attributable to our institution of our turn key drilling program on the Koppers North tract.

Oil and gas revenue for the current quarter was \$185,821, down from \$226,944 in the first quarter of fiscal 2004. This decrease was due primarily to a decrease in production that was attributable to normal production declines offset by a rise in natural gas and oil prices.

Service and drilling revenue for the first quarter was \$1,298,199, up from \$31,813 for the same quarter last year. This increase was due to increased drilling activity associated with the turn-key drilling contracts and the joint venture agreements.

During the current quarter, retail sales were \$0 compared to \$27,900 during the first quarter of fiscal 2004. This relates to equipment that is sold off of our lot, in discrete quantities, which by its nature tends to give rise to variances

Our net loss for the current quarter was \$189,775, down from a net loss of \$82,722 for the same quarter of fiscal 2004. This decrease was due primarily to increased interest expense, depletion expense and professional fees and costs associated with loan closing costs and the amortization of warrants associated with the loan We feel these costs will be offset by the increased drilling

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activity and reserve growth associated with new drilling efforts.

Cost of sales for the first quarter of fiscal 2005 was \$980,558 up from \$42,151 in the same quarter of fiscal 2004, due primarily to increased drilling activities and production.

Selling, general and administrative expenses were \$371,469, up from \$202,744 in the first quarter of fiscal 2004. This increase was primarily due to increases in legal and professional expenses, and an overall upgrade in our financial reporting capabilities.

Salaries and wages for the current quarter were \$76,416, up from \$33,706 in the first quarter of fiscal 2004.

Depreciation, depletion and amortization for the first quarter of fiscal 2005 was \$74,218, up from \$41,056 in the first quarter of 2004. This increase was due to increases in depletion expense, which resulted from the reclassification of certain properties from proved undeveloped to probable and/or possible.

### Item 3. Controls and Procedures

Our Chief Executive Officer and our Chief Financial Officer have conducted an evaluation of the effectiveness of our disclosure controls and procedures as of the quarter ended July 31, 2005. Based on this evaluation, our Chief Executive Officer concluded that our disclosure controls and procedures were ineffective to provide reasonable assurance that information required to be disclosed by us in reports that we file or submit under the Security Exchange Act of 1934, as amended (the "Act"), is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms and to ensure that information required to be disclosed by us in the reports that we file under the Act is accumulated and communicated to management, including our certifying officers, as appropriate, to allow timely decisions regarding required disclosures.

In connection with the preparation and review of our Consolidated Financial Statements for the quarter ended July 31, 2005 and subsequent to filing our Original Form 10-QSB, management and our registered independent accountants identified errors that led to a decision to restate our Consolidated Financial Statements for the quarters ended July 31, 2005 and July 31, 2004. The restatements are discussed more fully under the Note 2, "Restatement of Consolidated Financial Statements." In light of these accounting errors, we have determined that a deficiency in internal controls existed relating to the adequacy of our cut-off controls in the reconciliation of transactions we engage in with our joint venture partners, as well as the completeness and timeliness of our disclosure. Accordingly, management determined that this control deficiency constituted a material weakness.

Management is taking the remedial steps necessary to eliminate the material weakness relating to financial disclosure controls that resulted in the restatement discussed above. Other than the changes discussed above, there have been no changes made in our internal controls or in other factors that could materially affect its internal controls subsequent to the end of the period covered by this report based on such evaluation.

## PART II - OTHER INFORMATION

### Item 1. Legal Proceedings.

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None

Item 2. Changes in Securities.

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.

Item 6. Exhibits and Reports on Form 8-K.

(a) Exhibits.

None.

(b) Reports on Form 8-K.

None.

SIGNATURES

In accordance with the requirements of the Exchange Act, the registrant duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

Date: October 28, 2005

MILLER PETROLEUM, INC.

By: /s/ Deloy Miller

-----  
Deloy Miller  
Chief Executive Officer

By: /s/ Charles M. Stivers

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Charles M. Stivers  
Chief Financial Officer