EBAY INC
Form 4
May 05, 2009

FORM 4

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

STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP OF SECURITIES

Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934, Section 17(a) of the Public Utility Holding Company Act of 1935 or Section 30(h) of the Investment Company Act of 1940

OMB APPROVAL

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Check this box if no longer subject to Section 16. Form 4 or Form 5 obligations may continue. *See* Instruction 1(b).

(Print or Type Responses)

1. Name and Address of Reporting Person *
COOK SCOTT D

(Last) (First) (Middle)

C/O INTUIT, INC., 2700 COAST AVENUE

(Street)

MOUNTAIN VIEW, CA 94043

(City) (State) (Zip)

2. Issuer Name **and** Ticker or Trading Symbol
EBAY INC [EBAY]

3. Date of Earliest Transaction (Month/Day/Year)
05/01/2009

4. If Amendment, Date Original Filed(Month/Day/Year)

5. Relationship of Reporting Person(s) to Issuer

(Check all applicable)

__X__ Director _____ 10% Owner
_____ Officer (give title below) _____ Other (specify below)

6. Individual or Joint/Group Filing(Check Applicable Line)
_X_ Form filed by One Reporting Person
___ Form filed by More than One Reporting Person

Table I - Non-Derivative Securities Acquired, Disposed of, or Beneficially Owned

1.Title of Security (Instr. 3)	2. Transaction Date (Month/Day/Year)	2A. Deemed Execution Date, if any (Month/Day/Year)	3. Transaction Code (Instr. 8)		4. Securities Acquired (A) or Disposed of (D) (Instr. 3, 4 and 5)			5. Amount of Securities Beneficially Owned Following Reported Transaction(s) (Instr. 3 and 4)	6. Ownership Form: Direct (D) or Indirect (I) (Instr. 4)	7. Nature of Indirect Beneficial Ownership (Instr. 4)
			Code	V	Amount	(A) or (D)	Price			
Common Stock								163,006	D	

Reminder: Report on a separate line for each class of securities beneficially owned directly or indirectly.

Persons who respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB control number.

SEC 1474 (9-02)

Table II - Derivative Securities Acquired, Disposed of, or Beneficially Owned
(*e.g.*, puts, calls, warrants, options, convertible securities)

1. Title of Derivative Security (Instr. 3)	2. Conversion or Exercise Price of Derivative Security	3. Transaction Date (Month/Day/Year)	3A. Deemed Execution Date, if any (Month/Day/Year)	4. Transaction Code (Instr. 8)		5. Number of Derivative Securities Acquired (A) or Disposed of (D) (Instr. 3, 4, and 5)		6. Date Exercisable and Expiration Date (Month/Day/Year)		7. Title and Amoun Underlying Securit (Instr. 3 and 4)	
				Code	V	(A)	(D)	Date Exercisable	Expiration Date	Title	Amo Num Share
Deferred Stock Units	$ 0	05/01/2009		A		908		(1)	05/01/2019(1)	Common Stock	9
Deferred Stock Units	$ 0							(2)	08/01/2015	Common Stock	3
Deferred Stock Units	$ 0							(3)	11/01/2015	Common Stock	3
Deferred Stock Units	$ 0							(4)	02/01/2016	Common Stock	3
Deferred Stock Units	$ 0							(5)	05/01/2016	Common Stock	4
Deferred Stock Units	$ 0							(6)	08/01/2016	Common Stock	5
Deferred Stock Units	$ 0							(7)	11/01/2016	Common Stock	4
Deferred Stock Units	$ 0							(8)	02/01/2017	Common Stock	4
Deferred Stock Units	$ 0							(9)	05/01/2017	Common Stock	4
Deferred Stock Units	$ 0							(1)	08/01/2017(1)	Common Stock	4
Deferred Stock Units	$ 0							(1)	11/01/2017(1)	Common Stock	4
Deferred Stock Units	$ 0							(1)	02/01/2018(1)	Common Stock	5
Deferred Stock Units	$ 0							(1)	05/01/2018(1)	Common Stock	4
Deferred Stock Units	$ 0							(10)	06/19/2018(10)	Common Stock	3,1
Deferred Stock Units	$ 0							(11)	08/01/2018(11)	Common Stock	6
Deferred Stock Units	$ 0							(1)	11/01/2018(1)	Common Stock	9

Deferred Stock Units	$ 0		(1)	02/01/2019(1)	Common Stock	1,2
Deferred Stock Units	$ 0		(10)	04/29/2019(10)	Common Stock	6,6
Non-Qualified Stock Option (right to buy)	$ 13.7525		(12)	06/05/2012	Common Stock	120
Non-Qualified Stock Option (right to buy)	$ 14.5		(12)	05/23/2010	Common Stock	120
Non-Qualified Stock Option (right to buy)	$ 15.55		(12)	05/25/2011	Common Stock	120
Non-Qualified Stock Option (right to buy)	$ 16.47		(13)	04/29/2016	Common Stock	16,
Non-Qualified Stock Option (right to buy)	$ 25.78		(12)	06/26/2013	Common Stock	60,
Non-Qualified Stock Option (right to buy)	$ 29.17		(13)	06/19/2015	Common Stock	10,
Non-Qualified Stock Option (right to buy)	$ 30.51		(12)	06/13/2013	Common Stock	15,
Non-Qualified Stock Option (right to buy)	$ 31.61		(12)	06/14/2014	Common Stock	15,
Non-Qualified Stock Option (right to buy)	$ 34.44		(12)	06/23/2015	Common Stock	15,
Non-Qualified Stock Option (right to buy)	$ 44.37		(12)	06/24/2014	Common Stock	30,

Reporting Owners

Reporting Owner Name / Address	Relationships			
	Director	10% Owner	Officer	Other
COOK SCOTT D C/O INTUIT, INC. 2700 COAST AVENUE MOUNTAIN VIEW, CA 94043	X			

Signatures

By: Brian Levey For: Scott D. Cook 05/05/2009

**Signature of Reporting Person Date

Explanation of Responses:

* If the form is filed by more than one reporting person, *see* Instruction 4(b)(v).

** Intentional misstatements or omissions of facts constitute Federal Criminal Violations. *See* 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).

(1) The reporting person has received an exempt award of Deferred Stock Units ("DSUs") under the Company's 2003 Deferred Stock Unit Plan, as amended. DSUs represent a right to receive shares of the Company's common stock (or, in the sole discretion of the Compensation Committee of the Company's Board of Directors, cash, securities or other property equal to the fair market value thereof) upon termination of service as a Director of the Company. The reporting person has elected to receive DSUs in lieu of the annual retainer fees payable for services on the Company's Board of Directors and any committees thereof. The DSUs are awarded on the date such fees would otherwise be payable (i.e., quarterly in arrears). The DSUs are immediately vested.

(2) The reporting person has received an exempt award of Deferred Stock Units ("DSUs") under the Company's 2003 Deferred Stock Unit Plan, as amended. DSUs represent a right to receive shares of the Company's common stock (or, in the sole discretion of the Compensation Committee of the Company's Board of Directors, cash, securities or other property equal to the fair market value thereof) upon termination of service as a Director of the Company. The reporting person has elected to receive DSUs in lieu of the annual retainer fees payable for services on the Company's Board of Directors and any committees thereof. The DSUs are awarded on the date such fees would otherwise be payable (i.e., quarterly in arrears). The DSUs are immediately vested and expire on 8/1/2015, or later if the reporting person is still in continuous service as a Director of the Company on such date.

(3) The reporting person has received an exempt award of Deferred Stock Units ("DSUs") under the Company's 2003 Deferred Stock Unit Plan, as amended. DSUs represent a right to receive shares of the Company's common stock (or, in the sole discretion of the Compensation Committee of the Company's Board of Directors, cash, securities or other property equal to the fair market value thereof) upon termination of service as a Director of the Company. The reporting person has elected to receive DSUs in lieu of the annual retainer fees payable for services on the Company's Board of Directors and any committees thereof. The DSUs are awarded on the date such fees would otherwise be payable (i.e., quarterly in arrears). The DSUs are immediately vested and expire on 11/1/2015, or later if the reporting person is still in continuous service as a Director of the Company on such date.

(4) The reporting person has received an exempt award of Deferred Stock Units ("DSUs") under the Company's 2003 Deferred Stock Unit Plan, as amended. DSUs represent a right to receive shares of the Company's common stock (or, in the sole discretion of the Compensation Committee of the Company's Board of Directors, cash, securities or other property equal to the fair market value thereof) upon termination of service as a Director of the Company. The reporting person has elected to receive DSUs in lieu of the annual retainer fees payable for services on the Company's Board of Directors and any committees thereof. The DSUs are awarded on the date such fees would otherwise be payable (i.e., quarterly in arrears). The DSUs are immediately vested and expire on 2/1/2016, or later if the reporting person is still in continuous service as a Director of the Company on such date.

(5) The reporting person has received an exempt award of Deferred Stock Units ("DSUs") under the Company's 2003 Deferred Stock Unit Plan, as amended. DSUs represent a right to receive shares of the Company's common stock (or, in the sole discretion of the Compensation Committee of the Company's Board of Directors, cash, securities or other property equal to the fair market value thereof) upon termination of service as a Director of the Company. The reporting person has elected to receive DSUs in lieu of the annual retainer fees payable for services on the Company's Board of Directors and any committees thereof. The DSUs are awarded on the date such fees would otherwise be payable (i.e., quarterly in arrears). The DSUs are immediately vested and expire on 5/1/2016, or later if the reporting person is still in continuous service as a Director of the Company on such date.

(6) The reporting person has received an exempt award of Deferred Stock Units ("DSUs") under the Company's 2003 Deferred Stock Unit Plan, as amended. DSUs represent a right to receive shares of the Company's common stock (or, in the sole discretion of the Compensation Committee of the Company's Board of Directors, cash, securities or other property equal to the fair market value thereof) upon termination of service as a Director of the Company. The reporting person has elected to receive DSUs in lieu of the annual retainer fees payable for services on the Company's Board of Directors and any committees thereof. The DSUs are awarded on the date such fees would otherwise be payable (i.e., quarterly in arrears). The DSUs are immediately vested and expire on 8/1/2016, or later if the reporting person is still in continuous service as a Director of the Company on such date.

(7) The reporting person has received an exempt award of Deferred Stock Units ("DSUs") under the Company's 2003 Deferred Stock Unit Plan, as amended. DSUs represent a right to receive shares of the Company's common stock (or, in the sole discretion of the Compensation Committee of the Company's Board of Directors, cash, securities or other property equal to the fair market value thereof) upon termination of service as a Director of the Company. The reporting person has elected to receive DSUs in lieu of the annual retainer fees payable for services on the Company's Board of Directors and any committees thereof. The DSUs are awarded on the date such fees would otherwise be payable (i.e., quarterly in arrears). The DSUs are immediately vested and expire on 11/01/2016, or later if

the reporting person is still in continuous service as a Director of the Company on such date.

(8) The reporting person has received an exempt award of Deferred Stock Units ("DSUs") under the Company's 2003 Deferred Stock Unit Plan, as amended. DSUs represent a right to receive shares of the Company's common stock (or, in the sole discretion of the Compensation Committee of the Company's Board of Directors, cash, securities or other property equal to the fair market value thereof) upon termination of service as a Director of the Company. The reporting person has elected to receive DSUs in lieu of the annual retainer fees payable for services on the Company's Board of Directors and any committees thereof. The DSUs are awarded on the date such fees would otherwise be payable (i.e., quarterly in arrears). The DSUs are immediately vested and expire on 2/01/2017, or later if the reporting person is still in continuous service as a Director of the Company on such date.

(9) The reporting person has received an exempt award of Deferred Stock Units ("DSUs") under the Company's 2003 Deferred Stock Unit Plan, as amended. DSUs represent a right to receive shares of the Company's common stock (or, in the sole discretion of the Compensation Committee of the Company's Board of Directors, cash, securities or other property equal to the fair market value thereof) upon termination of service as a Director of the Company. The reporting person has elected to receive DSUs in lieu of the annual retainer fees payable for services on the Company's Board of Directors and any committees thereof. The DSUs are awarded on the date such fees would otherwise be payable (i.e., quarterly in arrears). The DSUs are immediately vested and expire on 5/01/2017, or later if the reporting person is still in continuous service as a Director of the Company on such date.

(10) In connection with the reporting person's continuous service as a non-employee director of the Company, such reporting person has been granted an exempt award of Deferred Stock Units ("DSUs") at the time of the Company's annual meeting of stockholders. The number of DSUs granted represents the quotient of (A) $110,000 divided by (B) the Company's closing stock price on the date of grant. The DSUs becomes vested as to 25% on the one year anniversary of the grant and 1/48th monthly thereafter, provided that the reporting person continues as a director or consultant of the Company through such date.

(11) The reporting person has received an exempt award of Deferred Stock Units ("DSUs") under the Company's 2008 Equity Incentive Award Plan. DSUs represent a right to receive shares of the Company's common stock (or, in the sole discretion of the Compensation Committee of the Company's Board of Directors, cash, securities or other property equal to the fair market value thereof) upon termination of service as a Director of the Company. The reporting person has elected to receive DSUs in lieu of the annual retainer fees payable for services on the Company's Board of Directors and any committees thereof. The DSUs are awarded on the date such fees would otherwise be payable (i.e., quarterly in arrears). The DSUs are immediately vested.

(12) Options become exercisable as to 25% on the one year anniversary date of the grant and 1/48th monthly thereafter.

(13) In connection with the reporting person's continuous service as a non-employee director of the Company, such reporting person has been granted options at the time of the Company's annual meeting of stockholders. The number of options granted is equal to the net present value of $110,000, calculated using the Black-Scholes valuation methodology on the date of grant. Options become exercisable as to 25% on the one year anniversary date of the grant and 1/48th monthly thereafter, provided that the reporting person continues as a director or consultant of the Company through such date.

Note: File three copies of this Form, one of which must be manually signed. If space is insufficient, *see* Instruction 6 for procedure.
Potential persons who are to respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB number. > 21,853 Current maturities of long-term debt 2,458 2,009

Total Current Liabilities 144,754 105,503 Long-Term Liabilities Long-term debt, less current maturities 643,042 595,503 Asset retirement obligations 40,086 32,489 Derivative liabilities, noncurrent 5,981 1,198 Deferred income taxes payable 188,366 141,000 Other non-current liabilities 459 523 Stockholders' Equity Preferred stock $.001 par value; 10,000,000 shares authorized, 216,000 designated as Series A; 80,000 issued and outstanding, liquidation amount $0 1 1 Common Stock $.002 par value; 200,000,000 shares authorized, 91,324,168 and 71,977,759 shares issued, respectively 183 144 Additional paid-in capital 615,046 429,446 Accumulated other comprehensive loss (12,621) (13,576) Retained earnings 108,576 5,003 Common stock in deferred compensation plan, at cost (34,416 shares) (192) (192) Unearned common stock in KSOP, at cost (880,083 and 1,012,203 shares, respectively) (6,215) (6,110)

704,778 414,716 Treasury stock, at cost (3,931,614 and 3,942,294 shares, respectively) (24,965) (25,040)

Total Stockholders' Equity 679,813 389,676

Explanation of Responses:

Total Liabilities and Stockholders' Equity	$1,702,501	$1,265,892

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

MAGNUM HUNTER RESOURCES, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF OPERATIONS

(in thousands of dollars, except for share and per share amounts)

	For the Years Ended December 31,		
	2004	**2003**	**2002**
Operating Revenues:			
Oil and gas sales	$ 443,412	$ 284,929	$ 240,964
Gas gathering, marketing and processing	41,900	35,317	20,809
Oil field services	8,414	4,768	4,096
Total Operating Revenues	493,726	325,014	265,869
Operating Costs and Expenses:			
Oil and gas production lifting costs	60,945	56,262	51,559
Production taxes and other costs	43,704	32,772	28,167
Gas gathering, marketing and processing	29,112	25,373	15,100
Oil field services	5,016	3,119	2,474
Depreciation, depletion, amortization and accretion	127,179	99,614	86,468
Gain on sale of assets	(288)	(171)	(61)
General and administrative	22,125	15,347	13,293
Total Operating Costs and Expenses	287,793	232,316	197,000
Operating Profit	205,933	92,698	68,869
Equity in (loss) earnings of affiliate		(162)	792
Other income	2,584	889	452
Provision for impairment of investments			(621)
Costs associated with early retirement of debt	(12,250)	(6,716)	(1,000)
Non-cash hedging adjustments	1,124	1,482	(6,626)
Interest expense	(38,059)	(47,260)	(47,935)
Income Before Income Tax	159,332	40,931	13,931
Provision for income tax (expense) benefit			
Current	(1,977)	250	
Deferred	(53,782)	(15,463)	1,591
Total Provision for Income Tax (Expense) Benefit	(55,759)	(15,213)	1,591
Income Before Cumulative Effect of a Change in Accounting Principle	103,573	25,718	15,522
Cumulative effect of a change in accounting principle, net of income tax expense of $244		399	
Net Income	$ 103,573	$ 26,117	$ 15,522
Income per Common Share Basic			
Income before cumulative effect of a change in accounting principle	$ 1.35	$ 0.38	$ 0.25

Explanation of Responses:

	For the Years Ended December 31,		
Cumulative effect of a change in accounting principle		0.01	
Income per Common Share Basic	$ 1.35	$ 0.39	$ 0.25
Income per Common Share Diluted			
Income before cumulative effect of a change in accounting principle	$ 1.31	$ 0.38	$ 0.25
Cumulative effect of a change in accounting principle		0.01	
Income per Common Share Diluted	$ 1.31	$ 0.39	$ 0.25
Common Shares Used in Per Share Calculation			
Basic	76,952,204	66,191,816	61,493,428
Diluted	78,958,618	67,501,811	62,513,548

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

MAGNUM HUNTER RESOURCES, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY AND COMPREHENSIVE INCOME (LOSS)

FOR THE YEAR ENDED DECEMBER 31, 2002

(thousands)

	Preferred Stock	Common Stock	Treasury Stock	Additional Paid in Capital	Accumulated Deficit	Receivable from Stockholder	Unearned Shares in KSOP	Accumulated Other Comprehensive Income (Loss)	Total Stockholders' Equity	Total Comprehensive Income (Loss)
Balance at January 1, 2002	$ 1	$ 73	$ (1,914)	$ 157,836	$ (36,636)	$ (442)	$ (2,576)	$ 1,632	$ 117,974	
Issuance of 34,063 shares of common stock and warrants pursuant to Prize Energy Corp. merger, less fees		68		260,454					260,522	
Issuance of 985 shares of common stock pursuant to employee stock option plan		2		3,627					3,629	
Deferred tax benefit on exercise of employee stock options				859					859	
Employer contribution of 158 shares to KSOP				71			867		938	
Exercise of warrants				5					5	
Purchase of warrants				(128)					(128)	
Repayment of shareholder loan						442			442	
Issuance of 72 shares to KSOP for 2001 employer contribution				601					601	
Purchase of 2,726 shares of treasury stock			(18,494)						(18,494)	
Employee salary deferrals to KSOP representing 86 shares				39			473		512	
Loan of 532 shares to KSOP							(3,652)		(3,652)	
Net income, net of income tax benefit of $1,591					15,522				15,522	15,522
Reclassification adjustment related to derivative contracts, net of deferred income tax expense of $1,684								2,762	2,762	2,762
Change in fair value of outstanding hedge positions, net of deferred income tax benefits of $19,871								(32,593)	(32,593)	(32,593)
Purchased hedge positions, net of deferred income tax benefit of $1,508								(2,474)	(2,474)	(2,474)
Amortization of purchased hedge positions, net of deferred income tax expense of $2,299								3,771	3,771	3,771

	Preferred Stock	Common Stock	Treasury Stock	Additional Paid in Capital	Accumulated Deficit	Receivable from Stockholder	Unearned Shares in KSOP	Accumulated Other Comprehensive Income (Loss)	Total Stockholders' Equity	Total Comprehensive Income (Loss)
Unrealized loss on investments, net of deferred income tax benefit of $197								(323)	(323)	(323)
Reclassification adjustment for loss on investments, net of deferred income tax expense of $197								323	323	323
Balance at December 31, 2002	$ 1	$ 143	$ (20,408)	$ 423,364	$ (21,114)	$	$ (4,888)	$ (26,902)	$ 350,196	$ (13,012)

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

MAGNUM HUNTER RESOURCES, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY AND COMPREHENSIVE INCOME (LOSS) (Continued)

FOR THE YEAR ENDED DECEMBER 31, 2003

(thousands)

	Preferred Stock	Common Stock	Treasury Stock	Additional Paid in Capital	Retained Earnings (Accumulated Deficit)	Deferred Compensation	Unearned Shares in KSOP	Accumulated Other Comprehensive Income (Loss)	Total Stockholders' Equity	Total Comprehensive Income (Loss)
Balance at January 1, 2003	$ 1	$ 143	$ (20,408)	$ 423,364	$ (21,114)	$	$ (4,888)	$ (26,902)	$ 350,196	
Issuance of 270 shares of common stock pursuant to employee stock option plan		1		1,244					1,245	
Issuance of 548 treasury shares upon exercise of warrants			2,728	720					3,448	
Deferred tax benefit on exercise of employee stock options				613					613	
Purchase of 1,340 shares of treasury stock			(7,413)						(7,413)	
Loan to KSOP to purchase 486 shares							(2,711)		(2,711)	
Employee deferrals to KSOP to purchase 59 shares				105			380		485	
Purchase 53 shares for deferred compensation plan						(295)			(295)	
Employer contribution of 172 shares to KSOP				336			1,109		1,445	
Stock compensation				3,017					3,017	
Purchase of 18 treasury shares by deferred compensation plan			53	47		(100)				
Release of 36 shares from deferred compensation plan						203			203	
Net Income, net of income tax expense of $15,213					26,117				26,117	26,117
Reclassification adjustments related to derivative contracts, net of deferred income tax expense of $28,330								46,469	46,469	46,469
Change in fair value of outstanding hedge positions, net of deferred income tax benefit of $19,715								(32,338)	(32,338)	(32,338)
Amortization of purchased hedge positions, net of deferred income tax								(805)	(805)	(805)

	Preferred Stock	Common Stock	Treasury Stock	Additional Paid in Capital	Retained Earnings (Accumulated Deficit)	Deferred Compensation	Unearned Shares in KSOP	Accumulated Other Comprehensive Income (Loss)	Total Stockholders' Equity	Total Comprehensive Income (Loss)
benefit of $491										
Balance at December 31, 2003	$ 1	$ 144	$ (25,040)	$ 429,446	$ 5,003	$ (192)	$ (6,110)	$ (13,576)	$ 389,676	$ 39,443

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

MAGNUM HUNTER RESOURCES, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY AND COMPREHENSIVE INCOME (LOSS) (Continued)

FOR THE YEAR ENDED DECEMBER 31, 2004

(thousands)

	Preferred Stock	Common Stock	Treasury Stock	Additional Paid in Capital	Retained Earnings	Deferred Compensation	Unearned Shares in KSOP	Accumulated Other Comprehensive Income (Loss)	Total Stockholders' Equity	Total Comprehensive Income (Loss)
Balance at January 1, 2004	$ 1	$ 144	$ (25,040)	$ 429,446	$ 5,003	$ (192)	$ (6,110)	$ (13,576)	$ 389,676	
Issuance of 2,128 shares of common stock pursuant to employee stock option plan		4		10,427					10,431	
Issuance of 17,250 shares through secondary offering, net of offering costs		35		169,279					169,314	
Stock compensation				768					768	
Deferred tax benefit on exercise of employee stock options				2,765					2,765	
Loan to KSOP to purchase 225 shares							(2,259)		(2,259)	
Employer contribution of 223 shares to KSOP				1,515			1,347		2,862	
Employee salary deferrals to KSOP, representing 134 shares				776			807		1,583	
Issuance of 11 shares for Directors' compensation			75	70					145	
Net Income, net of income tax expense of $55,759					103,573				103,573	103,573
Reclassification adjustments related to derivative contracts, net of deferred income tax expense of $15,859								27,950	27,950	27,950
Change in fair value of outstanding hedge positions, net of deferred income tax benefit of $15,038								(26,503)	(26,503)	(26,503)
Amortization of purchased hedge positions, net of deferred income tax benefit of $279								(492)	(492)	(492)
Balance at December 31, 2004	$ 1	$ 183	$ (24,965)	$ 615,046	$ 108,576	$ (192)	$ (6,215)	$ (12,621)	$ 679,813	$ 104,528

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

Explanation of Responses:

MAGNUM HUNTER RESOURCES, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF CASH FLOWS

(in thousands of dollars)

	For the Years Ended December 31,		
	2004	**2003**	**2002**
CASH FLOW FROM OPERATING ACTIVITIES:			
Net Income	$ 103,573	$ 26,117	$ 15,522
Adjustments to reconcile net income to cash provided by operating activities:			
Cumulative effect of a change in accounting principle		(399)	
Depreciation, depletion, amortization and accretion	127,179	99,614	86,468
Impairment of investments			621
Amortization of financing fees	2,647	2,377	2,037
Imputed interest on debt due to merger			108
Increase in allowance for doubtful accounts	841	231	206
Deferred income taxes (benefits)	53,782	15,463	(1,591)
Equity in (income) loss of unconsolidated affiliate		162	(792)
Costs associated with early extinguishment of debt	12,250	6,716	1,000
Cost of shares released from KSOP suspense	1,347	1,109	867
Minority interest in consolidated subsidiary	(64)	89	
Stock compensation	768	3,017	
Non-cash directors' compensation	145		
Excess of fair value over cost of shares released from KSOP suspense	2,291	441	110
Gain on sale of assets	(288)	(171)	(61)
Other non-cash hedging adjustments	(1,124)	(1,482)	6,626
Changes in certain assets and liabilities, net of the effect of acquisitions			
Accounts and notes receivable	(40,357)	6,565	(17,429)
Derivative assets			3,600
Deposits and other current assets	(2,872)	(4,264)	(9,314)
Accounts payable and accrued liabilities	42,931	(1,081)	(7,449)
(Payment) refund of income taxes	(2,439)	8,134	2,874
Net Cash Provided by Operating Activities	300,610	162,638	83,403
CASH FLOWS FROM INVESTING ACTIVITIES:			
Proceeds from sale of assets	22,902	17,123	95,988
Proceeds from sale of unconsolidated affiliate		5,160	
Purchase of land to be held for sale		(7,563)	
Purchase of controlling interest in Metrix Networks, Inc., net of cash acquired		(253)	
Additions to property and equipment	(303,125)	(175,535)	(141,046)
Cash paid for New Mexico property acquisition	(234,180)		
Cash paid in Prize merger net of cash acquired			(41,095)
(Increase) decrease in other assets	(136)	(17)	238
Loan made for promissory note receivable			(2,596)
Payments received on promissory note receivable	600	500	
Distribution from unconsolidated affiliate		1,510	256
Investment in unconsolidated affiliate		(600)	(1,165)
Net Cash Used In Investing Activities	(513,939)	(159,675)	(89,420)
CASH FLOWS FROM FINANCING ACTIVITIES:			
Proceeds from issuance of debt	466,000	517,375	627,850
Fees paid related to financing activities	(1,011)	(4,428)	(11,961)
Payments of principal on long-term debt and production payment liability	(313,012)	(486,348)	(591,451)
Redemption of notes payable	(115,080)	(134,374)	
Proceeds from issuance of convertible notes		125,000	
Loan repaid by stockholder			742
Loan to KSOP	(2,259)	(2,711)	(3,652)
Loan repaid from KSOP	807	380	473
Proceeds from issuance of common stock	10,431	1,245	3,634

Explanation of Responses:

	For the Years Ended December 31,		
Proceeds from issuance of secondary offering of common stock	169,314		
Proceeds from issuance of treasury stock		3,448	
Purchase of warrants			(128)
Purchase of treasury stock		(7,413)	(18,494)
(Increase) decrease in restricted cash for payment of notes payable	(212)	682	(682)
Net decrease in note receivable from affiliate		100	
Purchase common stock for deferred compensation plan		(295)	
Net Cash Provided by Financing Activities	214,978	12,661	6,331
NET INCREASE IN CASH AND CASH EQUIVALENTS	1,649	15,624	314
CASH AND CASH EQUIVALENTS AT BEGINNING OF YEAR	18,693	3,069	2,755
CASH AND CASH EQUIVALENTS AT END OF YEAR	$ 20,342	$ 18,693	$ 3,069

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

MAGNUM HUNTER RESOURCES, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

NOTE 1 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Organization and Nature of Operations

Magnum Hunter Resources, Inc. ("Magnum Hunter"), is incorporated under the laws of the state of Nevada. The company and our subsidiaries are engaged in the acquisition, operation and development of oil and gas properties, the gathering, processing, transmission, and marketing of natural gas and natural gas liquids and providing management, advisory consulting and measurement services on oil and gas properties for third parties. In conjunction with the above activities, we own and operate oil and gas properties in twelve states, predominantly in the Southwest region of the United States. In addition, we own and operate five gathering systems located in Texas, Oklahoma and New Mexico and own an interest in four natural gas processing plants located in Texas, Oklahoma and Arkansas.

Consolidation

The accompanying consolidated financial statements include the accounts of Magnum Hunter and our existing wholly-owned subsidiaries, Gruy Petroleum Management Co., Magnum Hunter Production, Inc., ConMag Energy Corporation, Trapmar Properties, Inc., Hunter Gas Gathering, Inc. ("Hunter"), Canvasback Energy, Inc., Pintail Energy, Inc., Redhead Energy, Inc. ("Redhead"), Prize Operating Co., PEC (Delaware), Inc., Oklahoma Gas Processing, Inc., and Prize Energy Resources, LP. We consolidate on a pro rata basis our approximately 29% ownership of TEL Offshore Trust, our 1% interest in Mallard Hunter, LP, our 5% interest in Teal Hunter, LP and our 40% interest in Appletree Holdings LLC. Prior to December 2003, we accounted for our approximately 32% interest in Metrix Networks, Inc. ("Metrix") under the equity method. We acquired an 80% controlling interest in Metrix during December 2003, and thus fully consolidate them with a minority interest for the outside owners' 20%. Prior to its sale in September 2003, we also accounted for our investment in NGTS, LLC ("NGTS") under the equity method. All significant intercompany accounts and transactions have been eliminated in consolidation. Certain reclassifications have been made to the consolidated financial statements of the prior years to conform to the current presentation.

Magnum Hunter is a holding company with no significant assets or operations other than our investments in our subsidiaries. Our wholly-owned subsidiaries, except for Canvasback Energy, Inc., Redhead and Metrix, collectively referred to as Canvasback, are direct guarantors of our 9.6% Senior Notes and our Convertible Notes, and have fully and unconditionally guaranteed these notes on a joint and several basis. The guarantors comprise all of our direct and indirect subsidiaries (other than Canvasback), and we have presented separate condensed consolidating financial statements and other disclosures concerning each guarantor and Canvasback (See Note 16). Except for Canvasback, there is no restriction on the ability of consolidated or unconsolidated subsidiaries to transfer funds to Magnum Hunter in the form of cash dividends, loans, or advances.

Cash and Cash Equivalents

We consider all highly liquid debt instruments purchased with an original maturity of three months or less to be cash equivalents. We have cash deposits in excess of federally insured limits.

Investments

We follow accounting procedures according to Statement of Financial Accounting Standards ("SFAS") No. 115, "Accounting for Certain Investments in Debt and Equity Securities." Under this standard, all of our equity securities that have readily determinable fair values are classified as current

or non-current assets, available-for-sale and are measured at fair value and are recognized as either current or non-current assets. Unrealized gains and losses for these investments are reported as comprehensive income and accumulated as a separate component of stockholders' equity. Realized gains and losses are calculated based on the specific identification method. We recorded an impairment on an investment in the common stock of another entity whose stock was held by us for resale for its full carrying value of $621 thousand during 2002. At December 31, 2003 and 2004, we carried no value for our available-for-sale securities.

KSOP

As required under Statement of Position 93-6 "Employers Accounting for Employee Stock Ownership Plans," compensation expense is recorded for shares committed to be released to employees based on the fair market value of those shares when they are committed to be released. The difference between cost and the fair market value of the committed to be released shares is recorded in additional paid-in-capital. Unreleased shares held by the KSOP are excluded from the calculation of earnings per share.

Suspended Revenues

Suspended revenue interests represent oil and gas sales payable to third parties largely on properties operated by the company. We distribute such amounts to third parties upon receipt of signed division orders or resolution of other legal matters.

Oil and Gas Properties

We use the full-cost method of accounting for our investments in oil and gas properties. Accordingly, all costs associated with acquisition, exploration and development of oil and gas reserves, including directly related overhead costs, are capitalized into a "full-cost pool" on a country-by-country basis as incurred. Internal costs that directly relate to acquisition, exploration and development activities that were capitalized totaled $1.3 million for the years ended December 31, 2004 and 2003. The balance of capitalized costs included in oil and gas properties for the years ended December 31, 2004 and 2003 were $6.5 million and $5.2 million, respectively. Management believes that the basis we use to determine the amount of internal costs capitalized is appropriate.

All capitalized costs of oil and gas properties, including the estimated future costs to develop proved reserves and estimated dismantlement and abandonment costs, net of salvage values, are amortized on the unit-of-production method using estimates of proved reserves. Costs directly associated with the acquisition and evaluation of unproved properties are excluded from the amortization base until the related properties are evaluated. Such unproved properties are assessed for impairment quarterly and any provision for impairment is transferred to the full-cost amortization base. Sales of oil and gas properties, including consideration received from sales or transfers of properties in connection with partnerships, joint venture operations or drilling arrangements, are credited to the full-cost pool unless the sale would have a significant effect on the amortization rate. Abandonment of properties is accounted for as an adjustment to capitalized costs with no loss recognized.

In accordance with SFAS 143, "Accounting for Asset Retirement Obligations," we carry a liability for any legal retirement obligations on our oil and gas properties. The associated asset retirement costs are capitalized as part of the full cost pool. We adopted SFAS 143 on January 1, 2003 and recorded

proved property additions of $30.4 million in relation to the transition entry. See Note 3 for additional information on our asset retirement obligations.

Reserve engineering is a subjective process that is dependent on the quality of available data and on engineering and geological interpretation and judgment. Reserve estimates are subject to change over time as additional information becomes available.

A summary of the unproved properties excluded from proved oil and gas properties being amortized at December 31, 2004 and 2003, respectively, and the year in which they were incurred follows:

	December 31, 2004				
	Prior	2002	2003	2004	Total
	(in thousands)				
Property Acquisition Costs	$ 3,585	$ 54,648	$ 9,279	$ 19,582	$ 87,094
Exploration Costs			896	6,482	7,378
Total	$ 3,585	$ 54,648	$ 10,175	$ 26,064	$ 94,472

	December 31, 2003				
	Prior	2001	2002	2003	Total
	(in thousands)				
Property Acquisition Costs	$ 304	$ 4,900	$ 83,836	$ 12,207	$ 101,247
Exploration Costs				9,220	9,220
Total	$ 304	$ 4,900	$ 83,836	$ 21,427	$ 110,467

Costs are transferred into the amortization base on an ongoing basis as the projects are evaluated and proved reserves are established or impairment determined. Pending determination of proved reserves attributable to the above costs, we cannot assess the future impact on the amortization rate.

The capitalized costs are subject to a "ceiling test", which generally limits such costs less accumulated amortization and related deferred income taxes to the aggregate of the estimated present value of future net revenues from proved reserves discounted at ten percent based on current economic and operating conditions less income tax effects related to the differences between the book and tax basis of the oil and gas properties. The ceiling test is performed on a quarterly basis. We experienced no impairment in 2004, 2003, or 2002.

For purposes of the ceiling test, we remove the discounted present value included in our future development costs on our reserve report for which we have already booked an obligation under SFAS 143. For purposes of our depletion calculation, we include in future development costs the estimated plugging and abandonment costs, net of estimated salvage values, for proved undeveloped wells. For purposes of both of these calculations, we do not include plugging and abandonment costs in our future development costs on developed proportions for which we have booked an obligation under SFAS 143.

All costs relating to production activities are charged to expense as incurred.

Amortization expense per thousand cubic feet equivalent was $1.50, $1.28 and $1.17 for the years ended December 31, 2004, 2003 and 2002, respectively.

Derivative Instruments

Our product price and interest hedging activities are described in Note 12 to the consolidated financial statements. Periodically we enter into derivative instruments such as futures, swaps and options contracts to reduce the adverse effects of fluctuations in natural gas and crude oil prices. Under our risk management policy, at inception, commodity hedge positions may not exceed 75% of natural gas and 90% of crude oil current forecasted (18 months) commodity production. For forecasted non-current (greater than 18 months) commodity production, at inception, commodity hedge positions for both natural gas and crude oil may not exceed 75% of forecasted production for each product. We also may utilize, from time to time, financial derivative instruments to hedge the risk associated with interest on our outstanding variable-rate debt. Generally, the cash settlement of all derivative instruments is recognized as income or expense in the period in which the hedged transaction affects earnings.

All freestanding financial derivative instruments, including certain derivative instruments embedded in other contracts if certain criteria are met, are recognized at estimated fair value on our balance sheet. We determine our fair values based on market values obtained from our counterparties. Derivative instruments that are not designated as hedges must be adjusted to fair value through net income. Changes in the fair value of derivative instruments that are fair value hedges are offset against changes in the fair value of the hedged items, and are recognized in net income. Changes in the fair value of derivative instruments that are cash-flow hedges are recognized in other comprehensive income until such time as the hedged items are recognized in net income. Ineffective portions of a derivative instrument's change in fair value are immediately recognized in net income.

Gas Processing Plants and Pipelines

Gas processing plants and pipelines are carried at cost. Depreciation is provided using the straight-line method over an estimated useful life of 15 years. Gain or loss on retirement or sale or other disposition of assets is included in results of operations in the period of disposition. We review the carrying value of pipelines and processing plants and other long-lived assets (other than oil and gas assets accounted for under the full-cost method) for impairment whenever events and circumstances indicate that the carrying value of an asset may not be recoverable from the estimated future cash flows expected to result from its use and eventual disposition. In cases where the undiscounted expected future cash flows are less than the carrying value, an impairment loss is recognized equal to an amount by which the carrying value exceeds the fair value of assets. The fair value is determined using the discounted cash flows method.

Other Property

Other property and equipment are carried at cost. Depreciation is provided using the straight-line method over estimated useful lives ranging from three to 39 years. Gain or loss on retirement or sale or other disposition of assets is included in results of operations in the period of disposition.

Other Oil and Gas Related Services

Other oil and gas related services consist largely of fees earned from our operation and monitoring services of oil and gas properties for third parties. Such fees are recognized in the month the service is provided.

Magnum Hunter does not recognize income in connection with drilling, well service or other services provided in connection with oil and gas properties in which we hold an ownership or other economic interest to the extent of our interest. Any proceeds received for services performed that are not recognized as income are credited to the full cost pool.

Stock Compensation

At December 31, 2004, we had four stock-based employee compensation plans, which are described more fully in Note 13. We currently account for our employee stock option plans under SFAS No. 148, "Accounting for Stock-Based Compensation Transition and Disclosure, an Amendment to FASB Statement No. 123," in December 2002. SFAS No. 148 provides alternative methods of transition for a voluntary change to the fair value method of accounting for stock-based employee compensation and amends the disclosure requirements of SFAS No. 123. On June 1, 2003, and effective January 1, 2003, we began expensing the fair market value of stock options newly granted, modified or settled pursuant to SFAS No. 123, "Accounting for Stock-Based Compensation," and as allowed under the prospective method of SFAS No. 148. The fair value of each option granted after December 31, 2002, is estimated on the grant date, using the Black-Scholes option-pricing model. For the years ended December 31, 2003 and 2004, we recorded stock compensation expense of $3.0 million and $768 thousand, respectively, which is reflected in our general and administrative expenses. For options granted prior to January 1, 2003, we continue to use the intrinsic method under APB No. 25, "Accounting for Stock Issued to Employees and Related Interpretations," whereby no compensation expense is recognized for stock options granted with an exercise price equal to the market value of our stock on the grant date. Our future accounting for stock-based compensation will be impacted by the issuance of SFAS No. 123(R). Please see our Recently Issued Statements discussion below for additional information.

If we had recorded stock option expense under the fair value provisions of SFAS No. 123 for all prior and current grants, our net income and earnings per share ("EPS") would have been as shown in the below pro forma tables (in thousands):

	Year Ended December 31,		
	2004	2003	2002
Net income, as reported	$ 103,573	$ 26,117	$ 15,522
Total Stock-based employee compensation expense included in reported net income, net of income taxes of $278 and $1,144, respectively	490	1,873	
Deduct: Total stock-based employee compensation determined under fair value-based method for all awards, net of income taxes of $1,871, $2,896, and $1,962 respectively	(3,298)	(4,751)	(3,219)
Pro forma net income	$ 100,765	$ 23,239	$ 12,303
Earnings per share:			
Basic as reported	$ 1.35	$ 0.39	$ 0.25
Basic pro forma	$ 1.31	$ 0.35	$ 0.20
Diluted as reported	$ 1.31	$ 0.39	$ 0.25
Diluted pro forma	$ 1.28	$ 0.34	$ 0.20

The company estimated the fair value of each stock based grant (options and warrants) using the Black-Scholes option pricing method while using the following weighted average assumptions:

	2004(a)	2003(b)	2002
Risk-free interest rate	3.38%	1.58%	3.68%
Expected life	4.1 years	2.1 years	7.4 years
Expected volatility	40.7%	46.3%	49.5%
Dividend yield			
Weighted average fair value of options granted	$ 3.81	$ 3.03	$ 3.17

(a) We granted 1,403,000 options during 2004, which had a reduced term of four years. Prior grants have ten-year terms.

(b) We granted 999,260 options during 2003, which had a reduced term of three years. Prior grants have ten-year terms.

Insurance Proceeds

As a result of damages incurred during Hurricane Lili, we received proceeds of $904 thousand and $1 million, during the years ended 2004 and 2003 respectively. We credited $608 thousand in each of the years 2004 and 2003 against proved property to represent damages paid for equipment losses. In

Explanation of Responses:

2004 and 2003, we included $296 thousand and $399 thousand, respectively, of these proceeds in oil and gas sales, which represented business interruption proceeds.

Income Taxes

We file a consolidated federal income tax return. Income taxes are provided for the tax effects of transactions reported in the financial statements and consist of taxes currently due, if any, plus net deferred taxes related primarily to differences between the basis of assets and liabilities for financial and income tax reporting. Deferred tax assets and liabilities represent the future tax return consequences of those differences, which will either be taxable or deductible when the assets and liabilities are recovered or settled. Deferred tax assets include recognition of operating losses that are available to offset future taxable income and tax credits that are available to offset future income taxes. Valuation allowances are recognized to limit recognition of deferred tax assets where appropriate. Such allowances may be reversed when circumstances provide evidence that the deferred tax assets will more likely than not be realized. We recorded a valuation allowance of $2.0 million on deferred tax assets representing state operating loss carryforwards during 2004 due to management's estimate that these operating loss carryforwards would not be realized before their expiration.

Goodwill

As a result of our merger with Prize, we currently have recorded $56.5 million of goodwill. Under SFAS No. 142, we will not amortize any of the goodwill acquired in the merger. All goodwill has been allocated to the Exploration and Production reporting unit. We test our goodwill for impairment on an annual basis or whenever indicators of impairment exist. We performed our annual impairment test at December 31, 2004, and determined that no impairment existed. The annual impairment test requires management to make significant estimates and judgments. If impairment is determined to exist, we will measure our impairment based on a comparison of the carrying value of goodwill to the implied fair value of that goodwill. The implied fair value of goodwill is determined by allocating the fair value of the Exploration and Production reporting unit to all of the assets and liabilities of that unit. The excess of the fair value of the reporting unit over the amounts assigned to its assets and liabilities is the implied fair value of goodwill. If the carrying amount of goodwill exceeds the implied fair value of that goodwill, impairment will be recognized in the income statement.

Asset Retirement Obligations

SFAS No. 143, "Accounting for Asset Retirement Obligations," became effective beginning January 1, 2003. SFAS No. 143 requires the recognition of a fair value liability for any retirement obligation associated with long-lived assets in the period in which it is incurred if a reasonable estimate of fair value can be made. The associated asset retirement costs are capitalized as part of the carrying amount of the long-lived asset and depreciated over the asset's useful life. See Note 3 for additional information on our asset retirement obligations. Upon adoption of SFAS No. 143, we recorded an addition to oil and gas properties of $25.4 million, an asset retirement obligation of $30.4 million, a reduction of accumulated depletion of $5.6 million, and a pre-tax gain of $643 thousand. The retirement obligation requires management to make significant estimates and judgments regarding our expected plugging costs and retirement dates.

Recently Issued Statements

The Financial Accounting Standards Board ("FASB") has issued FASB Staff Position ("FSP") No. 142-2, "Application of FASB Statement 142, Goodwill and Other Intangible Assets, to Oil-and-Gas Producing Entities" after evaluating an issue involving the classification of mineral rights. In June 2001, FASB issued Statement of Financial Accounting Standards ("SFAS") No. 141, "Business Combinations," which requires the purchase method of accounting for business combinations initiated after June 30, 2001 and eliminates the pooling-of-interests method. In July 2001, the FASB also issued SFAS No. 142, "Goodwill and Other Intangible Assets," which discontinues the practice of amortizing goodwill and indefinite lived intangible assets and initiates an annual review of impairment. Intangible assets with a determinable useful life will continue to be amortized over that period. The amortization provisions apply to goodwill and intangible assets acquired after June 30, 2001. SFAS No. 141 and 142 clarify that more assets should be distinguished and classified between tangible and intangible. We did not change or reclassify contractual mineral rights included in proved and unproved oil and gas properties on our balance sheet upon adoption of SFAS No. 142. We believe the treatment of such mineral rights as tangible assets under the full cost method of accounting for oil and gas properties is appropriate. An issue was raised regarding whether these mineral rights should be classified as tangible or intangible assets. FSP No. 142-2 addressed this issue and supports our current accounting treatment of mineral rights and will not impact our financial statements. This FSP is effective for reporting periods beginning after September 2, 2004.

FASB issued FSP FAS 129-1, "Disclosure Requirements Under FASB Statement No. 129, *Disclosure of Information About Capital Structure*," in April 2004. This FSP provides additional guidance on the disclosure requirements of contingently convertible securities. We have made the required disclosures related to the terms of our Convertible Notes and have provided explanations in Note 5 about the dilutive effects of these notes on our earnings per share.

FASB's Emerging Issues Task Force ("EITF") has issued an EITF Abstract for EITF Issue No. 04-8, "The Effect of Contingently Convertible Debt on Diluted Earnings per Share," which addresses the issue of when the dilutive effects of contingently convertible debt instruments should be included in diluted earnings per share. This guidance would require companies to include the dilutive effect of convertible debt securities in diluted earnings per share regardless of whether or not the contingent conversion features have been triggered. This EITF is effective for periods ending after December 15, 2004. We have accordingly included approximately 94 thousand potential shares to be issued for our Convertible Notes in our earnings per share computations for the year ending 2004 based on the spread between our average market price during the year and the conversion price on these notes. We did not include any potential dilution for the 2003 period because the conversion price did not exceed our average market price during that period.

The SEC Staff Accounting Bulletin ("SAB") 106 was released in September 2004. SAB 106 expresses the SEC staff's views on the interaction of SFAS No. 143 and the full cost method and provides guidance on computing the full cost ceiling as well as depreciation, depletion, and amortization. The SAB also requires additional disclosures regarding how the application of SFAS No. 143 has affected the ceiling test and depreciation, depletion and amortization. This guidance is effective for the first fiscal quarter beginning after its publication. We implemented this guidance for our ceiling test and depletion calculations during the fourth quarter of 2004 and experienced no significant impact.

FASB issued SFAS No. 123(R), "Share-Based Payment", during December 2004. Under this revised guidance, all share-based equity and liability instruments will be recorded as compensation expense based on their fair values, and all liability instruments will be remeasured each reporting period. This guidance will be effective as of the beginning of the first annual or interim reporting period that begins after June 15, 2005, which would cause us to adopt this statement July 1, 2005. We currently account for our stock-based compensation under the prospective method, under which we only record compensation expense on awards granted after 2003. Upon adoption of this statement, we will apply the modified prospective method to our equity instruments under which compensation expense will also be recorded on the unvested portions of awards granted prior to 2003. At this time, we estimate the pre-tax impact of these prior years' grants on 2005 earnings to be an additional pre-tax expense of $1.2 million.

FASB also issued SFAS No. 153, "Exchanges of Nonmonetary Assets, an amendment of APB Opinion No. 29", during December 2004. SFAS No. 153 amends APB Opinion No. 29 by eliminating the exception from fair value measurement prescribed in that statement and replaces it with an exception for exchanges that have no significant impact on future cash flows. This statement is effective for exchanges that take place in fiscal periods beginning after June 15, 2005. We do not expect this statement to have an impact on our future financial results.

Income or Loss Per Common Share

Basic net income or loss per common share is computed by dividing the net income or loss attributable to common stockholders by the weighted average number of shares of common stock outstanding during the period. Diluted net income or loss per common share is calculated in the same manner, but also considers the impact to net income and common shares for the potential dilution from stock options, stock warrants and any other outstanding convertible securities.

The following table reconciles the numerators and denominators used in the computations of both basic and diluted EPS (in thousands, except for per share amounts):

	For the Year Ended								
	December 31, 2004			December 31, 2003			December 31, 2002		
	Income (Numerator)	Shares (Denominator)	Per Share Amount	Income (Numerator)	Shares (Denominator)	Per Share Amount	Income (Numerator)	Shares (Denominator)	Per Share Amount
Income before Cumulative Effect	$ 103,573	76,952	$ 1.35	$ 25,718	66,192	$ 0.38	$ 15,522	61,493	$ 0.25
Add: Cumulative Effect				399		0.01			
Basic EPS									
Income available to common stockholders	$ 103,573	76,952	$ 1.35	$ 26,117	66,192	$ 0.39	$ 15,522	61,493	$ 0.25
Effect of dilutive securities									
Warrants					57			35	
Convertible Notes		94							
Options		1,913			1,253			986	
Diluted EPS									
Income available to common stockholders and assumed conversions	$ 103,573	78,959	$ 1.31	$ 26,117	67,502	$ 0.39	$ 15,522	62,514	$ 0.25
Less: Cumulative Effect				(399)		(0.01)			
Income before Cumulative Effect	$ 103,573		$ 1.31	$ 25,718		$ 0.38	$ 15,522		$ 0.25

At December 31, 2004, we had 7,228,457 warrants outstanding at a weighted average exercise price of $15.00 per share, 5,938,102 options outstanding at a weighted average price of $7.88 per share, and no outstanding convertible preferred stock. Warrants totaling 7,228,457 shares and options totaling 376,125 shares were excluded from the diluted net income per share computation in 2004 because their exercise price exceeded the average market price of our stock. There was a 93,750 share dilutive effect from our Convertible Notes for the year ending December 31, 2004. Please see Note 5 for a discussion of the conversion features of these Notes.

At December 31, 2003, we had 7,228,457 warrants outstanding at a weighted average exercise price of $15.00 per share, 6,740,764 options outstanding at a weighted average exercise price of $6.36 per share, and no outstanding convertible preferred stock. Warrants totaling 7,550,832 shares and options totaling 2,299,300 shares were excluded from the diluted net income per share computation in 2003 as the exercise price exceeded the average market price of our common stock. There was no dilutive effect from our Convertible Notes because their conversion price exceeded the average market price during the period, and only the conversion spread is issuable in shares.

At December 31, 2002, we had 7,873,206 warrants outstanding at a weighted average exercise price of $14.32 per share, 6,044,800 options outstanding at a weighted average exercise price of $6.37 per share, and no outstanding convertible preferred stock. Warrants totaling 7,838,600 shares and options totaling 5,059,286 shares were excluded from the diluted net income per share computation in 2002 as the exercise price exceeded the average market price of our common stock.

Revenue Recognition

Revenues are recognized when title to the product transfers to purchasers. We follow the "sales method" of accounting for revenue for oil and natural gas production, so that sales revenue is recognized on all production sold to purchasers, regardless of whether the sales are proportionate to our ownership in the property. In these instances when our sales are not proportionate to our interest, a receivable or liability is recognized only to the extent that we have an imbalance on a specific property greater than the expected remaining proved reserves. Current revenues are accrued based on expectations of actual deliveries and actual prices received. Plant revenues are recognized as product is sold, and our gathering fees are recognized as the gathering services are performed. Revenues for our oilfield management services segment are recognized as services are performed and equipment is delivered.

Inflation and Changes in Prices

Our results of operations and cash flow have been, and will continue to be, affected by the volatility in oil and gas prices. Should we experience a significant increase in oil and gas prices that is sustained over a prolonged period, we would expect that there would also be a corresponding increase in oil and gas finding costs, lease acquisition costs, and operating expenses.

We market oil and gas for our own account, which exposes us to the attendant commodities risk. A significant portion of our gas production is currently sold to end-users either (i) on the spot market on a month-to-month basis at prevailing spot market prices or (ii) under long-term contracts based on current spot market prices. We normally sell our oil under month-to-month contracts to a variety of purchasers.

Use of Estimates and Certain Significant Estimates

The preparation of our financial statements in conformity with accounting principles generally accepted in the United States of America requires our management to make estimates and assumptions that affect the amounts reported in these financial statements and accompanying notes. Actual results could differ from those estimates. Significant assumptions are required in the valuation of proved oil and gas reserves, which, as described above, may affect the amount at which oil and gas properties are recorded. It is at least reasonably possible those estimates could be revised in the near term and those revisions could be material.

Treasury Stock

We may repurchase shares of common stock in stock repurchase programs. Our repurchases of shares of common stock are recorded as treasury stock at cost and result in a reduction of stockholders' equity. When treasury shares are reissued, we use a first-in first-out method and the difference between repurchase cost and reissuance price is treated as an adjustment to paid-in capital.

NOTE 2 ACQUISITIONS AND DISPOSITIONS

On July 30, 2004, we purchased oil and gas properties located in the state of New Mexico, primarily in Lea and Eddy counties for $239.1 million, subject to certain purchase price adjustments. The properties include both proved producing oil and gas wells and proved undeveloped leasehold mineral interests. The effective date of the acquisition was May 1, 2004. We purchased additional properties related to this acquisition during September 2004 for a purchase price of $1.4 million, net of certain purchase price adjustments. We also recorded additional asset retirement obligations of $1.5 million as a result of the acquisition. Pro forma information related to this acquisition has not been presented, as the effect was not material to our historical results of operations.

On August 30, 2004, we entered into an agreement to purchase approximately 170 producing wells located in the Permian Basin of West Texas for $40 million, net of certain purchase price adjustments. Closing occurred on October 29, 2004 and had an effective date of September 1, 2004. Pro forma information related to this acquisition has not been presented, as the effect was not material to our historical results of operations.

On July 29, 2003, we exercised our option to sell our 30% interest in NGTS. At that date, we reduced the carrying value and recorded a charge to equity in earnings of affiliate of approximately $791 thousand to state our investment at its estimated fair value. The sale closed on September 30, 2003, and we received proceeds of $5.2 million on that date which we used to repay indebtedness. No gain or loss was recorded at the time of sale. Pro forma information related to this acquisition has not been presented, as the effect was not material to our historical results of operations.

On November 19, 2003, we acquired an 80% controlling ownership interest in Metrix, an internet-based field marketing service company, through the settlement of outstanding litigation in our favor as well as the conversion of our $325 thousand loan to Metrix into equity of that company. As a result of the settlement, we have fully consolidated Metrix, effective December 1, 2003. Prior to this acquisition, we accounted for our approximate 32% ownership interest in Metrix as an equity investment. No goodwill was recorded on this acquisition. Pro forma information related to this acquisition has not been presented, as the effect was not material to our historical results of operations.

On March 15, 2002, we merged with Prize Energy Corp. ("Prize"), a publicly traded independent oil and gas development and production company. The transaction was accounted for by us as a purchase of Prize in accordance with the provisions of SFAS No. 141 "Business Combinations". As a result of our merger with Prize, we acquired oil and gas properties located in three of our core operating areas: the Permian Basin of West Texas and Southeast New Mexico, the onshore Gulf Coast area of Texas and Louisiana and the Mid-Continent area of Oklahoma and the Texas Panhandle. This allowed us to meet our goal of increasing reserves in geographic regions similar to our own which allows us to achieve operating synergies and production enhancements. Under the terms of the merger, we distributed 2.5 shares of common stock plus $5.20 in cash for each Prize share outstanding. The purchase price, computed from the equity and cash consideration given at the time of the merger, was allocated to the fair value of the net assets acquired. The amount of purchase price in excess of the fair value of Prize's net assets was assigned to goodwill. We assigned the goodwill to our exploration and production segment when the purchase price allocation was finalized in June 2003. The following table

summarizes the total assumed purchase price and related final allocation to the net assets acquired (amounts in thousands) as of June 30, 2003:

Total Purchase Price:		
Fair Value of 34,062,963 shares of Magnum Hunter common stock	$	257,175
Cash consideration		70,851
Fair Value of Prize warrants		3,416
Total	$	331,442
Net Preliminary Purchase Price Allocation:		
Net purchase price	$	331,442
Historical net assets acquired		(148,272)
Excess purchase price		183,170
Adjustment of proved oil and gas properties to fair value		(63,915)
Adjustment of unproved oil and gas properties to fair value		(139,395)
Adjustment of gas plant to fair value		(18,856)
Write-off of historical Prize deferred financing costs		2,363
Other fair value adjustments		1,436
Imputed interest on debt due to merger		(108)
Additional deferred income taxes		91,865
Excess purchase price allocated to goodwill	$	56,560

During the third and fourth quarters of 2003, we divested of a number of oil and gas properties. In accordance with SFAS No. 142, we attached $93 thousand of goodwill to the divested properties. Proceeds (net of goodwill) of approximately $17 million were applied against the full cost pool. The remaining goodwill balance at December 31, 2004 was $56.5 million. Also in accordance with SFAS No. 142, we performed a goodwill impairment test at December 31, 2004. Test results showed no impairment of goodwill. The goodwill acquired is not deductible for tax purposes. Historical net assets acquired in the merger were as follows (in thousands):

Current assets	$	78,440
Properties, plant and equipment, net		398,409
Other assets		3,093
Current liabilities		(42,626)
Long-term debt		(245,819)
Deferred income taxes		(40,677)
Other non-current liabilities		(2,548)
Historical net assets acquired	$	148,272

Changes to the carrying value of goodwill during the twelve months ended December 31, 2003 and 2004, are as follows (in thousands):

Balance at December 31, 2002	$	50,710
Goodwill acquired		
Purchase price adjustments		5,850
Adjustment for divested properties		(93)
Balance at December 31, 2003		56,467
Goodwill acquired		
Purchase price adjustments		
Adjustment for divested properties		
Balance at December 31, 2004	$	56,467

The following summary, prepared on a pro forma basis, presents the results of operations for the year ended December 31, 2002, as if the acquisition of Prize occurred as of the beginning of the respective periods. The pro forma information includes the effects of adjustments for interest expense, depreciation, depletion and amortization, and income taxes. The pro forma results are not necessarily indicative of what actually would have occurred if the acquisition had been completed as of the beginning of each period presented, nor are they necessarily indicative of future consolidated results. Prize was included in our consolidated results of operations beginning March 1, 2002.

Pro Forma Results of Operations
(Unaudited)
(in thousands of dollars, except for per share amounts)

		Year Ended December 31, 2002
Revenue	$	292,872
Total Operating Costs and Expenses		(219,575)
Operating Profit		73,297
Interest Expense and Other		(60,202)
Income before Tax		13,095
Benefit for Income Tax		892
Net Income	$	13,987
Net Income Per Common Share		
Basic	$	0.20
Diluted	$	0.20

NOTE 3 ASSET RETIREMENT OBLIGATIONS

SFAS No. 143, "Accounting for Asset Retirement Obligations," became effective beginning January 1, 2003. SFAS No. 143 requires the recognition of a fair value liability for any legal retirement obligations associated with long-lived assets in the period in which it is incurred if a reasonable

estimate of fair value can be made. The associated asset retirement costs are capitalized as part of the carrying amount of the long-lived asset and depreciated over the asset's useful life. Prior to adopting SFAS No. 143 on January 1, 2003, we accounted for asset retirement obligations in accordance with SFAS No. 19.

Our long-lived assets captured under SFAS No. 143 are developed oil and gas properties, production and distribution facilities, and natural gas processing plants. Our asset retirement obligations include plugging, abandonment, decommission, and remediation costs. We have included $1.2 million of our asset retirement obligations in other current liabilities at December 31, 2004.

The following is a reconciliation of the asset retirement obligation liability at December 31, 2004 (in thousands):

Beginning balance at January 1, 2004	$	32,489
Liabilities incurred		7,260
Liabilities settled		(761)
Liabilities sold/disposed		(1,120)
Accretion expense		2,941
Change in retirement cost estimates		468
Ending balance at December 31, 2004	$	41,277

The following pro forma data summarizes our net income and net income per share as if we had adopted SFAS No. 143 on January 1, 2002. The associated pro forma asset retirement obligation was $16.9 million on January 1, 2002, and an additional asset retirement obligation of $12.9 million would have been recorded at March 1, 2002, in conjunction with the Prize merger. The balance at December 31, 2002 would have been $30.4 million. Values in the pro forma summary are in thousands, except for the per share amounts.

	Year Ended December 31,		
	2004	2003	2002
Net income, as reported	$ 103,573	$ 26,117	$ 15,522
Pro forma adjustment to reflect retroactive adoption of SFAS No. 143, net of related tax effects		(399)	1
Pro forma net income	$ 103,573	$ 25,718	$ 15,523
Earnings per share:			
Basic as reported	$ 1.35	$ 0.39	$ 0.25
Basic pro forma	$ 1.35	$ 0.38	$ 0.25
Diluted as reported	$ 1.31	$ 0.39	$ 0.25
Diluted pro forma	$ 1.31	$ 0.38	$ 0.25

NOTE 4 RELATED PARTY TRANSACTIONS

At December 31, 2004 and 2003, our note receivable from the Magnum Hunter 401(k) Employee Stock Ownership Plan (KSOP) was $6.2 million and $6.1 million, respectively. The purpose of the loan is to allow the KSOP to purchase Magnum Hunter common stock on the open market. The loan is interest free, due December 31, 2005, and is secured by shares of the company's common stock which have not been earned by participants in the KSOP. At December 31, 2004 and 2003, the number of unearned shares in the KSOP were 880,083 and 1,012,203, respectively. The unearned shares and their corresponding costs were reflected on our consolidated balance sheets as reductions to stockholders' equity.

There are no loans or extensions of credit to directors and executive officers of Magnum Hunter as of December 31, 2003 or 2004.

NOTE 5 DEBT

Notes payable and long-term debt at December 31, 2004 and 2003 consisted of the following (in thousands):

	2004	2003
Long-Term Debt:		
Bank debt under revolving credit agreements due May 2, 2007, 3.92% at December 31, 2004	$ 320,000	$ 165,000
Capital lease obligations, 5.58% at December 31, 2004	5,500	7,500
Senior unsecured notes, due March 15, 2012, 9.6%	195,000	300,000
Floating rate convertible senior notes, due December 15, 2023 2.49% at December 31, 2004	125,000	125,000
Production payment liability, non-recourse		12
	645,500	597,512
Less current portion	2,458	2,009
Total Long-Term Debt	$ 643,042	$ 595,503

The following table presents the approximate annual maturities of debt:

	(in thousands)
2005	$ 2,458
2006	807
2007	322,235
Thereafter	320,000
Total	$ 645,500

We have a Senior Bank Credit Facility ("Facility"), which provides for total borrowings of $750 million, on which our borrowing base was limited to $525 million at December 31, 2004. The level of the borrowing base is dependent on the valuation by the lenders of the assets pledged, which are primarily oil and gas reserves.

During 2004, we amended our Facility in April, July, and October to ultimately increase the borrowing base to $525 million, up $270 million from our previous $255 million borrowing base. We also extended the expiration date of the Facility to May 2, 2007. The amended facility allowed us to use proceeds from our secondary common stock offering to redeem and retire $105 million in principal of our 9.6% Senior Notes outstanding. We used the increased borrowing base to fund the costs of issuing our Convertible Notes and to fund the acquisitions of oil and gas properties in New Mexico and West Texas. The Facility provides for both a LIBOR and "Base rate" (Prime) interest rate option. At December 31, 2004, we had no borrowings under the Base rate option and $320 million outstanding at LIBOR + 1.50%. We also have a letter of credit posted against our borrowing base of $2.5 million. While we have no actual borrowings against this letter of credit, it reduces our funds available under the borrowing base. The letter of credit was posted to cover any plugging and abandonment costs, as well as potential environmental remediation costs after the property is plugged, of a property previously owned by Prize. We have entered non-binding arbitration to attempt to eliminate the need for this letter of credit. At December 31, 2004, we had available credit under this Facility of $202.5 million.

Our Facility includes covenants, the most restrictive of which requires maintenance of a funded debt to EBITDA ratio and an interest coverage ratio, as defined in the loan agreement. We were in compliance with the covenants in 2003 and 2004. We expect to be able to comply with these covenants in the future. The lenders to the Facility must approve all dividends paid on common stock, other than those paid in common stock, and have approved both the redemption of our 10% Senior Notes, the partial redemption of our 9.6% Senior Notes and the issuance of our Convertible Notes.

On a semi-annual basis, our borrowing base under our Facility is redetermined by the financial institutions who have committed to the company based on their review of our pledged proved oil and gas reserves and other assets. If the outstanding balance on the Facility exceeds the redetermined borrowing base, we must repay the excess over the next six months. The last redetermination date had an effective date of June 30, 2004, and was completed on October 15, 2004. This redetermination increased our borrowing base by $45 million. Our next redetermination date will have an effective date of December 31, 2004, and has an estimated completion date of no later than May 9, 2005.

On March 15, 2002, Canvasback entered into a $10 million revolving credit agreement with a financial institution. The credit agreement provided for both LIBOR and prime based interest rate options. On June 30, 2002, we converted the $5.8 million balance under this agreement to a term loan due March 7, 2004. Proceeds from the loan were used to purchase $5.8 million of our 10% Senior Notes from Magnum Hunter, which had been purchased by Magnum Hunter during 2001 and held for investment. These 10% Senior Notes, along with $4.7 million in 10% Senior Notes contributed to Canvasback from Bluebird, served as the only collateral for this loan. We borrowed additional funds of $1.2 million during the fourth quarter of 2002, increasing the balance to $7 million. This loan was non-recourse to Magnum Hunter. In conjunction with the redemption of our 10% Senior Notes during 2003, this loan was paid in full and the agreement was terminated.

On January 15, 2002, we entered into a sale-leaseback transaction on three newly-constructed production platforms and associated pipelines located in the Gulf of Mexico that had already been placed into service. We received total proceeds of $11.2 million in new funding, which we used for general corporate purposes. The production platforms are being leased from a syndicate group of lenders over terms from three to five years at a cost of funds based on LIBOR, yielding a weighted average rate of 5.58% at December 31, 2004.

On May 29, 1997, we completed a private placement of $140 million in unsecured 10% Senior Notes, due June 1, 2007. During 2003, we paid $145.2 million to redeem the $140 million in principal of our 10% Senior Notes. This redemption was funded by borrowings under our Facility as well as the issuance of $125 million in Convertible Notes during December 2003. We paid approximately $5.2 million in premiums to redeem these notes. Of the notes redeemed, Canvasback received approximately $10.9 million in principal and received premiums of approximately $273 thousand.

We completed a private placement of $300 million in unsecured 9.6% Senior Notes on March 15, 2002. The 9.6% Senior Notes are due March 15, 2012, with interest payable semi-annually on March 15 and September 15. We used the funds received to: i) retire outstanding indebtedness under the Prize commercial bank credit facility, ii) pay fees related to the issuance of the new Senior Notes, and iii) for general corporate purposes. On August 27, 2004, we redeemed $105 million in principal of our 9.6% Senior Notes at a redemption price of 109.6% of par. We paid the holders of these redeemed notes $115.1 million plus accrued and unpaid interest of $4.5 million. We used a portion of the proceeds from our secondary offering to fund this redemption. We recorded $12.3 million in costs associated with this redemption comprised of $10.1 million in premiums and $2.2 million in unamortized deferred financing fees which were written off.

During December 2003, we issued $125 million in face value of Convertible Notes. These Convertible Notes bear interest equal to the three-month LIBOR, to be adjusted quarterly. The rate on the Convertible Notes was 2.49% at December 31, 2004. They are convertible into a combination of cash and Magnum Hunter common stock upon certain events. The initial conversion price is $12.19, subject to adjustment under certain conditions. The Convertible Notes are due December 2023, but holders of these notes have the right to require us to repurchase all or a portion of the notes on December 15, 2008, 2013, and 2018. If repurchase is elected, we will repurchase these notes for an amount of cash equal to 100% of the principal plus accrued but unpaid interest up to but not including the date of repurchase. The repurchase notice given by each holder electing repurchase may be withdrawn by the holder by written notice of withdrawal delivered prior to the close of business on the date of repurchase. The proceeds from these Convertible Notes were used to reduce borrowings under the Facility by approximately $25 million.

Holders may surrender Convertible Notes for conversion into cash and shares of our common stock prior to the Convertible Notes' maturity date in the following circumstances: i) during any calendar quarter commencing after the issuance of the Convertible Notes, if our common stock price for at least 20 trading days in the period of 30 consecutive trading days ending on the last trading day of the calendar quarter preceding the quarter in which the conversion occurs is more than 110% of the conversion price per share of our common stock in effect on that 30th trading day; ii) if we have called the particular Convertible Notes for redemption and the redemption has not yet occurred; iii) during the five trading day period after any five consecutive trading day period in which the trading price of $1,000 principal amount of the Convertible Notes for each day of such five-day period was less than 95% of the product of the closing sale price of our common stock on that day multiplied by 82.0345 (the "Conversion Rate"); or iv) upon the occurrence of specified corporate transactions.

Upon the occurrence of the circumstances described above, holders may convert any outstanding notes into cash and shares of our common stock at an initial conversion price per share of $12.19. Subject to certain exceptions, at the time notes are tendered for conversion, the value (the "Conversion Value") of the cash and shares of our common stock, if any, to be received by a holder converting

$1,000 principal amount of the notes will be determined by multiplying the Conversion Rate by the ten-day average closing stock price of our common stock. We will deliver the Conversion Value to holders as follows: i) an amount in cash (the "Principal Return") equal to the lesser of (a) the Conversion Value and (b) the principal amount of the notes to be converted and, if the Conversion Value is greater than the Principal Return, ii) an amount in shares equal to the Conversion Value less the Principal Return ("the Net Share Amount"). The number of Net Shares to be paid will be determined by dividing the Net Share Amount by the ten day average closing stock price of our common stock.

Metrix has a $500 thousand revolving credit facility with a lender. This facility matures on December 16, 2005 and is governed by a borrowing base. Magnum Hunter is a guarantor to this facility. As of December 31, 2004, there were no borrowings outstanding under this facility.

In November 1996, we entered into a production payment conveyance. We received a production payment amount of $750 thousand and agreed to make payments of up to 50% of the monthly net revenue proceeds received from certain oil and gas properties. The balance owed under the conveyance was $12 thousand at December 31, 2003 and was paid in full in 2004.

NOTE 6 INCOME TAXES

We account for income taxes in accordance with SFAS No. 109, "Accounting for Income Taxes", which requires the recognition of a liability or asset, net of a valuation allowance, for the deferred tax consequences of all temporary differences between the tax bases and the reported amounts of assets and liabilities, and for the future benefit of operating loss carryforwards. The following is a reconciliation of income tax expense reported in the statement of operations (in thousands):

	2004	2003	2002
Income tax expense at statutory rates			
Federal tax expense	$ 55,766	$ 14,550	$ 4,847
State tax expense	1,912	229	403
Adjustment of deferred state tax rate	(4,811)		
Change in valuation allowance	2,042		(7,100)
Other	850	434	259
Tax expense (benefit)	$ 55,759	$ 15,213	$ (1,591)

The tax effects of significant temporary differences and carryforwards are as follows (in thousands):

	December 31,	
	2004	2003
Property and equipment, including intangible drilling costs	$ (236,580)	$ (184,713)
Plugging costs and other	(1,730)	
Total deferred tax liability	$ (238,310)	$ (184,713)
Allowance for doubtful accounts	$ 1,294	$ 1,105
Depletion carryforwards	1,147	1,200
Derivative instruments	7,175	9,570
Alternative minimum tax credit	278	
Employee stock options	877	
Operating loss and other carryforwards	45,849	40,073
Other	376	28
Total deferred tax assets	$ 56,996	$ 51,976
Valuation allowance on state NOL carryforwards	(2,042)	
Net Deferred Tax Liability	$ (183,356)	$ (132,737)

During 2004, an adjustment was made to lower deferred state income taxes payable by $4.8 million to reflect a change in our deferred state income tax rate from 2.875% to 1.2%, due to an increase in income not subject to state income taxes. In addition, during 2004, a valuation allowance of $2 million was established for state NOL carryforwards, due primarily to a five-year state carryforward limitation, and the likelihood that these NOL's would not be realized before expiration.

Magnum Hunter and our subsidiaries have net operating loss carryforwards of approximately $113.8 million that expire, if unused, in years 2012 through 2023. Current tax laws and regulations relating to specified changes in ownership limit the utilization of our net operating loss and tax credit carryforwards. A change in ownership of greater than 50% of a corporation within a three-year period causes the annual limitations to be placed in effect. Such a change is deemed to have occurred February 3, 1999 in connection with the purchase of preferred stock by ONEOK Resources Company, which has subsequently been either redeemed or converted to common stock. Approximately $51.4 million of the net operating losses are subject to a limitation of $7.8 million per year. We also have $9.5 million of net operating losses subject to a limitation of $3.7 million per year as a result of the merger with Prize Energy Corp. on March 15, 2002. In addition, we have depletion carryforwards of $3.2 million with no expiration period.

NOTE 7 STOCKHOLDERS' EQUITY

Preferred Stock

Shares of preferred stock may be issued in such series, with such designations, preferences, stated values, rights, qualifications or limitations as determined solely by the Board of Directors. Of the 10,000,000 shares of $.001 par value preferred stock we are authorized to issue, 216,000 shares have been designated as Series A Preferred Stock, 1,000,000 shares have been designated as 1996 Series A

convertible preferred stock and 50,000 shares have been designated as 1999 Series A 8% convertible preferred stock. Thus, 8,734,000 preferred shares have been authorized for issuance but have not been issued nor have the rights of these preferred shares been designated. No dividends can be paid on the common stock until the dividend requirements of the preferred shares have been satisfied. The preferred shareholders are not entitled to vote except on those matters in which the consent of the holders of preferred stock is specifically required by Nevada law. If we were to liquidate prior to payment of the full dividend requirements on the preferred stock, the preferred stock would receive a liquidation preference from the liquidation proceeds. On liquidation, holders of all series of the preferred stock would be entitled to receive the par value, $.001 per share, in preference to the common stock shareholders.

Dividend payments and preferential rights to Series A preferred shareholders are tied to wells that have been plugged and abandoned. The liquidation value of the Series A Preferred Stock is $216.

On December 23, 1996, we issued 1,000,000 shares of new Series A Preferred Stock, known as the 1996 Series A convertible preferred stock, in a private placement, resulting in net proceeds after offering costs of $9.3 million. Dividends of $438 thousand and $875 thousand were declared in 2000 and 1999, respectively. On June 30, 2000 the holders of the 1996 Series A convertible preferred stock agreed to exchange the convertible preferred securities for 900 thousand warrants to purchase restricted common shares of our stock at an exercise price of $5.25 per share with an expiration date of June 3, 2003 and payment of $10 million. The convertible preferred shares are currently listed as issued but held by Canvasback as of December 31, 2004.

Warrants

The following is a summary of warrant activity for the periods ended December 31, 2004, 2003 and 2002:

	2004		2003		2002	
	Number of Warrants	Weighted Average Exercise Price	Number of Warrants	Weighted Average Exercise Price	Number of Warrants	Weighted Average Exercise Price
Outstanding Beginning of Year	7,228,457	$ 15.00	7,873,206	$ 14.32	644,749	$ 6.75
Issued					11,500,270	12.80
Exercised			(644,749)	6.75	(578)	9.12
Redeemed						
Expired					(4,271,235)	9.09
Outstanding End of Year	7,228,457	$ 15.00	7,228,457	$ 15.00	7,873,206	$ 14.32

On November 27, 2000, the Board of Directors allowed a total of 644,749 warrants held by certain key officers and directors with an exercise price of $6.50 per share and an expiration date of June 30, 2000, to be exchanged for an equal number of new warrants with an exercise price of $6.75 per share expiring on December 31, 2003. The exercise price of the new warrants was fair market value on the date of the new grant. All of these warrants were exercised during 2003.

On December 5, 2001, we announced that a distribution of one warrant for every five shares of common stock owned on January 10, 2002. 7,228,457 warrants were distributed on March 21, 2002.

Each new warrant entitles the holder to purchase one share of common stock at $15. The warrants will expire three years from the date of distribution, unless extended by the Board of Directors.

We also converted outstanding Prize warrants into Magnum Hunter stock warrants pursuant to the merger (see Note 2). We distributed 4,271,813 of these warrants on March 15, 2002, at a weighted average exercise price of $9.09. These warrants expired in June and November 2002.

Common Stock

We have a Shareholder Rights Plan, under which the Rights initially represent the right to purchase one one-hundredth of a share of 1998 Series A Junior Participating Preferred Stock for $35.00 per one one-hundredth of a share. The Rights become exercisable only if a person or a group acquires or commences a tender offer for 15% or more of our common stock. Until they become exercisable, the Rights attach to and trade with our common stock. The Rights expire January 20, 2008.

We have not previously paid any cash dividends on our common stock and we do not anticipate paying cash dividends on our common stock in the foreseeable future. We intend to reinvest all available funds for the development and growth of our business. In addition, our Facility and the indenture governing our 9.6% Senior Notes restrict the payment of cash dividends on our common stock.

On May 1, 2002, our Board of Directors announced an expansion of our existing stock repurchase program established in June 2001. Under this program, we and our affiliates are authorized to repurchase up to two million shares of our common stock. On October 17, 2002, our Board of Directors approved a new three million share repurchase program in addition to our June 2001 program. At December 31, 2004, approximately 4.2 million shares had been repurchased under these two programs, and approximately 818 thousand shares remained available for repurchase.

On March 15, 2002, we issued 34.1 million shares at a value of $257.2 million pursuant to our merger with Prize. See Note 2 for further discussion on the Prize merger.

On June 30, 2004, we sold 15 million shares of Magnum Hunter common stock at $10.25 per share under a previously filed universal shelf registration statement. The proceeds from this issuance were $147.2 million, net of offering costs. We also granted the underwriters an option to purchase an additional 2.25 million shares to cover over-allotments, which they exercised on July 2, 2004. The net proceeds from this sale were approximately $22.1 million. We used proceeds from these issuances to finance a portion of our acquisition of oil and gas properties in the state of New Mexico (see Note 2) and to redeem a portion of our 9.6% Senior Notes (see Note 5).

We issued 2.1 million, 270 thousand and 985 thousand shares pursuant to employee stock option exercises for proceeds of $10.4 million, $1.2 million and $3.6 million during 2004, 2003 and 2002, respectively. Upon the exercise of warrants, we issued 548 thousand treasury shares for proceeds of $3.4 million during 2003. Of the treasury shares issued for warrants in 2003, 37 thousand shares were issued in a cashless exercise of 134 thousand warrants. No warrants were exercised in 2004.

Our KSOP purchased 225 thousand, 486 thousand and 532 thousand shares at costs of $2.3 million, $2.7 million and $3.7 million during 2004, 2003 and 2002, respectively. During the same periods, the KSOP released shares totaling 357 thousand, 231 thousand and 244 thousand to participants. During 2004, 2003 and 2002, we made new loans to the KSOP of $2.3 million, $2.7 million

and $3.7 million and the KSOP repaid loan amounts of $2.2 million, $1.5 million, and $1.3 million, respectively. Of the 2004 repayments, $1.3 million represented our contribution of 223 thousand shares to the plan. Of the 2003 repayments, $1.1 million represented our contribution of 172 thousand shares to the KSOP plan. Additionally, in 2002, we contributed 158 thousand shares to our 401(K) plan.

NOTE 8 SUPPLEMENTAL CASH FLOW INFORMATION

During 2004, we contributed 223 thousand shares of our common stock valued at a cost of $1.3 million to our KSOP plan. Interest paid on our outstanding indebtedness was $49.7 million. Tax payments in 2004 were $2.6 million.

During 2003, we contributed 172 thousand shares of our common stock valued at a cost of $1.1 million to our KSOP plan. Interest paid on our outstanding indebtedness was $55.2 million. Tax refunds received in 2003 were $8.1 million, net of payments.

During 2002, we contributed 158 thousand shares at a cost of $867 thousand to our KSOP plan. Interest paid on our outstanding indebtedness was $48.4 million. Taxes paid in 2002 were $666 thousand. We also completed the Prize merger by issuing 34.1 million shares of common stock valued at $257.2 million and 4.3 million warrants valued at $3.4 million.

NOTE 9 ENVIRONMENTAL ISSUES

We may become subject to certain liabilities as they relate to environmental clean up of well sites or other environmental restoration procedures as they relate to the drilling of oil and gas wells and the operation thereof. In our acquisition of existing or previously drilled well bores, we may not be aware of what environmental safeguards were taken at the time such wells were drilled or during the time that such wells were operated. Should it be determined that a liability exists with respect to any environmental clean up or restoration, the liability to cure such a violation would most likely fall upon the company. In certain acquisitions, we have received contractual warranties that no such violations exist, while in other acquisitions, we have waived our rights to pursue a claim for such violations from the selling party. No claim has been made nor has a claim been asserted. We are not aware of the existence of any material liability relating to any environmental clean-up, restoration or the violation of any rules or regulations relating thereto.

NOTE 10 COMMITMENTS AND CONTINGENCIES

We have certain lease agreements for the use of office space, office equipment, and vehicles. The Irving, Texas office space lease extends through November 2005, with an option to renew the lease for a three-year term, and the Grapevine, Texas office lease extends through December 2005. The various office equipment leases extend until 2007. The various vehicle leases extend until 2012. The leases have

been classified as operating leases. The following is a schedule by years of future minimum lease payments required under the operating lease agreements (in thousands):

Year Ended December 31:	
2005	$ 2,381
2006	1,129
2007	950
2008	751
2009	559
Thereafter	762
Total Minimum Payments Required	$ 6,532

Rental expense was $2.3 million, $2.3 million, and $2.2 million for 2004, 2003 and 2002, respectively.

In the past we have provided trade guarantees on behalf of an unconsolidated affiliate which has since been sold. The last of these guarantees expired in July 2003. On February 18, 2005 our 40% owned subsidiary, Apple Tree Holdings, LLC entered into a $20.6 million construction loan agreement ("Construction Loan"). The Construction Loan provides financing for the construction of a processing plant, natural gas lateral, carbon dioxide line and related infrastructure in Huerfano County, Colorado. The Construction loan bears interest at either LIBOR plus 2.25% or a base rate plus 1.25% and will mature no later than July 31, 2006. We have provided a guaranty to the lender for this Construction Loan. In return for our guaranty, we received an up-front cash payment as well as 55% distribution of cash flows from the entity until certain financial tests are met. In the event that the Construction Loan goes into default and Magnum Hunter has to pay on the guaranty, we will have recourse against the project and related subsidiaries.

NOTE 11 FINANCIAL INSTRUMENTS AND CONCENTRATION OF CREDIT RISK

Financial instruments that subject Magnum Hunter to credit risk consist principally of accounts and notes receivable. The receivables are primarily from companies in the oil and gas business or from individual oil and gas investors. These parties are primarily located in the Southwestern region of the United States. No single receivable is considered to be sufficiently material as to constitute a concentration. During the year ended December 31, 2004, we recorded $841 thousand in additional allowances for doubtful accounts. During the year ended December 31, 2003 we recorded $231 thousand in additional allowances for doubtful accounts. We do not ordinarily require collateral, but in the case of receivables for joint operations, we often have the ability to offset amounts due against the participant's share of production from the related property. We believe the allowance for doubtful accounts at December 31, 2004 is adequate.

Under our hedging programs, to the extent we receive the spread between the contract floor and the index price applied to related contract volumes, we have a credit risk in the event of nonperformance of the counterparty to the agreement. We do not anticipate any material impact to our results of operations as a result of nonperformance by such parties.

Management estimates the market values of notes receivable and payable based on expected cash flows. At December 31, 2004 and 2003, we provided a reserve for the carrying value of a note

receivable of $1.2 million. After establishing this reserve, management believes those market values approximate carrying values at December 31, 2004 and 2003. The market values of equity investments are based upon quoted market prices (see Note 1). At December 31, 2004, the fair value of our debt was equal to its carrying value, except for the 9.6% Senior Notes and Convertible Notes. The fair value of the 9.6% Senior Notes was $221.3 million and the fair value of the Convertible Notes was $151.7 million.

NOTE 12 COMMODITY DERIVATIVES AND HEDGING ACTIVITIES

Crude Oil and Natural Gas Hedges

Periodically, we enter into futures, options, and swap contracts to mitigate the effects of significant fluctuations in crude oil and natural gas prices. At December 31, 2004, we had open contracts with the following terms:

Commodity	Type	Volume/Day	Duration	Wtd. Avg. Price
Natural Gas	Collar	60,000 MMBTU	Jan 05 - Dec 05	$4.21 - $6.85
Natural Gas	Swap	20,000 MMBTU	Jan 05 - Dec 05	$6.25
Natural Gas	Collar	20,000 MMBTU	Jan 06 - Dec 06	$5.25 - $6.30
Crude Oil	Swap	1,000 BBL	Jan 05 - Dec 05	$34.90
Crude Oil	Collar	1,000 BBL	Jan 05 - Dec 05	$35.00 - $55.00
Crude Oil	Collar	1,000 BBL	Jan 06 - Dec 06	$30.00 - $35.85

At December 31, 2004, based on future market prices, the fair value of our open commodity derivative contracts were as follows (in thousands):

Derivative Assets		
Natural gas collars	$	207
Total derivative assets	$	207
Derivative Liabilities		
Natural gas collars	$	(13,847)
Natural gas swaps		(528)
Crude oil collars		(2,343)
Crude oil swaps		(3,310)
Total derivative liabilities	$	(20,028)
Net derivative liabilities	$	(19,821)

In conjunction with the Prize merger in March 2002, we acquired ten natural gas derivative contracts for the periods April 2002 through December 2004. We also acquired seven crude oil derivative contracts for the periods March 2002 through December 2003. We recorded a derivative asset of $7.6 million to reflect the fair value of these contracts at the merger date. In June 2002, we closed one of the derivative contracts procured in the Prize merger, realizing proceeds of $3.6 million, which were charged against derivative assets. The net derivative balance of $4.0 million was amortized as a charge to other non-cash hedging adjustments over the remaining life of the derivative contracts.

At December 31, 2004, we had five crude oil derivatives and seven natural gas derivatives, which are categorized in the tables above. The net fair value of these derivatives was $19.8 million, recognized as a $207 thousand derivative asset and a $20.0 million derivative liability. For the year ended December 31, 2004, the consolidated statement of operations includes a loss of $21.8 million related to crude oil derivatives and a loss of $23.2 million related to natural gas derivatives, including amounts reclassified out of other comprehensive income. The consolidated statement of operations also included a non-cash hedging ineffectiveness gain of $332 thousand related to crude oil and natural gas derivatives and a non-cash gain of $792 million related to the amortization of hedge contracts acquired in the Prize merger. It is estimated at this time that $8.8 million of other comprehensive loss will be reclassified to the consolidated statement of operations during the next 12 months.

Net losses related to crude oil and natural gas derivative transactions for the years ended December 31, 2004, 2003 and 2002 were $43.9 million, $72.4 million and $9.9 million, respectively.

NOTE 13 STOCK COMPENSATION PLANS

We have four stock compensation plans for our employees and directors, (i) the Magnum Hunter Resources 401(k) Employee Stock Ownership Plan, (the "KSOP"), (ii) the Magnum Hunter Resources, Inc. 1996 Incentive Stock Option Plan (the "1996 Option Plan"), and (iii) the Magnum Hunter Resources, Inc. 2002 Incentive Stock Option Plan (the "2002 Option Plan"). In addition, we made non-incentive stock option grants in 2004, 2003 and 2002.

KSOP

We established an ESOP and a related trust in 1996 as a long-term benefit for our employees. On January 1, 2001, the ESOP was merged with the 401(k) plan to form the KSOP. Under terms of the KSOP, eligible participants may choose to make elective deferred contributions of not less than 1% or more than 15% of their annual compensation, limited in combination with the 401(k) plan to the maximum allowable per year by the Internal Revenue Code. Company contributions to the KSOP are made on a discretionary basis. It is also our intent to invest all employer contributions in our common stock. All employees who have reached the age of 21 and have one year of service, are eligible to participate in the plan. Shares purchased by the KSOP with loans from the company are released to participants as company contributions and participant salary deferrals are made and the related loans are repaid. We have no repurchase obligations with respect to released shares.

During 2004, we loaned the KSOP $2.3 million to purchase 224,600 shares of our common stock on the open market at an average price of $10.06 per share. During 2004, employees purchased 133,638 shares of the KSOP's unreleased shares at an average price of $6.04 per share through salary deferrals. Employee purchases totaled $807 thousand, which the KSOP used to repay that portion of its outstanding loan, and 133,638 shares were allocated among the Plan participants. We contributed $1.3 million to the KSOP in December 2004 as a discretionary contribution under the Plan. The KSOP then repaid that portion of its outstanding loan and 223,081 shares were allocated among participants.

During 2003, we loaned the KSOP $2.7 million to purchase 485,622 shares of our common stock on the open market at an average price of $5.58 per share. During 2003, employees purchased 58,797 shares of the KSOP's unreleased shares at an average price of $6.46 per share through salary deferrals. Employee purchases totaled $380 thousand, which the KSOP used to repay that portion of its outstanding loan, and 58,797 shares were allocated among the Plan participants. We contributed

$1.1 million to the KSOP in December 2003 as a discretionary contribution under the Plan. The KSOP then repaid that portion of its outstanding loan and 171,868 shares were allocated among participants.

During 2002, we loaned the KSOP $3.7 million to purchase 532,400 shares of our common stock on the open market at an average price of $6.86 per share. During 2002, employees purchased 86,147 shares of the KSOP's unreleased shares at an average price of $5.50 per share through salary deferrals. Employee purchases totaled $473 thousand, which the KSOP used to repay that portion of its outstanding loan, and 86,147 shares were allocated among the Plan participants. We contributed $867 thousand to the KSOP in December 2002, as a discretionary contribution under the Plan. The KSOP then repaid that portion of its outstanding loan and 157,659 shares were allocated among participants.

The KSOP loan is interest-free and due December 31, 2005. The loan was secured by 880,083 shares and 1,012,203 shares of our common stock at December 31, 2004 and 2003, respectively.

As required under Statement of Position 93-6 "Employers Accounting for Employee Stock Ownership Plans", compensation expense is recorded for shares committed to be released to employees based on the fair market value of those shares when they are committed to be released. The difference between cost and the fair market value of the committed to be released shares is recorded in additional paid-in-capital. Unreleased shares held by the KSOP are excluded from the calculation of earnings per share.

The KSOP shares are summarized as follows:

	December 31,	
	2004	**2003**
Allocated shares	1,289,981	1,072,128
Unreleased shares	880,083	1,012,203
Total KSOP shares	2,170,064	2,084,331
Fair value of unreleased shares at December 31, 2004 and 2003, respectively	$ 11,353,071	$ 9,626,051

The KSOP expense for the years ending December 31, 2004, 2003 and 2002, was $3.6 million, $1.6 million, and $997 thousand, respectively.

Stock Option Plans

Incentive Stock Option Plan

We established this plan beginning April 1, 1996. It is governed by Section 422 of the Internal Revenue Code, and Section 16(b) of the Securities Exchange Act of 1934. This stock option plan covers 1,200,000 shares of our common stock. Eligibility is limited to employees and directors of Magnum Hunter and our subsidiaries. The actual selection of grantees is made by the Board of Directors. The term of the individual option grants, while at the discretion of the Board, was five years. All options granted in 1996 were fully vested and exercisable when granted. The exercise price was fair market value at the date of each grant.

Non-Incentive Stock Option Grants

During 2002, the Board granted 2,059,750 new stock options to employees at a weighted average price of $5.61 per share, of which 20% vested at the date of grant, with the balance vesting an additional 20% per year on the anniversary date, with a weighted average term of 9.9 years. The exercise price was the fair market value on the date of grant.

On June 20, 2003, the Board granted 999,260 new stock options to employees as part of the 2003 compensation package. These options carry an exercise price of $5.92 and were fully vested on December 31, 2003. They will expire June 20, 2006. During 2003, we also issued 113,000 options to certain employees and board members. These options carry a weighted average exercise price of $5.675 and have a weighted average remaining life of 8.2 years.

On July 1, 2004, the Board granted 1,336,500 new stock options to employees as part of the 2004 compensation package. These options carry an exercise price of $10.48 and were unvested on December 31, 2004. They will expire July 1, 2009. During 2004, we also issued 116,500 options to certain employees and board members. These options carry a weighted average exercise price of $9.70 and have a weighted average remaining life of 6.39 years.

The following is a summary of stock option activity under the Option Plans:

	2004		2003		2002	
	Shares	Weighted Average Exercise Price	Shares	Weighted Average Exercise Price	Shares	Weighted Average Exercise Price
Outstanding Beginning of Year	6,740,764	$ 6.36	6,044,800	$ 6.37	5,217,584	$ 6.22
Granted	1,453,000	10.41	1,112,260	5.90	2,059,750	5.61
Exercised	(2,128,412)	4.90	(269,862)	4.46	(983,834)	3.71
Cancelled	(127,250)	6.28	(146,434)	6.58	(248,700)	7.47
Outstanding End of Year	5,938,102	$ 7.88	6,740,764	$ 6.36	6,044,800	$ 6.37
Exercisable End of Year	3,483,419	$ 7.29	4,624,614	$ 6.21	2,775,770	$ 6.04

The following is a summary of stock options outstanding at December 31, 2004:

Exercise Price	Number of Options Outstanding	Weighted Average Remaining Contractual Life (Years)	Number of Exercisable Options
5.01	46,000	7.74	26,000
5.20	9,000	7.58	3,000
5.23	2,600	7.75	
5.38	1,190,084	7.69	555,851
5.45	100,000	7.72	80,000
5.46	3,000	8.15	
5.61	1,800	8.22	
5.82	3,000	7.66	1,800
5.92	547,128	1.47	547,128
6.625	8,000	0.56	8,000
7.20	3,000	8.42	
7.51	12,000	7.30	4,000
7.55	88,700	7.21	46,500
7.57	15,000	7.42	9,000
7.75	5,000	7.22	3,000
7.90	6,000	8.48	
7.9375	1,169,540	5.94	1,169,540
7.95	10,000	8.74	4,000
8.44	1,254,500	6.95	979,600
8.50	8,000	6.67	4,000
9.19	30,000	9.17	6,000
9.3125	20,000	0.97	20,000
10.48	1,378,250	4.50	
11.08	20,000	6.25	16,000
12.00	1,000	1.05	
12.89	6,500	4.88	
	5,938,102	5.84	3,483,419

Effective January 1, 2003, we adopted the prospective method for expensing stock option grants under SFAS No. 148 and SFAS No. 123. For the year ended December 31, 2004, we recorded expense of $768 thousand for our current year's grants. For grants made prior to January 1, 2003, we continue to follow the disclosures only portion of SFAS No. 123 and continue to apply the provisions of APB No. 25, which applies the intrinsic value method of accounting for stock-based compensation. See Note 1 for disclosure of pro forma earnings assuming adoption of SFAS No. 123.

Deferred Compensation Plan

In March 2003, the company implemented and adopted the 2003 Bonus Deferral Plan. This plan allows eligible participants to defer all or a portion of their annual bonuses until a later date. The Compensation Committee of the Board of Directors determines the participants who are eligible to make deferral elections under the plan. The bonuses that are subject to the plan are those bonuses

determined by or under the authority of the Board of Directors and are based upon the performance of the company during a fiscal year. The amount to be deferred, as specified by any participant, shall be invested solely in common stock of the company. Participants may designate the date on which shares of common stock covered by a deferral election shall be distributed, provided that such distribution date is at least twelve months after the date such deferral election was made. During 2003, we purchased approximately 53 thousand shares at a cost of $295 thousand, contributed approximately 18 thousand treasury shares with a market value of $100 thousand, and released approximately 36 thousand shares of participants who elected not to defer under the plan. We were holding approximately 34 thousand shares in the plan at December 31, 2003. During 2004, no activity occurred in the plan; therefore, we were holding approximately 34 thousand shares in the plan at December 31, 2004.

NOTE 14 EMPLOYMENT CONTRACTS AND TERMINATION OF EMPLOYMENT AND CHANGE-IN-CONTROL ARRANGEMENTS

Mr. Gary C. Evans, Mr. Richard R. Frazier, Mr. M. Bradley Davis, Mr. R. Douglas Cronk, Mr. Charles R. Erwin and Mr. Morgan F. Johnston each have employment agreements with the company. Mr. Evans' agreement terminates January 1, 2006 and continues thereafter on a year-to-year basis and provides for a salary of $300,000 per annum, unless increased by the Board. Mr. Evans' salary for the year 2005 is $475,000. Mr. Frazier's agreement terminates January 1, 2006 and continues thereafter on a year-to-year basis and provides for a salary of $175,000 per annum unless increased by the Board. Mr. Frazier's salary for the year 2005 is $300,000. Mr. Davis' agreement terminates January 1, 2006 and continues thereafter on a year-to-year basis and provides for a salary of $190,000 per annum, unless increased by the Board. Mr. Davis' salary for the year 2005 is $200,000. Mr. Cronk's agreement terminates January 1, 2006 and continues thereafter on a year-to-year basis and provides for a salary of $167,500 per annum, unless increased by the Board. Mr. Cronk's salary for the year 2005 is $200,000. Mr. Erwin's agreement terminates January 1, 2006 and continues thereafter on a year-to-year basis and provides for a salary of $185,000 per annum unless increased by the Board. Mr. Erwin's salary for the year 2005 is $225,000. Mr. Johnston's agreement terminates January 1, 2006 and continues thereafter on a year-to-year basis and provides for a salary of $180,000 per annum unless increased by the Board. Mr. Johnston's salary for the year 2005 is $195,000. All of the agreements provide that the same benefits supplied to other company employees shall be available to the employee. The employment agreements also contain, among other things, covenants by the employee that in the event of termination, he will not compete with the company in certain geographical areas or hire any of our employees for a period of two years after cessation of employment.

In addition, all of the agreements contain a provision that upon a change in control, the employee's position is terminated, or the employee leaves for "good cause", the employee is entitled to receive immediately, in one lump sum, certain compensation. In the case of Mr. Evans and Mr. Frazier, the employee shall receive three times the employee's current base salary and bonus, plus any other compensation received by him in the last fiscal year. In the case of Mr. Davis, Mr. Cronk, Mr. Erwin and Mr. Johnston, the employee shall receive two times the employee's base salary and bonus, plus any other compensation received by him in the last fiscal year. Also, any medical, dental and group life insurance covering the employee and his dependents shall continue until the earlier of (i) 12 months after the change in control or (ii) the date the employee becomes a participant in the group insurance

benefit program of a new employer. We also have key man life insurance on Mr. Evans in the amount of $12,000,000.

NOTE 15 SEGMENT DATA

We have three reportable segments. The Exploration and Production segment is engaged in exploratory drilling and acquisition, production, and sale of crude oil, condensate, and natural gas. The Gas Gathering, Marketing and Processing segment is engaged in the gathering and compression of natural gas from the wellhead, the purchase and resale of natural gas, which it gathers, and the processing of natural gas liquids. The Oil Field Services segment is engaged in the managing, operation, and monitoring of producing oil and gas properties for interest owners.

Our reportable segments are strategic business units that offer different products and services. They are managed separately because each business requires different technology and marketing strategies. The Exploration and Production segment has six geographic areas that are aggregated. The Gas Gathering, Marketing and Processing segment includes the activities of the five gathering systems and four natural gas liquids processing plants in two geographic areas that are aggregated. The Oil Field Services segment has six geographic areas that are aggregated. The reason for aggregating the segments, in each case, was due to the similarity in nature of the products, the production processes, the type of customers, the method of distribution, and the regulatory environments.

The accounting policies of the segments are the same as those described in Note 1 Summary of Significant Accounting Policies. We evaluate performance based on profit or loss from operations before income taxes. The accounting for intersegment sales and transfers is done as if the sales or transfers were to third parties, that is, at current market prices.

Segment data for the three years ended December 31, 2004, 2003 and 2002 are as follows (in thousands):

2004:	Exploration & Production	Gas Gathering, Marketing & Processing	Oil Field Services	All Other	Elimination	Consolidated
Revenue from external customers	$ 443,412	$ 41,900	$ 8,414	$	$	$ 493,726
Intersegment revenues	1,972	26,275	14,700		(42,947)	
Depreciation, depletion, amortization and accretion	123,567	2,363	1,136	113		127,179
Segment profit (loss)	215,196	10,425	2,262	(21,950)		205,933
Equity losses of affiliates						
Interest expense				(38,059)		(38,059)
Costs associated with early retirement of debt				(12,250)		(12,250)
Other income				3,708		3,708
Income before income taxes						159,332
Current income tax expense				(1,977)		(1,977)
Deferred income tax expense				(53,782)		(53,782)
Net income						103,573
Capital expenditures (net of asset sales)	$ 513,844	$ 2,458	$ 810			$ 517,112

2003:	Exploration & Production	Gas Gathering, Marketing & Processing	Oil Field Services	All Other	Elimination	Consolidated
Revenue from external customers	$ 284,929	$ 35,317	$ 4,768	$	$	$ 325,014
Intersegment revenues	1,738	23,111	13,649		(38,498)	
Depreciation, depletion, amortization and accretion	96,086	2,320	604	604		99,614
Segment profit (loss)	99,809	7,624	1,045	(15,780)		92,698
Equity losses of affiliates				(162)		(162)
Interest expense				(47,260)		(47,260)
Costs associated with early retirement of debt				(6,716)		(6,716)
Other income				2,371		2,371
Income before income taxes						$ 40,931
Current income tax benefit				250		250
Deferred income tax expense				(15,463)		(15,463)
Cumulative effect of a change in accounting principle				399		399
Net income						$ 26,117
Capital expenditures (net of asset sales)	$ 157,481	$ 199	$ 566	$ 166		$ 158,412

2002:	Exploration & Production	Gas Gathering, Marketing & Processing	Oil Field Services	All Other	Elimination	Consolidated
Revenue from external customers	$ 240,964	$ 20,809	$ 4,096	$	$	$ 265,869
Intersegment revenues	1,647	14,052	14,128		(29,827)	
Depreciation, depletion, amortization and accretion	82,950	2,066	507	945		86,468
Segment profit (loss)	78,288	3,643	1,115	(14,177)		68,869
Equity earnings of affiliates				792		792
Interest expense				(47,935)		(47,935)
Costs associated with early retirement of debt				(1,000)		(1,000)
Provision for non-cash impairment of investments				(621)		(621)
Other income (loss)				(6,174)		(6,174)
Income before income taxes						13,931
Deferred income tax benefit				1,591		1,591
Net income						$ 15,522
Capital expenditures (net of asset sales)	$ 643,683	$ 21,309	$ 843	$ 2,153		$ 667,988

As of December 31, 2004	Exploration & Production	Gas Gathering, Marketing & Processing	Oil Field Services	All Other	Elimination	Consolidated
Segment assets	$ 1,616,712	$ 32,346	$ 18,855	$ 34,588		$ 1,702,501

As of December 31, 2003						
Segment assets	$ 1,142,621	$ 30,710	$ 14,917	$ 77,644	$	1,265,892

NOTE 16 CONDENSED CONSOLIDATING FINANCIAL STATEMENTS

The company and its subsidiaries, except Canvasback and certain inconsequential subsidiaries, are direct guarantors of our 9.6% Senior Notes and our Convertible Notes, and have fully and unconditionally guaranteed these notes on a joint and several basis. In addition to not being a guarantor of these notes, Canvasback cannot be included in determining compliance with certain financial covenants under our credit agreements. Management has determined that separate financial statements relating to the Guarantors are not material to investors. Condensed consolidating balance sheets for Magnum Hunter Resources, Inc. and subsidiaries as of December 31, 2004 and 2003 and condensed consolidating statements of operations and cash flows for the years ended December 31, 2004, 2003 and 2002 are as follows:

	December 31, 2004			
	Magnum Hunter Resources, Inc. And Guarantor Subs	Canvasback Energy, Inc. (Non Guarantor)	Eliminations	Magnum Hunter Resources, Inc. Consolidated
	(Amounts in Thousands)			
ASSETS				
Current assets	$ 146,219	$ 5,310	$ (12,015)	$ 139,514
Property and equipment (using full-cost accounting)	1,490,881	6,031		1,496,912
Investment in subsidiaries (equity method)	19,065		(19,065)	
Investment in Parent		34,127	(34,127)	
Other assets	65,924	151		66,075
Total Assets	$ 1,722,089	$ 45,619	$ (65,207)	$ 1,702,501
LIABILITIES AND STOCKHOLDERS' EQUITY				
Current liabilities	$ 144,451	12,318	(12,015)	144,754
Long-term liabilities	863,698	14,236		877,934
Shareholders' equity	713,940	19,065	(53,192)	679,813
Total Liabilities and Stockholders' Equity	$ 1,722,089	$ 45,619	$ (65,207)	$ 1,702,501

	December 31, 2003			
	Magnum Hunter Resources, Inc. And Guarantor Subs	Canvasback Energy, Inc. (Non Guarantor)	Eliminations	Magnum Hunter Resources, Inc. Consolidated
	(Amounts in Thousands)			
ASSETS				
Current assets	$ 108,801	$ 18,163	$ (26,627)	$ 100,337
Property and equipment (using full-cost accounting)	1,089,366	6,517		1,095,883
Investment in subsidiaries (equity method)	17,875		(17,875)	
Investment in Parent		34,127	(34,127)	
Other assets	69,672			69,672
Total Assets	$ 1,285,714	$ 58,807	$ (78,629)	$ 1,265,892
LIABILITIES AND STOCKHOLDERS' EQUITY				
Current liabilities	$ 104,806	$ 27,324	$ (26,627)	$ 105,503
Long-term liabilities	757,105	13,608		770,713
Shareholders' equity	423,803	17,875	(52,002)	389,676
Total Liabilities and Stockholders' Equity	$ 1,285,714	$ 58,807	$ (78,629)	$ 1,265,892

	Year Ended December 31, 2004			
	Magnum Hunter Resources, Inc. And Guarantor Subs	Canvasback Energy, Inc. (Non Guarantor)	Eliminations	Magnum Hunter Resources, Inc. Consolidated
	(Amounts in Thousands)			
Revenues	$ 486,737	$ 8,002	$ (1,013)	$ 493,726
Expenses	329,060	6,187	(853)	334,394
Income before	157,677	1,815	(160)	159,332
Equity in net earnings of subsidiaries	1,058		(1,058)	
Income (loss) before income taxes	158,735	1,815	(1,218)	159,332
Income tax provision	(55,162)	(657)	60	(55,759)
Net Income	$ 103,573	$ 1,158	$ (1,158)	$ 103,573

	Year Ended December 31, 2003			
	Magnum Hunter Resources, Inc. And Guarantor Subs	Canvasback Energy, Inc. (Non Guarantor)	Eliminations	Magnum Hunter Resources, Inc. Consolidated
	(Amounts in Thousands)			
Revenues	$ 320,335	$ 4,846	$ (167)	$ 325,014
Expenses	282,945	1,264	(126)	284,083
Income before	37,390	3,582	(41)	40,931
Equity in net earnings of subsidiaries	2,184		(2,184)	
Income before income taxes	39,574	3,582	(2,225)	40,931
Income tax provision	(13,856)	(1,357)		(15,213)
Income before extraordinary loss	25,718	2,225	(2,225)	25,718
Cumulative effect of a change in accounting principle	399			399
Net Income	$ 26,117	$ 2,225	$ (2,225)	$ 26,117

	Year Ended December 31, 2002			
	Magnum Hunter Resources, Inc. And Guarantor Subs	Canvasback Energy, Inc. (Non Guarantor)	Eliminations	Magnum Hunter Resources, Inc. Consolidated
	(Amounts in Thousands)			
Revenues	$ 264,152	$ 1,717	$	$ 265,869
Expenses	250,974	964		251,938
Income before	13,178	753		13,931
Equity in net earnings of subsidiaries	468		(468)	
Income before income taxes	13,646	753	(468)	13,931
Income tax (provision) benefit	1,876	(285)		1,591
Net Income	$ 15,522	$ 468	$ (468)	$ 15,522

	Year Ended December 31, 2004			
	Magnum Hunter Resources, Inc. And Guarantor Subs	Canvasback Energy, Inc. (Non Guarantor)	Eliminations	Magnum Hunter Resources, Inc. Consolidated
	(Amounts in Thousands)			
Cash flow from operating activities	$ 312,881	$ (12,271)	$	$ 300,610
Cash flow used by investing activities	(513,692)	(247)		(513,939)
Cash flow (used) provided by financing activities	214,978			214,978

Explanation of Responses:

	Year Ended December 31, 2004			
Net increase (decrease) in cash	14,167	(12,518)		1,649
Cash at beginning of period	3,482	15,211		18,693
Cash at end of period	$ 17,649	$ 2,693	$	$ 20,342

	Year Ended December 31, 2003			
	Magnum Hunter Resources, Inc. And Guarantor Subs	Canvasback Energy, Inc. (Non Guarantor)	Eliminations	Magnum Hunter Resources, Inc. Consolidated
	(Amounts in Thousands)			
Cash flow from operating activities	$ 148,019	$ 14,892	$ (273)	$ 162,638
Cash flow (used) provided by investing activities	(160,261)	6,008	(5,422)	(159,675)
Cash flow (used) provided by financing activities	13,184	(6,218)	5,695	12,661
Net increase in cash	942	14,682		15,624
Cash at beginning of period	2,540	529		3,069
Cash at end of period	$ 3,482	$ 15,211	$	$ 18,693

	Year Ended December 31, 2002			
	Magnum Hunter Resources, Inc. And Guarantor Subs	Canvasback Energy, Inc. (Non Guarantor)	Eliminations	Magnum Hunter Resources, Inc. Consolidated
	(Amounts in Thousands)			
Cash flow from operating activities	$ 63,522	$ 19,881	$	$ 83,403
Cash flow used by investing activities	(85,398)	(4,022)		(89,420)
Cash flow (used) provided by financing activities	23,686	(17,355)		6,331
Net increase (decrease) in cash	1,810	(1,496)		314
Cash at beginning of period	730	2,025		2,755
Cash at end of period	$ 2,540	$ 529	$	$ 3,069

NOTE 17 SUMMARY OF QUARTERLY DATA (Unaudited)

The following tables set forth unaudited summary financial results on a quarterly basis for the two most recent years.

	2004			
	First	Second	Third	Fourth
Revenues	$ 100,378	$ 110,036	$ 128,460	$ 154,852
Depreciation, depletion, amortization and accretion	25,480	27,645	35,226	38,828
Operating Profit	40,608	44,963	52,255	68,107
Cost of early debt retirement			(12,250)	
Net Income	19,262	23,230	18,964	42,117
Income per common share, basic	0.28	0.34	0.22	0.49
Income per common share, diluted	$ 0.28	$ 0.33	$ 0.22	$ 0.47

	2003			
	First	Second	Third	Fourth
Revenues	$ 80,054	$ 78,438	$ 82,575	$ 83,947
Depreciation, depletion, amortization and accretion	21,524	24,978	26,682	26,430
Operating Profit	25,914	21,444	21,153	24,187
Cost of early debt retirement	(1,855)	(2,211)	(19)	(2,631)
Cumulative effect of change in accounting principle	399			
Net Income	7,990	4,170	6,669	7,288
Income per common share, basic	0.12	0.06	0.10	0.11
Income per common share, diluted	$ 0.12	$ 0.06	$ 0.10	$ 0.11

NOTE 18 RECENT ANNOUNCEMENT TO BE ACQUIRED BY CIMAREX ENERGY

On January 26, 2005, Magnum Hunter and Cimarex Energy, Inc. announced that their respective boards of directors had approved an agreement and plan of merger that provides for the acquisition of Magnum Hunter by Cimarex. Closing is anticipated before the end of the second quarter in 2005, subject to customary regulatory approvals.

Under the terms of the proposed agreement, Magnum Hunter shareholders will receive 0.415 shares of Cimarex common stock for each share of Magnum Hunter common stock that they own. The merger is expected to be non-taxable to the shareholders of both companies. In addition to the merger consideration and prior to closing, Magnum Hunter intends to distribute its ownership interest in TEL Offshore Trust to its common stockholders as a special dividend.

Cimarex Energy Co., headquartered in Denver, CO, is an independent oil and gas exploration and production company with operations focused in the Mid-Continent and Gulf Coast areas of the U.S. Its principal operations offices are located in Tulsa, New Orleans and Houston.

MAGNUM HUNTER RESOURCES, INC. AND SUBSIDIARIES

SUPPLEMENTAL INFORMATION ON OIL AND GAS PRODUCING ACTIVITIES

(Unaudited)

Proved oil and gas reserves consist of those estimated quantities of crude oil, natural gas and natural gas liquids that geological and engineering data demonstrate with reasonable certainty to be recoverable in future years from known reservoirs under existing economic and operating conditions. Proved developed oil and gas reserves are reserves that can be expected to be recovered through existing wells with existing equipment and operating methods.

Estimates of petroleum reserves have been made by independent engineers and company employees. These estimates include reserves in which we hold an economic interest under production-sharing and other types of operating agreements. These estimates do not include probable or possible reserves. The estimated net interests in Proved Reserves are based upon subjective engineering judgments and may be affected by the limitations inherent in such estimation. The process of estimating reserves is subject to continual revision as additional information becomes available as a result of drilling, testing, reservoir studies and production history. There can be no assurance that such estimates will not be materially revised in subsequent periods. The revisions of previous estimates of our proved oil and gas reserves were primarily due to changes in commodity prices at December 31, 2002, 2003 and 2004 that impacted whether such reserves were economically recoverable. The impact of price changes disproportionately affects our long life reserves because of the more gradual decline curve of the applicable production.

We adopted FASB Statement 143, "Accounting for Asset Retirement Obligations" ("FAS 143") January 1, 2003. Among other things, FAS 143 requires the recognition of a liability for legal obligations associated with the retirement of long-lived assets. The initial recognition of a liability for an asset retirement obligation increases the carrying amount of the related long-lived asset by the same amount as the liability. In periods subsequent to the initial measurement, period-to-period changes in the liability are recognized for passage of time in the form of accretion expense as well as revisions to the original estimate. In accordance with FAS 143, we recorded a liability of $30.4 million, increased costs carried for our oil and gas properties by $25.4 million, and reduced our accumulated depletion by $5.6 million. During 2003, we incurred additional liabilities of $2.7 million, settled or sold liabilities of $1.2 million, and recorded accretion expense of $2.5 million. During 2004, we incurred additional liabilities of $7.3 million, settled or sold liabilities of $1.9 million, and recorded accretion expense of $2.9 million. We have included the initial costs recorded upon adoption of FAS 143 as well as the costs associated with the liabilities incurred during 2003 and 2004 in the carrying value of our oil and gas properties. Our accumulated depletion also reflects initial reduction as well as the depletion of these retirement costs during 2003 and 2004. We have included the cost associated with the liabilities incurred during 2003 and 2004 in our costs incurred analysis. Our results of operations include depletion on these retirement costs as well as the accretion expense related to the liability, and our discounted cash flows presented include our estimated futures costs of retiring our oil and gas properties.

Estimated quantities of proved oil and gas reserves were as follows:

	Oil (Mbbl)	Gas (MMcf)
December 31, 2002		
Proved Reserves	63,082	458,644
Proved Developed Reserves	48,512	362,325
December 31, 2003		
Proved Reserves	57,397	494,052
Proved Developed Reserves	42,989	368,530
December 31, 2004		
Proved Reserves	66,081	610,118
Proved Developed Reserves	48,009	442,631

We included estimated quantities in the above table which we claim exclusively through our gas plant ownership. The amounts attributable to our ownership in gas plants are as follows:

	Oil (Mbbl)	Gas (MMcf)	NGL (Mbbl)
December 31, 2002			
Proved Reserves	127	8,359	4,529
Proved Developed Reserves	122	8,031	4,180
December 31, 2003			
Proved Reserves	197	9,513	4,090
Proved Developed Reserves	167	9,162	3,637
December 31, 2004			
Proved Reserves	136	9,769	4,948
Proved Developed Reserves	127	9,419	4,398

The changes in proved reserves for the years ended December 31, 2002, 2003 and 2004 were as follows:

	Oil (Mbbl)	Gas (MMcf)
Reserves at December 31, 2001	21,601	248,480
Purchase of minerals-in-place	45,650	275,873
Sale of minerals-in-place	(4,621)	(75,034)
Extensions and discoveries	2,986	53,939
Production	(4,050)	(46,487)
Revisions of estimates	1,516	1,873
Reserves at December 31, 2002	63,082	458,644
Purchase of minerals-in-place	26	67
Sale of minerals-in-place	(1,243)	(13,303)
Extensions and discoveries	1,776	86,001
Production	(3,893)	(49,695)
Revisions of estimates	(2,351)	12,338
Reserves at December 31, 2003	57,397	494,052
Purchase of minerals-in-place	8,324	135,017
Sale of minerals-in-place	(196)	(2,263)
Extensions and discoveries	3,085	70,554
Production	(4,080)	(55,961)
Revisions of estimates	1,551	(31,281)
Reserves at December 31, 2004	66,081	610,118

The aggregate amounts of capitalized costs relating to oil and gas producing activities and the related accumulated depreciation, depletion, amortization and impairment as of December 31, 2004, 2003 and 2002 were as follows (in thousands):

	2004	2003	2002
Unproved oil and gas properties	$ 94,472	$ 110,467	$ 165,676
Proved properties	1,828,839	1,292,388	1,053,426
Gross Capitalized Costs	1,923,311	1,402,855	1,219,102
Accumulated depreciation, depletion, amortization and impairment	(458,731)	(338,109)	(250,515)
Net Capitalized Costs	$ 1,464,580	$ 1,064,746	$ 968,587

Capitalized costs incurred in oil and gas producing activities during the years ended December 31, 2004, 2003 and 2002 were as follows (in thousands):

	2004	2003	2002
Property acquisition costs			
Proved properties	$ 297,957	$ 3,021	$ 460,908
Unproved properties	19,515	12,213	147,024
Exploration costs	52,743	36,788	34,310
Development costs	166,484	125,308	91,521
Total Costs Incurred	$ 536,699	$ 177,330	$ 733,763

Results of operations from oil and gas producing activities for the years ended December 31, 2004, 2003 and 2002 were as follows (in thousands):

	2004	2003	2002
Oil and gas production revenue	$ 443,412	$ 284,929	$ 240,964
Production costs	(104,649)	(89,034)	(79,726)
Depreciation, depletion, amortization, impairment and accretion	(123,567)	(96,087)	(83,028)
Income taxes	(75,319)	(34,933)	(27,374)
Results of Operations for Producing Activities	$ 139,877	$ 64,875	$ 50,836

The standardized measure of discounted estimated future net cash flows related to proved oil and gas reserves at December 31, 2004, 2003 and 2002 were as follows (in thousands):

	2004	2003	2002
Future cash flows	$ 6,133,855	$ 4,341,980	$ 3,728,575
Future development costs	(401,540)	(295,273)	(178,961)
Future production costs	(1,805,299)	(1,318,811)	(1,159,303)
Future net cash flows, before income tax	3,927,016	2,727,896	2,390,311
Future income taxes	(1,050,979)	(712,167)	(619,850)
Future Net Cash Flows	2,876,037	2,015,729	1,770,461
10% annual discount	(1,312,440)	(948,041)	(800,652)
Standardized Measure of Discounted Future Net Cash Flows	$ 1,563,597	$ 1,067,688	$ 969,809

The primary changes in the standardized measure of discounted estimated future net cash flows for the years ended December 31, 2004, 2003 and 2002 were as follows (in thousands):

	2004	2003	2002
Purchases of minerals-in-place	$ 356,883	$ 676	$ 737,736
Sales of minerals-in-place	(6,227)	(44,759)	(85,460)
Extensions, discoveries and improved recovery, less related costs	82,750	262,022	167,334
Sales of oil and gas produced, net of production costs	(338,763)	(195,895)	(161,238)
Development costs incurred during the period	166,484	125,308	91,521
Revision of prior estimates:			
Net change in prices and costs	353,969	(79,252)	154,738
Change in quantity estimates	(60,379)	(22,086)	18,007
Accretion of discount	106,769	96,981	30,569
Net change in income taxes	(165,577)	(45,115)	(289,091)
Net Change	$ 495,909	$ 97,880	$ 664,116

Estimated future cash inflows are computed by applying year-end prices of oil and gas to year-end quantities of Proved Reserves. Estimated future development and production costs are determined by estimating the expenditures to be incurred in developing and producing the proved oil and gas reserves at the end of the year, based on year-end costs and assuming continuation of existing economic conditions. Estimated future income tax expense is calculated by applying year-end statutory tax rates to estimated future pre-tax net cash flows related to proved oil and gas reserves, less the tax basis of the properties involved.

The assumptions used to compute the standardized measure are those prescribed by the Financial Accounting Standards Board and as such, do not necessarily reflect our expectations of actual revenues to be derived from those reserves nor their present worth. The limitations inherent in the reserve quantity estimation process are equally applicable to the standardized measure computations since these estimates are the basis for the valuation process.

MAGNUM HUNTER RESOURCES, INC.
SCHEDULE II VALUATION AND QUALIFYING ACCOUNTS
FOR EACH OF THE THREE YEARS IN THE PERIOD ENDED DECEMBER 31, 2004
(in thousands)

Classification	Balance at Beginning of Year	Additions		Deductions(2)	Balance at End of Year
		Charged to Costs and Expenses	Charged to Other Accounts(1)		
Year Ended December 31, 2004					
Allowance for Doubtful Accounts on Trade Accounts Receivable	$ 4,331	$ 772	$	$ (327)	$ 4,776
Reserve on Current Portion of Long-term Notes Receivable	1,170			$	$ 1,170
Year Ended December 31, 2003					
Allowance for Doubtful Accounts on Trade Accounts Receivable	$ 4,573	$ 231	$ 19	$ (492)	$ 4,331
Reserve on Current Portion of Long-term Notes Receivable	1,620			(450)	1,170
Reserve on Investment in Unconsolidated Affiliate	$ 4,527	$	$	$ (4,527)	$
Year Ended December 31, 2002					
Allowance for Doubtful Accounts on Trade Accounts Receivable	$ 3,264	$ 206	$ 1,103	$	$ 4,573
Reserve on Current Portion of Long-term Notes Receivable	1,620				1,620
Reserve on Investment in Unconsolidated Affiliate	$ 4,527	$	$	$	$ 4,527

(1) Allowances acquired in Prize merger during 2002 and Metrix acquisition during 2003.

(2) Write-offs

Annex A

AGREEMENT AND PLAN OF MERGER
AMONG
CIMAREX ENERGY CO. ("PARENT"),
CIMAREX NEVADA ACQUISITION CO. ("MERGER SUB")
AND
MAGNUM HUNTER RESOURCES, INC. ("COMPANY")
JANUARY 25, 2005

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AGREEMENT AND PLAN OF MERGER

This Agreement and Plan of Merger (this "*Agreement*") is made and entered into as of January 25, 2005, by and among Cimarex Energy Co., a Delaware corporation ("*Parent*"); Cimarex Nevada Acquisition Co., a Nevada corporation and a wholly-owned subsidiary of Parent ("*Merger Sub*"); and Magnum Hunter Resources, Inc., a Nevada corporation (the "*Company*").

RECITALS

The Board of Directors of each of Parent and the Company has determined that it is in the best interests of its respective stockholders to approve the merger of Merger Sub with and into the Company upon the terms and subject to the conditions set forth in this Agreement.

For United States federal income tax purposes, it is intended that such merger qualify as a "reorganization" within the meaning of Section 368(a) of the Internal Revenue Code of 1986, as amended (the "*Code*").

Parent, Merger Sub and the Company (the "*Parties*") desire to make certain representations, warranties, covenants and agreements in connection with such merger and also to prescribe various conditions to such merger.

NOW, THEREFORE, for and in consideration of the recitals and the mutual covenants and agreements set forth in this Agreement, the Parties agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1 *Defined Terms.* As used in this Agreement, each of the following terms has the meaning set forth below:

"*Affiliate*" means, with respect 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. The term "*Control*" (including the terms "*Controlled By*" and "*Under Common Control With*") means the possession, directly or indirectly, of the actual power to direct or cause the direction of the management policies of a Person, whether through the ownership of stock, by contract, credit arrangement or otherwise.

"*Agreement*" means this Agreement and Plan of Merger, as amended, supplemented or modified from time to time.

"*Articles of Merger*" means the articles of merger, prepared and executed in accordance with the applicable provisions of the NRS, filed with the Secretary of State of Nevada to effect the Merger in Nevada.

"*Capital Expenditures*" means costs and expenses associated with the acquisition, development or redevelopment of Oil and Gas Interests or any other fixed or capital assets of the Target Companies or Parent Companies, as applicable, which pursuant to GAAP are required to be capitalized and subject to depletion, depreciation or amortization, including Drilling or Completion Expenditures.

"*Capital Project*" means any project, transaction, agreement, arrangement or series of transactions, agreements or arrangements to which one or more of the Target Companies or the Parent Companies, as the case may be, is a party involving a Capital Expenditure, including (a) any purchase, lease, acquisition, developmental drilling, completion and/or recompletion of proved developed producing, proved developed non-producing, or proved undeveloped Oil and Gas Interests; (b) any purchase, lease or acquisition and/or exploratory drilling of Oil and Gas Interests; and (c) any purchase, lease,

acquisition, construction, development or completion of transportation, compression, gathering or related facilities for oil, gas or related products or the provision of services, equipment or other property for use in developing, completing or transporting oil, gas or related products or otherwise directly related and ancillary to the oil and gas business, including the transportation, production, storage and handling of water utilized or disposed of in oil and gas production.

"*CERCLA*" means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, and any regulations promulgated thereunder.

"*CERCLIS*" means the Comprehensive Environmental Response, Compensation and Liability Information System List.

"*Closing*" means the closing of the Merger and the consummation of the other transactions contemplated by this Agreement.

"*Closing Date*" means the date on which the Closing occurs, which date shall be the first business day following the day by which both the Company Meeting and the Parent Meeting have been held (or such later date as is agreed upon by the Parties).

"*Company Bank Credit Agreement*" means the Fourth Amended and Restated Credit Agreement dated March 15, 2002, between the Company, as borrower, and Bankers Trust Company and others, as agents and lenders (as amended and supplemented).

"*Company Certificate*" means a certificate representing shares of Company Common Stock.

"*Company Common Stock*" means the common stock, par value $.002 per share, of the Company.

"*Company Convertible Notes*" means the Floating Rate Convertible Senior Notes due 2023 of the Company.

"*Company Disclosure Schedule*" means the Company Disclosure Schedule delivered in connection with this Agreement and any documents listed on such Company Disclosure Schedule or expressly incorporated therein by reference.

"*Company Financial Statements*" means the audited and unaudited consolidated financial statements of the Company and its subsidiaries (including the related notes) included (or incorporated by reference) in the Company's Annual Report on Form 10-K for the year ended December 31, 2003 and Quarterly Reports on Form 10-Q for the quarters ended March 31, June 30, and September 30, 2004, in each case as filed with the SEC.

"*Company Material Agreement(s)*" means (a) the Company Bank Credit Agreement, (b) any hedging agreement to which any of the Target Companies is a party or by which any of its assets is bound, (c) any agreement, contract, commitment or understanding, written or oral, (i) granting any Person registration, purchase or sale rights with respect to any security of any of the Target Companies, (ii) which materially restrains, limits or impedes any of the Target Companies, or will materially restrain, limit or impede the Surviving Corporation's, ability to compete with or conduct any business or any line of business, including geographic limitations on any of the Target Companies' or the Surviving Corporation's activities, (iii) which is a material production sharing agreement, joint venture or operating agreement, balancing agreement, farm-out or farm-in agreement, enhanced oil recovery agreement, unitization and pooling agreement or other similar contract or agreement relating to the exploration, development and production of oil and natural gas, (iv) which is a material take-or-pay agreement or other similar agreement that entitles purchasers of production to receive delivery of Hydrocarbons without paying therefor, (v) which is a material seismic license or software license relating to primary geological or financial processes to which any of the Target Companies is subject, or (vi) which is a fixed price commodity sales agreement with a remaining term of more than 60 days, (d) any agreement, contract, commitment or understanding, written or oral, granting any Person a right

of indemnification and/or contribution by any of the Target Companies, (e) any voting agreement relating to any security of any of the Target Companies, and/or (f) any other written or oral agreement, contract, commitment or understanding (or amendment or modification thereof) to which any of the Target Companies is a party, by which any of the Target Companies is directly or indirectly bound, or to which any asset of any of the Target Companies may be subject, that is (i) included in Section 3.11 of the Company Disclosure Schedule, (ii) listed (in the Company's Form 10-K for the year ended December 31, 2003 or in subsequent filings) as an exhibit to the Company SEC Documents or (iii) material to the Target Companies, taken as a whole, in each case as amended and supplemented.

"*Company Meeting*" means the meeting of the stockholders of the Company called for the purpose of voting on the Company Proposal or any adjournment thereof.

"*Company Stock Option*" means an option (issued and outstanding immediately prior to the Effective Time) to acquire shares of Company Common Stock granted pursuant to the Company Employee Benefit Plans.

"*Company Preferred Stock*" means the preferred stock, par value $.001 per share, of the Company.

"*Company Proposal*" means the proposal to approve this Agreement and the Merger, which proposal is to be presented to the stockholders of the Company and Parent in the Proxy Statement/Prospectus.

"*Company Representative*" means any director, officer, employee, agent, advisor (including legal, accounting and financial advisors) or other representative of any of the Target Companies.

"*Company Reserve Report*" means the reserve report dated October 1, 2004, referenced on page 2 of the Management Presentation prepared by the Company and provided to Parent.

"*Company Senior Secured Notes*" means the 9.60% Senior Secured Notes due 2012 of the Company.

"*Company Subsidiary(ies)*" means any corporation more than 50% of whose outstanding voting securities, or any general partnership, joint venture, or similar entity more than 50% of whose total equity interests, is owned, directly or indirectly, by the Company, or any limited partnership of which the Company or any Company Subsidiary is a general partner.

"*Company Warrant*" means a common stock purchase warrant (issued and outstanding on the date hereof and at the Effective Time) representing the right to purchase shares or a fraction of a share of Company Common Stock.

"*Confidentiality Agreement*" means the letter agreement dated November 3, 2003, as amended on November 23, 2004, between the Company and Parent relating to the Company's furnishing of information to Parent and Parent's furnishing of information to the Company in connection with Parent's and the Company's evaluation of the possibility of the Merger.

"*Conversion Number*" means 0.415.

"*Defensible Title*" means such right, title and interest that is (a) evidenced by an instrument or instruments filed of record in accordance with the conveyance and recording laws of the applicable jurisdiction to the extent necessary to prevail against competing claims of bona fide purchasers for value without notice, and (b) subject to Permitted Encumbrances, free and clear of all Liens, claims, infringements, burdens and other defects.

"*Derivative Transaction*" means any swap transaction, option, warrant, forward purchase or sale transaction, futures transaction, cap transaction, floor transaction or collar transaction relating to one or more currencies, commodities, bonds, equity securities, loans, interest rates, catastrophe events, weather-related events, credit-related events or conditions or any indexes, or any other similar

transaction (including any option with respect to any of these transactions) or combination of any of these transactions, including collateralized mortgage obligations or other similar instruments or any debt or equity instruments evidencing or embedding any such types of transactions, and any related credit support, collateral or other similar arrangements related to such transactions.

"*Disclosure Schedule*" means, as applicable, the Company Disclosure Schedule or the Parent Disclosure Schedule.

"*Dissenting Stockholder*" means a holder of Series A Preferred Stock who has validly perfected dissenters' rights under the NRS.

"*Drilling or Completion Expenditures*" means any expenditure incurred, or required to be incurred by the Target Companies or Parent Companies, as applicable, with respect to exploratory drilling of Oil and Gas Interests or any developmental drilling, completion and/or recompletion of proved developed producing, proved developed non-producing, or proved undeveloped Oil and Gas Interests.

"*ERISA*" means the Employee Retirement Income Security Act of 1974, as amended.

"*Environmental Law*" means any federal, state, local or foreign statute, code, ordinance, rule, regulation, policy, guideline, permit, consent, approval, license, judgment, order, writ, decree, common law (including but not limited to common law under which claims for personal injury and property damage can be pursued), injunction or other authorization (collectively, "*Laws*") in effect on the date hereof or at a previous time: (a) relating to emissions, discharges, releases or threatened releases of Hazardous Materials into the environment, including into air, soil, sediments, land surface or subsurface, buildings or facilities, surface water, groundwater, publicly-owned treatment works, septic systems or land; (b) relating to the generation, treatment, storage, disposal, use, handling, manufacturing, recycling, transportation or shipment of Hazardous Materials; (c) relating to occupational health and safety; (d) relating to environmental regulation of oil and gas operations; or (e) otherwise relating to the pollution of the environment, Hazardous Materials handling, treatment or disposal, reclamation or remediation activities, or protection of environmentally sensitive areas.

"*Exchange Act*" means the Securities Exchange Act of 1934, as amended.

"*Exchange Agent*" means Continental Stock Transfer & Trust Company, the transfer agent for shares of Parent Common Stock.

"*GAAP*" means generally accepted accounting principles, as recognized by the U.S. Financial Accounting Standards Board (or any generally recognized successor).

"*Governmental Action*" means any authorization, application, approval, consent, exemption, filing, license, notice, registration, permit or other requirement of, to or with any Governmental Authority.

"*Governmental Authority*" means any national, state, provincial, county, parish, tribal or municipal government, domestic or foreign, any agency, board, bureau, commission, court, department or other instrumentality of any such government, or any arbitrator in any case that has jurisdiction over any of the Target Companies or the Parent Companies or any of their respective properties or assets.

"*HSR Act*" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

"*Hazardous Material*" means (a) any "hazardous substance," as defined by CERCLA; (b) any "hazardous waste" or "solid waste," in either case as defined by RCRA; (c) any solid, gas, liquid, chemical, material, waste or substance regulated by any Environmental Law; (d) any radioactive material, and any source, special or byproduct material as defined in 42 U.S.C. 2011 et seq.; (e) any asbestos-containing materials in any form or condition; (f) any polychlorinated biphenyls in any form or condition; or (g) petroleum, petroleum hydrocarbons, petroleum products or any fraction or byproducts thereof.

"*Hydrocarbons*" means oil, condensate, gas, casinghead gas and other liquid or gaseous hydrocarbons.

"*Lien*" means any lien, mortgage, deed of trust, security interest, pledge, deposit, production payment, restriction, burden, encumbrance, title defect, easement, covenant, rights of a vendor under any title retention or conditional sale agreement, or lease or other arrangement substantially equivalent thereto.

"*Market Price*" means the average (rounded to the second decimal place) of the per share closing sales prices of Parent Common Stock on Parent's primary National Stock Exchange (as reported by The Wall Street Journal, or if not so reported, by another authoritative source) over the 20 trading days ending on the fourth trading day preceding the Closing Date.

"*Material Adverse Effect*" means, when used with respect to a Party, a violation, inaccuracy, event, result or consequence that (i) has had or would reasonably be expected to have a material adverse effect on the financial condition, capitalization, results of operations or business of such Party and its wholly owned subsidiaries (as identified on its Disclosure Schedule) (taken as a whole) or the aggregate value of their assets and liabilities, except for results or consequences attributable to the effects of, or changes in, general economic or capital markets conditions, regulatory or political conditions, other effects and changes that generally affect the energy industry, such as commodity prices, or effects and changes attributable to the announcement or pendency of this Agreement (to the extent in any case that such effects and changes do not disproportionately affect such Party and its wholly owned subsidiaries (as identified on its Disclosure Schedule) taken as a whole, *provided*, that a decline in such Party's stock price shall not, in and of itself, constitute a Material Adverse Effect on such Party), (ii) has impaired materially or would reasonably be expected to impair materially the ability of such Party and its wholly owned subsidiaries (as identified on its Disclosure Schedule) (taken as a whole) to own, hold, develop and operate their assets or (iii) has impaired materially or would reasonably be expected to impair materially (x) the ability of such Party to consummate the Merger and the other transactions contemplated hereby or to perform any of its obligations hereunder or (y) Parent's ability to vote, receive dividends, or otherwise exercise ownership rights with respect to the stock of the Surviving Corporation and, indirectly, control over the assets of the Surviving Corporation.

"*Merger Sub Common Stock*" means the capital stock, par value $.001 per share, of Merger Sub.

"*National Stock Exchange*" means the New York Stock Exchange, the American Stock Exchange or the Nasdaq Stock Market.

"*Non-U.S. Holder*" means a stockholder who is not (i) an individual who is a citizen or resident of the United States, (ii) a corporation, or other Person taxable as a corporation, created or organized in or under the laws of the United States, any state thereof or the District of Columbia, (iii) an estate, the income of which is subject to U.S. federal income taxation regardless of its source, (iv) a trust if (x) a court within the United States is able to exercise primary supervision over the administration of the trust and (y) one or more U.S. Persons have the authority to control all substantial decisions of the trust or if the trust has made a valid election to be treated as a U.S. Person, or (v) a partnership, or other Person treated as a partnership for United States federal income Tax purposes, to the extent that the beneficial ownership of Company Common Stock is attributed to its partners who fall into the categories described in clauses (i)-(iv) above.

"*NRS*" means the Nevada Revised Statutes.

"*Oil and Gas Interest(s)*" means: (a) direct and indirect interests in and rights with respect to oil, gas, mineral and related properties and assets of any kind and nature, direct or indirect, including working, royalty and overriding royalty interests, production payments, operating rights, net profits interests, other non-working interests and non-operating interests; (b) interests in and rights with respect to Hydrocarbons and other minerals or revenues therefrom and contracts in connection

therewith and claims and rights thereto (including oil and gas leases, operating agreements, unitization and pooling agreements and orders, division orders, transfer orders, mineral deeds, royalty deeds, oil and gas sales, exchange and processing contracts and agreements and, in each case, interests thereunder), surface interests, fee interests, reversionary interests, reservations and concessions; (c) easements, rights of way, licenses, permits, leases, and other interests associated with, appurtenant to, or necessary for the operation of any of the foregoing; and (d) interests in equipment and machinery (including well equipment and machinery), oil and gas production, gathering, transmission, compression, treating, processing and storage facilities (including tanks, tank batteries, pipelines and gathering systems), pumps, water plants, electric plants, gasoline and gas processing plants, refineries and other tangible personal property and fixtures associated with, appurtenant to, or necessary for the operation of any of the foregoing. References in this Agreement to the "*Oil and Gas Interests of the Company*" or "*Company's Oil and Gas Interests*" mean the collective Oil and Gas Interests of the Target Companies. References in this Agreement to the "*Oil and Gas Interests of Parent*" or "*Parent's Oil and Gas Interests*" mean the collective Oil and Gas Interests of the Parent Companies.

"*Ownership Interests*" means, as applicable: (a) the ownership interests of the Company in its proved properties, as set forth in the Company Reserve Report and (b) the ownership interests of Parent in its proved properties, as set forth in the Parent Reserve Report.

"*Parent Bank Credit Agreement*" means the Credit Agreement dated October 2, 2002, as amended, between Parent and J.P. Morgan Securities, as agent.

"*Parent Certificate*" means a certificate representing shares of Parent Common Stock.

"*Parent Common Stock*" means the common stock, par value $.01 per share, of Parent.

"*Parent Companies*" means Parent and each of the Parent Subsidiaries.

"*Parent Disclosure Schedule*" means the Parent Disclosure Schedule delivered in connection with this Agreement and any documents listed on such Parent Disclosure Schedule or expressly incorporated therein by reference.

"*Parent Financial Statements*" means the audited and unaudited consolidated financial statements of Parent and its subsidiaries (including the related notes) included (or incorporated by reference) in Parent's Annual Report on Form 10-K for the year ended December 31, 2003 and Quarterly Reports on Form 10-Q for the quarters ended March 31, June 30, and September 30, 2004, in each case as filed with the SEC.

"*Parent Material Agreement(s)*" means (a) the Parent Bank Credit Agreement, (b) any hedging agreement to which any of the Parent Companies is a party or by which any of its assets is bound, (c) any agreement, contract, commitment or understanding, written or oral, granting any Person registration, purchase or sale rights with respect to any security of any Parent Company, (d) any agreement, contract, commitment or understanding, written or oral, (i) granting any Person a right of indemnification and/or contribution by any Parent Company, (ii) which materially restrains, limits or impedes any of the Parent Companies' ability to compete with or conduct any business or any line of business, including geographic limitations on any of the Parent Companies' activities, (iii) which is a material production sharing agreement, joint venture or operating agreement, balancing agreement, farm-out or farm-in agreement, enhanced oil recovery agreement, unitization and pooling agreement or other similar contract or agreement relating to the exploration, development and production of oil and natural gas, (iv) which is a material take-or-pay agreement or other similar agreement that entitles purchasers of production to receive delivery of Hydrocarbons without paying therefor, (v) which is a material seismic license or software license relating to primary geological or financial processes to which any of the Parent Companies is subject or (vi) which is a fixed price commodity sales agreement with a remaining term of more than 60 days, (e) any voting agreement relating to any security of any Parent Company, and/or (f) any other written or oral agreement, contract, commitment or

understanding (or amendment or modification thereof) to which any of the Parent Companies is a party, by which any of the Parent Companies is directly or indirectly bound, or to which any asset of any of the Parent Companies may be subject, that is (i) included in Section 4.11 of the Parent Disclosure Schedule, (ii) listed (in Parent's Form 10-K for the year ended December 31, 2003 or in subsequent filings) as an exhibit to the Parent SEC Documents, (iii) material to the Parent Companies, taken as a whole, or (iv) outside the ordinary course of business of the Parent Companies, in each case as amended or supplemented.

"*Parent Meeting*" means the meeting of the stockholders of Parent called for the purpose of voting on the Company Proposal, or any adjournment thereof.

"*Parent Preferred Stock*" means the preferred stock, par value $.01 per share, of Parent.

"*Parent Representative*" means any director, officer, employee, agent, advisor (including legal, accounting and financial advisors) or other representative of Parent or its subsidiaries.

"*Parent Reserve Report*" means the Aries report on reserves and economics dated December 1, 2004, prepared by Parent and provided to the Company.

"*Parent Rights*" means the preferred share purchase rights issued pursuant to the Parent Rights Agreement.

"*Parent Rights Agreement*" means that certain Rights Agreement dated February 23, 2002 between Parent and UMB Bank, as Rights Agent.

"*Parent Subsidiary(ies)*" means any corporation more than 50% of whose outstanding voting securities, or any general partnership, joint venture, or similar entity more than 50% of whose total equity interests, is owned, directly or indirectly, by Parent, or any limited partnership of which Parent or any Parent Subsidiary is a general partner.

"*Party*" means each of the Company, Parent and Merger Sub.

"*Permitted Encumbrances*" means: (a) Liens for Taxes, assessments or other governmental charges or levies (i) if the same shall not at the particular time in question be due and payable or (if foreclosure, distraint, sale or other similar proceedings shall not have been commenced or, if commenced, shall have been stayed) are being contested in good faith by appropriate proceedings and (ii) provided that any of the Target Companies or the Parent Companies, as applicable, shall have set aside on its books such reserves (segregated to the extent required by sound accounting practices) as may be required by or consistent with GAAP; (b) Liens of carriers, warehousemen, mechanics, laborers, materialmen, landlords, vendors, workmen and operators arising by operation of law in the ordinary course of business or by a written agreement existing as of the date hereof and necessary or incident to the exploration, development, operation and maintenance of Hydrocarbon properties and related facilities and assets for sums not yet due and payable or are being contested in good faith by appropriate proceedings, provided that any of the Target Companies or the Parent Companies, as applicable, shall have set aside on its books such reserves (segregated to the extent required by sound accounting practices) as may be required by or consistent with GAAP; (c) Liens incurred in the ordinary course of business in connection with workers' compensation, unemployment insurance and other social security legislation (other than ERISA) which would not and will not, individually or in the aggregate, result in a Material Adverse Effect on the Target Companies or the Parent Companies, as applicable; (d) Liens incurred in the ordinary course of business to secure the performance of bids, tenders, trade contracts, leases, statutory obligations, surety and appeal bonds, performance and repayment bonds and other obligations of a like nature which would not and will not, individually or in the aggregate, result in a Material Adverse Effect on the Target Companies or the Parent Companies, as applicable; (e) Liens, easements, rights-of-way, restrictions, servitudes, permits, conditions, covenants, exceptions, reservations and other similar encumbrances incurred in the ordinary course of business or

existing on property and not materially impairing the value of the assets of any of the Target Companies or any of the Parent Companies, as applicable, or interfering with the ordinary conduct of the business of any of the Target Companies or any of the Parent Companies, as applicable, or rights to any of their assets; (f) Liens created or arising by operation of law to secure a party's obligations as a purchaser of oil and gas; (g) all rights to consent by, required notices to, filings with, or other actions by Governmental Authorities to the extent customarily obtained subsequent to closing; (h) farm-out, carried working interest, joint operating, unitization, royalty, overriding royalty, sales and similar agreements relating to the exploration or development of, or production from, Hydrocarbon properties entered into in the ordinary course of business and not in violation of Section 5.1(a), Section 5.1(b), Section 5.2(a) or Section 5.2(b), as applicable, provided the effect thereof of any of such in existence as of the date hereof on the working and net revenue interest of the Target Companies or the Parent Companies, as applicable, has been properly reflected in its respective Ownership Interests; (i) any defects, irregularities or deficiencies in title to easements, rights of way or other surface use agreements that do not materially adversely affect the value of any asset of any of the Target Companies or any of the Parent Companies, as applicable; (j) Liens arising under or created pursuant to the Parent Bank Credit Agreement or the Company Bank Credit Agreement, as applicable; (k) Liens described on the applicable Disclosure Schedule; and, (l) defects in title which have not had, and would not reasonably be likely to result in, individually or in the aggregate, a Material Adverse Effect on the Target Companies or the Parent Companies, as applicable.

"*Person*" means any natural person, corporation, company, limited or general partnership, joint stock company, joint venture, association, limited liability company, trust, bank, trust company, land trust, business trust or other entity or organization, whether or not a Governmental Authority.

"*Proxy Statement/Prospectus*" means a joint proxy statement in definitive form relating to the Company Meeting and the Parent Meeting, which proxy statement shall be included in the prospectus contained in the Registration Statement.

"*RCRA*" means the Resource Conservation and Recovery Act, as amended, and any regulations promulgated thereunder.

"*Registration Statement*" means the Registration Statement on Form S-4 to be filed by Parent in connection with the issuance of Parent Common Stock pursuant to the Merger.

"*Responsible Officers*" means (a) for the Company, Gary C. Evans, Richard R. Frazier and Brad Davis, and (b) for Parent, F. H. Merelli and Paul Korus.

"*SEC*" means the Securities and Exchange Commission.

"*Securities Act*" means the Securities Act of 1933, as amended.

"*Series A Certificate*" means a certificate representing shares of Series A Preferred Stock.

"*Series A Certificate of Designations, Preferences and Rights*" means the Certificate of Designations, Preferences and Rights of Preferred Shares by Resolution of the Board of Directors Providing for Issue of Preferred Shares Designated as Series A Preferred Stock.

"*Series A Preferred Stock*" means the Company's Series A Preferred Stock, $.001 par value per share, for which the Series A Certificate of Designations, Preferences and Rights was filed in the Office of the Secretary of State of the State of Nevada on May 21, 1993.

"*SOX*" means the Sarbanes-Oxley Act of 2002, and the rules and regulations promulgated thereunder.

"*Target Companies*" means the Company and each of the Company Subsidiaries.

"*Tax Return*" means any return, estimated Tax return, report, declaration, form, claim for refund or information statement relating to Taxes, including any schedule or attachment thereto, and including any amendment thereof.

"*Taxes*" means taxes of any kind, levies or other like assessments, customs, duties, imposts, charges or fees, including income, gross receipts, ad valorem, conservation, value added, excise, real or personal property, asset, sales, use, federal royalty, license, payroll, transaction, capital, net worth and franchise taxes, estimated taxes, withholding, employment, social security, workers' compensation, utility, severance, production, unemployment compensation, occupation, premium, windfall profits, transfer and gains taxes and other governmental taxes imposed or payable to the United States or any state, local or foreign governmental subdivision or agency thereof, and in each instance such term shall include any interest, penalties or additions to tax attributable to any such tax, including penalties for the failure to file any Tax Return or report.

"*Third-Party Consent*" means the consent or approval of any Person other than the Target Companies, any of the Parent Companies or any Governmental Authority.

"*West Dilley Prospect*" means, jointly, the West Dilley Prospect and Hope Prospect referenced in the Series A Certificate of Designations, Preferences and Rights.

Section 1.2 *References and Titles.* All references in this Agreement to Exhibits, Schedules, Articles, Sections, subsections and other subdivisions refer to the corresponding Exhibits, Schedules, Articles, Sections, subsections and other subdivisions of or to this Agreement unless expressly provided otherwise. Titles appearing at the beginning of any Articles, Sections, subsections or other subdivisions of this Agreement are for convenience only, do not constitute any part of this Agreement, and shall be disregarded in construing the language hereof. The words "this Agreement," "herein," "hereby," "hereunder" and "hereof," and words of similar import, refer to this Agreement as a whole and not to any particular subdivision unless expressly so limited. The words "this Article," "this Section" and "this subsection," and words of similar import, refer only to the Article, Section or subsection hereof in which such words occur. The word "or" is not exclusive, and the word "including" (in its various forms) means including without limitation. Pronouns in masculine, feminine or neuter genders shall be construed to state and include any other gender, and words, terms and titles (including terms defined herein) in the singular form shall be construed to include the plural and vice versa, unless the context otherwise requires. As used in the representations and warranties contained in this Agreement, the phrase "to the knowledge" of the representing Party shall mean that Responsible Officers of such Party, individually or collectively, either (a) know that the matter being represented and warranted is true and accurate or (b) have no reason, after reasonable inquiry (including, without limitation, review of their files and inquiry of pertinent management personnel), to believe that the matter being represented and warranted is not true and accurate.

ARTICLE II

THE MERGER

Section 2.1 *The Merger.* Subject to the terms and conditions set forth in this Agreement, at the Effective Time, Merger Sub shall be merged with and into the Company in accordance with the provisions of this Agreement. Such merger is referred to herein as the "*Merger*."

Section 2.2 *Effect of the Merger.* Upon the effectiveness of the Merger, the separate existence of Merger Sub shall cease and the Company, as the surviving corporation in the Merger (the "*Surviving Corporation*"), shall continue its corporate existence under the laws of the State of Nevada. The Merger shall have the effects specified in this Agreement and the NRS.

Section 2.3 *Governing Instruments, Directors and Officers of the Surviving Corporation.*

(a) The articles of incorporation of Merger Sub, as in effect immediately prior to the Effective Time, shall be the articles of incorporation of the Surviving Corporation until duly amended in accordance with their terms and applicable law.

(b) The bylaws of Merger Sub, as in effect immediately prior to the Effective Time, shall be the bylaws of the Surviving Corporation until duly amended in accordance with their terms and applicable law.

(c) The directors and officers of Merger Sub at the Effective Time shall be the directors and officers, respectively, of the Surviving Corporation from the Effective Time until their respective successors have been duly elected or appointed in accordance with the articles of incorporation and bylaws of the Surviving Corporation and applicable law.

Section 2.4 *Effect on Securities.*

(a) *Merger Sub Stock.* At the Effective Time, by virtue of the Merger and without any action on the part of any holder thereof, each share of Merger Sub Common Stock outstanding immediately prior to the Effective Time shall be converted into one share of capital stock of the Surviving Corporation and each certificate evidencing ownership of any such shares shall continue to evidence ownership of the same number of shares of the capital stock of the Surviving Corporation.

(b) *Parent Capital Stock.* At the Effective Time, each share of Parent capital stock then issued and outstanding shall remain issued, outstanding and unchanged.

(c) *Company Securities.*

(i) *Company Common Stock.* At the Effective Time, by virtue of the Merger and without any action on the part of any holder thereof, each share of Company Common Stock that is issued and outstanding immediately prior to the Effective Time shall be converted into the right to receive shares of validly issued, fully paid and nonassessable Parent Common Stock, with each such share of Company Common Stock being converted into that number of shares of Parent Common Stock equal to the Conversion Number (the "*Merger Consideration*"). Each share of Company Common Stock, when so converted, shall automatically be cancelled and retired, shall cease to exist and shall no longer be outstanding; and the holder of any certificate representing any such shares shall cease to have any rights with respect thereto, except the right to receive the Merger Consideration (along with any cash in lieu of fractional shares of Parent Common Stock as provided in Section 2.5(e) and any unpaid dividends and distributions with respect to such shares of Parent Common Stock as provided in Section 2.5(c)), without interest, upon the surrender of such certificate in accordance with Section 2.5.

(ii) *Company Treasury Stock.* At the Effective Time, by virtue of the Merger, all shares of Company Common Stock that are issued and held directly by the Company as treasury stock shall be cancelled and retired and shall cease to exist, and no shares of Parent Common Stock or other consideration shall be paid or payable in exchange therefor.

(iii) *Company Stock Options.* Promptly after the date hereof, the Company shall use its commercially reasonable efforts to solicit the consent of the holders ("*Option Consents*") of the outstanding Company Stock Options which require holder consent to cancel such Company Stock Options (whether or not then exercisable) and the Company shall take such action as may be necessary with respect to outstanding Company Stock Options which do not require holder consent to cancel such Company Stock Options

(whether or not then exercisable), to cancel the Company Stock Options effective as of the Effective Time in exchange for a single lump sum cash payment from the Company or, at Parent's option, Parent equal to the product of (i) the number of shares of Company Common Stock subject to each such Company Stock Option (whether or not then exercisable) immediately prior to the Effective Time and (ii) the excess, if any, of the closing price of Company Common Stock on the day prior to the Closing Date over the exercise price per share under each such Company Stock Option (less the amount of any withholding taxes that may be required with respect thereto). The Company shall use its commercially reasonable efforts to obtain any required Option Consents prior to the Closing Date, but notwithstanding any provision of this Agreement to the contrary, the failure to obtain any or all of such Option Consents shall not result in a failure of a condition to Closing. In the event that any required Option Consent with respect to a Company Stock Option is not obtained prior to the Closing Date, then each such outstanding Company Stock Option, whether vested or unvested, shall be assumed by Parent and shall continue to be subject to the same terms and conditions of the Company Stock Option agreement and the 2001 Stock Option Plan (as described in Section 3.16 of the Company Disclosure Schedule), together with amendments thereto, by which it is evidenced as of the Effective Time, except that from and after the Effective Time, each such Company Stock Option shall be converted into an option to purchase Parent Common Stock in a manner that meets the requirements of Treasury Regulation Section 1.424-1.

(iv) *Company Warrants.* All Company Warrants shall remain outstanding (if outstanding in accordance with their currently existing terms) following the Effective Time. At the Effective Time, by virtue of the Merger and without any action on the part of the Company or any holder thereof, each Company Warrant shall be assumed by Parent and shall be exercisable for Parent Common Stock based on the Conversion Number but otherwise on substantially the same terms and conditions as apply immediately prior to the Effective Time.

(v) *1996 Preferred.* Prior to the Effective Time and pursuant to Section 5.26, the Company shall cause each of the Company Subsidiaries that is Controlled By the Company and who owns shares of the 1996 Preferred to convert all of the issued and outstanding shares of the 1996 Preferred into shares of Company Common Stock, pursuant to the terms set forth in the certificate of designations for the 1996 Preferred.

(vi) *Series A Preferred Stock.* At the Effective Time, by virtue of the Merger and without any action on the part of any holder thereof, each share of Series A Preferred Stock that is issued and outstanding immediately prior to the Effective Time shall be converted into the right to receive shares of validly issued, fully paid and nonassessable Parent Common Stock, with each such share of Series A Preferred Stock being converted into that number of shares of Parent Common Stock equal to the quotient obtained by dividing 20 by the number of shares of Series A Preferred Stock outstanding immediately prior to the Effective Time (the "*Series A Merger Consideration*"). Each share of Series A Preferred Stock, when so converted, shall automatically be cancelled and retired, shall cease to exist and shall no longer be outstanding; and the holder of any Series A Certificate shall cease to have any rights with respect thereto, except the right to receive the Series A Merger Consideration, which shall be issued in the form of whole shares of Parent Common Stock to the extent possible and otherwise in fractional shares of Parent Common Stock (along with any unpaid dividends and distributions with respect to such whole or fractional shares of Parent Common Stock as provided in Section 2.5(c)), without interest, upon the surrender of such certificate in accordance with Section 2.5.

Any fractional shares of Parent Common Stock issued pursuant to this Section 2.4(c)(vi) shall entitle the owner thereof to vote in the same manner as the holder of a whole share of Parent Common Stock but proportionately to the fractional interest. Parent shall (until the date referenced in the last sentence of Section 2.5(g)), if it so elects in its sole discretion, offer holders of such fractional shares of Parent Common Stock one or both of the following options: (1) the right to purchase an additional fraction of a share of Parent Common Stock (at the closing sales price of the Parent Common Stock on Parent's primary National Stock Exchange on the day immediately prior to holder's acceptance of such option) sufficient to provide the holder with a whole share and/or (2) the establishment of an agency arrangement which, on or prior to the date referenced in the last sentence of Section 2.5(g), combines fractional shares of participating holders of Parent Common Stock into whole shares, sells such shares for the account of the participating holders (to a party other than Parent, a Parent Subsidiary or an Affiliate of Parent) and then distributes the resulting sales proceeds to the participating holders in proportion to their contributed fractional share interests (with related transaction costs to be borne by Parent); provided, that the provisions of this sentence shall not preclude Parent from offering other alternatives to holders of fractional shares of Parent Common Stock and that, in no event, shall Parent effectively force holders of fractional shares of Parent Common Stock to receive cash in respect of such fractional shares.

(vii) *Other Interests.* Except as provided in Section 2.4(c) or as otherwise agreed to by the Parties, the provisions of any other plan, program or arrangement providing for the issuance or grant of any other interest in respect of the capital stock of the Target Companies shall become null and void without any payment of cash, or agreement therefor.

(viii) *Shares of Dissenting Stockholders.* Any issued and outstanding shares of Series A Preferred Stock held by a Dissenting Stockholder shall be converted into the right to receive such consideration as may be determined to be due to such Dissenting Stockholder pursuant to the provisions of the NRS, which consideration, in any case, shall be paid by the Company or the Surviving Corporation (as opposed to the Parent); provided, however, shares of Series A Preferred Stock outstanding at the Effective Time and held by a Dissenting Stockholder who shall, after the Effective Time, withdraw his demand for appraisal or lose his right of appraisal as provided in the NRS, shall be deemed to be converted, as of the Effective Time, into the right to receive the Series A Merger Consideration (without interest) in accordance with Section 2.4(c)(vi) and Section 2.5. The Company shall give Parent (A) prompt notice of any written assertions of dissenters' rights, withdrawals of such assertions and any other instruments served pursuant to the NRS received by the Company, and (B) the opportunity to direct all negotiations and proceedings with respect to assertions of dissenters' rights under the NRS. The Company shall not voluntarily make any payment with respect to any assertions of dissenters' rights and shall not, except with the prior written consent of Parent, settle or offer to settle any such demands.

Section 2.5 *Exchange of Certificates.*

(a) *Exchange Fund.* Immediately after the Effective Time, Parent shall deposit with the Exchange Agent, for the benefit of (i) the holders of shares of Company Common Stock and for exchange in accordance with this Agreement, certificates representing the shares of Parent Common Stock to be issued as Merger Consideration, and funds necessary to pay the cash amount for any fractional shares as specified in Section 2.5(e), in exchange for shares of Company Common Stock pursuant to Section 2.4(c)(i), and (ii) the holders of shares of

Series A Preferred Stock and for exchange in accordance with this Agreement, certificates representing the shares of Parent Common Stock to be issued as Series A Merger Consideration, in exchange for shares of Series A Preferred Stock pursuant to Section 2.4(c)(vi). Such shares of Parent Common Stock, together with any dividends or distributions with respect thereto (as provided in Section 2.5(c)) and such funds, are referred to herein as the "*Exchange Fund*." The Exchange Agent, pursuant to irrevocable instructions consistent with the terms of this Agreement, shall deliver the Parent Common Stock to be issued or paid pursuant to Section 2.4(c)(i) (and the cash amount for any fractional shares as specified in Section 2.5(e) and any unpaid dividends and distributions pursuant to Section 2.5(c)) and Section 2.4(c)(vi) out of the Exchange Fund, and the Exchange Fund shall not be used for any other purpose whatsoever. The Exchange Agent shall not be entitled to vote or exercise any rights of ownership with respect to the Parent Common Stock held by it from time to time hereunder, except that it shall receive and hold all dividends or other distributions paid or distributed with respect thereto for the account of Persons entitled thereto.

(b) *Exchange Procedures.*

(i) *Common Stock.*

(1) As soon as reasonably practicable after the Effective Time, Parent shall cause the Exchange Agent to mail to each holder of record of a Company Certificate that, immediately prior to the Effective Time, represented shares of Company Common Stock, which was converted into the right to receive the Merger Consideration pursuant to Section 2.4(c)(i), a letter of transmittal to be used to effect the exchange of such Company Certificate for a Parent Certificate (and cash in lieu of fractional shares), along with instructions for using such letter of transmittal to effect such exchange. The letter of transmittal (or the instructions thereto) shall specify that delivery of any Company Certificate shall be effected, and risk of loss and title thereto shall pass, only upon delivery of such Company Certificate to the Exchange Agent and shall be in such form and have such other provisions as Parent may reasonably specify.

(2) Upon surrender to the Exchange Agent of a Company Certificate for cancellation, together with a duly completed and executed letter of transmittal and any other required documents (including, in the case of any Person constituting an "affiliate" of the Company for purposes of Rule 145(c) and (d) under the Securities Act, a written agreement from such Person as described in Section 5.10, if not theretofore delivered to Parent): (A) the holder of such Company Certificate shall be entitled to receive in exchange therefor a Parent Certificate representing the number of whole shares of Parent Common Stock that such holder has the right to receive pursuant to Section 2.4(c)(i), any cash in lieu of fractional shares of Parent Common Stock as provided in Section 2.5(e), and any unpaid dividends and distributions that such holder has the right to receive pursuant to Section 2.5(c) (after giving effect to any required withholding of taxes); and (B) the Company Certificate so surrendered shall forthwith be cancelled. No interest shall be paid or accrued on the Merger Consideration, cash in lieu of fractional shares, or unpaid dividends and distributions, if any, payable to holders of Company Certificates.

(3) In the event of a transfer of ownership of Company Common Stock that is not registered in the transfer records of the Company, a Parent Certificate representing the appropriate number of shares of Parent Common Stock (along with any cash in lieu of fractional shares and any unpaid dividends and distributions that such holder has the right to receive) may be issued or paid to a transferee if the Company Certificate representing such shares of Company Common Stock is presented to the Exchange Agent

accompanied by all documents required to evidence and effect such transfer, including such signature guarantees as Parent or the Exchange Agent may request, and to evidence that any applicable stock transfer taxes have been paid.

(4) Until surrendered as contemplated by this Section 2.5(b)(i), each Company Certificate shall be deemed at any time after the Effective Time to represent only the right to receive upon such surrender a Parent Certificate representing shares of Parent Common Stock as provided in Section 2.4(c)(i) (along with any cash in lieu of fractional shares and any unpaid dividends and distributions).

(ii) *Series A Preferred Stock.*

(1) As soon as reasonably practicable after the Effective Time, Parent shall cause the Exchange Agent to mail, to the extent such holder's mailing address is known, to each holder of record of a Series A Certificate that, immediately prior to the Effective Time, represented shares of Series A Preferred Stock, which was converted into the right to receive the Series A Merger Consideration pursuant to Section 2.4(c)(vi), a letter of transmittal to be used to effect the exchange of such Series A Certificate for a Parent Certificate, along with instructions for using such letter of transmittal to effect such exchange. The letter of transmittal (or the instructions thereto) shall specify that delivery of any Series A Certificate shall be effected, and risk of loss and title thereto shall pass, only upon delivery of such Series A Certificate to the Exchange Agent and shall be in such form and have such other provisions as Parent may reasonably specify.

(2) Upon surrender to the Exchange Agent of a Series A Certificate for cancellation, together with a duly completed and executed letter of transmittal and any other required documents (including, in the case of any Person constituting an "affiliate" of the Company for purposes of Rule 145(c) and (d) under the Securities Act, a written agreement from such Person as described in Section 5.10, if not theretofore delivered to Parent): (A) the holder of such Series A Certificate shall be entitled to receive in exchange therefor a Parent Certificate representing the number of shares of Parent Common Stock that such holder has the right to receive pursuant to Section 2.4(c)(vi) and any unpaid dividends and distributions that such holder has the right to receive pursuant to Section 2.5(c) (after giving effect to any required withholding of taxes); and (B) the Series A Certificate so surrendered shall forthwith be cancelled. No interest shall be paid or accrued on the Series A Merger Consideration or unpaid dividends and distributions, if any, payable to holders of Series A Certificates.

(3) In the event of a transfer of ownership of Series A Preferred Stock that is not registered in the transfer records of the Company, a Parent Certificate representing the appropriate number of shares of Parent Common Stock (along with any unpaid dividends and distributions that such holder has the right to receive) may be issued or paid to a transferee if the Series A Certificate representing such shares of Series A Preferred Stock is presented to the Exchange Agent accompanied by all documents required to evidence and effect such transfer, including such signature guarantees as Parent or the Exchange Agent may request, and to evidence that any applicable stock transfer taxes have been paid.

(4) Until surrendered as contemplated by this Section 2.5(b)(ii), each Series A Certificate shall be deemed at any time after the Effective Time to represent only the right to receive upon such surrender a Parent Certificate representing shares of Parent Common Stock as provided in Section 2.4(c)(vi) (along with any unpaid dividends and distributions).

(c) *Distributions with Respect to Unexchanged Shares.*

(i) *Common Stock.* No dividends or other distributions with respect to Parent Common Stock declared or made after the Effective Time with a record date after the Effective Time shall be paid to the holder of any unsurrendered Company Certificate. Subject to the effect of applicable laws: (A) at the time of the surrender of a Company Certificate for exchange in accordance with the provisions of this Section 2.5, there shall be paid to the surrendering holder, without interest, the amount of dividends or other distributions (having a record date after the Effective Time but on or prior to surrender and a payment date on or prior to surrender) theretofore paid with respect to the number of whole shares of Parent Common Stock that such holder is entitled to receive (less the amount of any withholding taxes that may be required with respect thereto); and (B) at the appropriate payment date, and, without duplicating any payment made under clause (A) above, there shall be paid to the surrendering holder, without interest, the amount of dividends or other distributions (having a record date after the Effective Time but on or prior to surrender and a payment date subsequent to surrender) payable with respect to the number of whole shares of Parent Common Stock that such holder receives (less the amount of any withholding taxes that may be required with respect thereto).

(ii) *Series A Preferred Stock.* No dividends or other distributions with respect to Parent Common Stock declared or made after the Effective Time with a record date after the Effective Time shall be paid to the holder of any unsurrendered Series A Certificate. Subject to the effect of applicable laws: (A) at the time of the surrender of a Series A Certificate for exchange in accordance with the provisions of this Section 2.5, there shall be paid to the surrendering holder, without interest, the amount of dividends or other distributions (having a record date after the Effective Time but on or prior to surrender and a payment date on or prior to surrender) theretofore paid with respect to the number of shares of Parent Common Stock that such holder is entitled to receive (less the amount of any withholding taxes that may be required with respect thereto); and (B) at the appropriate payment date, and, without duplicating any payment made under clause (A) above, there shall be paid to the surrendering holder, without interest, the amount of dividends or other distributions (having a record date after the Effective Time but on or prior to surrender and a payment date subsequent to surrender) payable with respect to the number of shares of Parent Common Stock that such holder receives (less the amount of any withholding taxes that may be required with respect thereto).

(d) *No Further Ownership Rights in Company Common Stock or Series A Preferred Stock.* All shares of Parent Common Stock issued as the Merger Consideration upon the surrender for exchange of shares of Company Common Stock in accordance with the terms hereof (together with any cash paid pursuant to Section 2.5(e)) shall be deemed to have been issued in full satisfaction of all rights pertaining to such shares of Company Common Stock. All shares of Parent Common Stock issued as the Series A Merger Consideration upon the surrender for exchange of shares of Series A Preferred Stock in accordance with the terms hereof shall be deemed to have been issued in full satisfaction of all rights pertaining to such shares of Series A Preferred Stock. After the Effective Time, there shall be no further registration of transfers on the Surviving Corporation's stock transfer books of the shares of Company Common Stock or Series A Preferred Stock that were outstanding immediately prior to the Effective Time. If, after the Effective Time, a Company Certificate or Series A Certificate is presented to the Surviving Corporation for any reason, it shall be cancelled and exchanged as provided in this Section 2.5.

(e) *Treatment of Fractional Shares.* Fractional shares, if any, of Parent Common Stock shall be issued in the Merger to a holder of Series A Preferred Stock in accordance with

Section 2.4(c)(vi), no Parent Certificates or scrip representing fractional shares of Parent Common Stock shall be issued in the Merger to a holder of Company Common Stock and, except as provided in this Section 2.5(e), Section 2.4(c)(vi) or Section 2.5(c)(ii) no dividend or other distribution, stock split or interest shall relate to any such fractional share, and except as provided in Section 2.4(c)(vi) such fractional share shall not entitle the owner thereof to vote or to any other rights of a stockholder of Parent. In lieu of any fractional share of Parent Common Stock to which a holder of Company Common Stock would otherwise be entitled, such holder, upon surrender of a Company Certificate as described in this Section 2.5, shall be paid an amount in cash (without interest) determined by multiplying (i) the Market Price by (ii) the fraction of a share of Parent Common Stock to which such holder would otherwise be entitled, in which case Parent shall make available to the Exchange Agent, as part of the Exchange Fund, the amount of cash necessary to make such payments. The Parties acknowledge that such payment of cash consideration in lieu of issuing fractional shares of Parent Common Stock to a holder of Company Common Stock was not separately bargained for consideration, but merely represents a mechanical rounding off for purposes of simplifying the corporate and accounting problems that would otherwise be caused by the issuance of such fractional shares of Parent Common Stock.

(f) *Termination of Exchange Fund.* Any portion of the Exchange Fund held by the Exchange Agent in accordance with the terms of this Section 2.5 that remains unclaimed by the former stockholders of the Company for a period of six months following the Effective Time shall be delivered to Parent, upon demand. Thereafter, any former stockholders of the Company who have not theretofore complied with the provisions of this Section 2.5 shall look only to Parent for payment of their claim for Parent Common Stock, any cash in lieu of fractional shares of Parent Common Stock (with respect to former holders of Company Common Stock) and any dividends or distributions with respect to Parent Common Stock (all without interest).

(g) *No Liability.* Neither Parent, the Company, the Surviving Corporation, the Exchange Agent nor any other Person shall be liable to any former holder of shares of Company Common Stock or Series A Preferred Stock for any amount properly delivered to any public official pursuant to any applicable abandoned property, escheat or similar law. Any amounts remaining unclaimed by former holders of Company Common Stock or Series A Preferred Stock for a period of three years following the Effective Time (or such earlier date immediately prior to the time at which such amounts would otherwise escheat to or become property of any governmental entity) shall, to the extent permitted by applicable law, become the property of Parent, free and clear of any claims or interest of any such holders or their successors, assigns or personal representatives previously entitled thereto.

(h) *Lost, Stolen, or Destroyed Certificates.* If any Company Certificate or Series A Certificate shall have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the Person claiming such Company Certificate or Series A Certificate to be lost, stolen or destroyed, and, if required by Parent or the Exchange Agent, the posting by such Person of a bond, in such reasonable amount as Parent or the Exchange Agent may direct, as indemnity against any claims that may be made against it with respect to such Company Certificate or Series A Certificate, the Exchange Agent shall (i) issue in exchange for such lost, stolen or destroyed Company Certificate the shares of Parent Common Stock (along with any cash in lieu of fractional shares pursuant to Section 2.5(e) and any unpaid dividends and distributions pursuant to Section 2.5(c)) deliverable with respect thereto pursuant to this Agreement and (ii) issue in exchange for such lost, stolen or destroyed Series A Certificate the shares of Parent Common Stock (along with any unpaid dividends and distributions pursuant to Section 2.5(c)) deliverable with respect thereto pursuant to this Agreement.

Section 2.6 *Associated Rights.* References in this Agreement to Company Common Stock shall include, unless the context requires otherwise, the associated rights (the "*Company Rights*") issued pursuant to the Rights Agreement dated as of January 6, 1998 between the Company and Securities Transfer Corporation (the "*Company Rights Agreement*").

Section 2.7 *Withholding.* Each of Parent, the Surviving Corporation, and the Exchange Agent shall be entitled to deduct and withhold from the consideration otherwise payable pursuant to this Agreement to any holder of Company Common Stock (including Company Common Stock held as a result of the conversion of the 1996 Preferred prior to the Effective Time pursuant to Section 5.26) and any holder of Series A Preferred Stock such amounts as Parent, the Surviving Corporation, or the Exchange Agent are required to deduct and withhold under the Code or any provision of state, local, or foreign Tax law, with respect to the making of such payment. To the extent that amounts are so withheld by Parent, the Surviving Corporation, or the Exchange Agent, such withheld amounts shall be treated for all purposes of this Agreement as having been paid to the holder of Company Common Stock or Series A Preferred Stock, as the case may be, in respect of whom such deduction and withholding was made by Parent, the Surviving Corporation, or the Exchange Agent, as the case may be.

Section 2.8 *Closing.* The Closing shall take place on the Closing Date at such time and place as is agreed upon by Parent and the Company.

Section 2.9 *Effective Time of the Merger.* The Merger shall become effective immediately when the Articles of Merger and any other filings or recordings required under the NRS are accepted for filing by the Secretary of State of Nevada, or at such time thereafter as is provided in the Articles of Merger (the "*Effective Time*"). As soon as practicable after the Closing, the Articles of Merger shall be filed, and the Effective Time shall occur, on the Closing Date; provided, however, that the Articles of Merger may be filed prior to the Closing Date or prior to the Closing so long as they provide for an effective time that occurs on the Closing Date immediately after the Closing.

Section 2.10 *Taking of Necessary Action; Further Action.* Subject to the other terms and conditions of this Agreement, each of Parent, Merger Sub and the Company shall use all reasonable efforts to take all such actions as may be necessary or appropriate in order to effectuate the Merger under the NRS as promptly as commercially practicable. If, at any time after the Effective Time, any further action is necessary or desirable to carry out the purposes of this Agreement and to vest the Surviving Corporation with full right, title and possession to all assets, real estate and other property, rights, privileges, powers and franchises of either of Merger Sub or the Company, the officers and directors of the Surviving Corporation are fully authorized, in the name of the Surviving Corporation or otherwise to take, and shall take, all such lawful and necessary action.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF THE COMPANY

The Company hereby represents and warrants to Parent and Merger Sub as follows, except as set forth, specifically with reference to a particular section below, on the Company Disclosure Schedule:

Section 3.1 *Organization.* Each of the Target Companies: (a) is a corporation or other entity duly organized, validly existing and in good standing under the laws of its state of incorporation or formation; (b) has the requisite power and authority to own, lease and operate its properties and to conduct its business as it is presently being conducted; and (c) is duly qualified to do business as a foreign corporation or limited partnership, as applicable, and is in good standing, in each jurisdiction where the character of the properties owned or leased by it or the nature of its activities makes such qualification necessary (except where any failure to be so qualified or to be in good standing would not, individually or in the aggregate, have a Material Adverse Effect on the Company). Accurate and

complete copies of the certificate of incorporation, bylaws, minute books and/or other organizational documents of each of the Target Companies have heretofore been delivered to Parent. The Company has no corporate or other subsidiaries other than the Company Subsidiaries.

Section 3.2 *Other Equity Interests.* None of the Target Companies owns any equity interest in any general or limited partnership, corporation, limited liability company or joint venture other than the Company Subsidiaries or as listed on the Company Disclosure Schedule (other than joint operating and other ownership arrangements and tax partnerships entered into in the ordinary course of business that, individually or in the aggregate, are not material to the operations or business of the Target Companies, taken as a whole, and that do not entail any material liabilities).

Section 3.3 *Authority and Enforceability.* The Company has the requisite corporate power and authority to enter into and deliver this Agreement and (with respect to consummation of the Merger, subject to the valid approval of the Company Proposal by the stockholders of the Company) to consummate the transactions contemplated hereby. The execution and delivery of this Agreement and (with respect to consummation of the Merger, subject to the valid approval of the Company Proposal by the stockholders of the Company) the consummation of the transactions contemplated hereby have been duly and validly authorized by all necessary corporate action on the part of the Company, including approval by the Board of Directors of the Company, and no other corporate proceedings on the part of the Company are necessary to authorize the execution or delivery of this Agreement or (with respect to consummation of the Merger, subject to the valid approval of the Company Proposal by the stockholders of the Company) to consummate the transactions contemplated hereby. This Agreement has been duly and validly executed and delivered by the Company and (with respect to consummation of the Merger, subject to the valid approval of the Company Proposal by the stockholders of the Company and assuming that this Agreement constitutes a valid and binding obligation of Parent and Merger Sub) constitutes a valid and binding obligation of the Company, enforceable against the Company in accordance with its terms.

Section 3.4 *No Violations.* The execution and delivery of this Agreement do not, and the consummation of the transactions contemplated hereby and compliance by the Company with the provisions hereof will not, conflict with, result in any violation of or default (with or without notice or lapse of time or both) under, give rise to a right of termination, cancellation or acceleration of any obligation or to the loss of a material benefit under, or result in the creation of any Lien on any of the properties or assets of any of the Target Companies under, any provision of (a) the certificate or articles of incorporation, bylaws or any other organizational documents of any of the Target Companies, (b) any loan or credit agreement, note, bond, mortgage, indenture, lease, permit, concession, franchise, license or other agreement or instrument applicable to the Target Companies, or (c) assuming the consents, approvals, authorizations, permits, filings and notifications referred to in Section 3.5 are duly and timely obtained or made, any judgment, order, decree, statute, law, ordinance, rule or regulation applicable to the Target Companies or any of their respective properties or assets, other than (y) in the case of clause (b) above, any such conflict, violation, default, right, loss or Lien that may arise under the Company Bank Credit Agreement, and (z) in the case of clause (b) or (c) above, any such conflict, violation, default, right, loss or Lien that, individually or in the aggregate, would not have a Material Adverse Effect on the Company.

Section 3.5 *Consents and Approvals.* No consent, approval, order or authorization of, registration, declaration or filing with, or permit from, any Governmental Authority is required by or with respect to any of the Target Companies in connection with the execution and delivery of this Agreement by the Company or the consummation by the Company of the transactions contemplated hereby, except for the following: (a) any such consent, approval, order, authorization, registration, declaration, filing or permit which the failure to obtain or make would not, individually or in the aggregate, have a Material Adverse Effect on the Company; (b) the filing of the Articles of Merger with the Secretary of State of Nevada pursuant to applicable provisions of the NRS; (c) the filing of a

pre-merger notification report by the Company as may be required under the HSR Act and the expiration or termination of the applicable waiting period; (d) the filing with the SEC of the Proxy Statement/Prospectus and such reports under Section 13(a) of the Exchange Act and such other compliance with the Exchange Act and the Securities Act and the rules and regulations of the SEC thereunder as may be required in connection with this Agreement and the transactions contemplated hereby and the obtaining from the SEC of such orders as may be so required; (e) such filings and approvals as may be required by any applicable state securities, "blue sky" or takeover laws or Environmental Laws; and (f) such filings and approvals as may be required by any foreign pre-merger notification, securities, corporate or other law, rule or regulation. No Third-Party Consent is required by or with respect to any of the Target Companies in connection with the execution and delivery of this Agreement or the consummation of the transactions contemplated hereby, except for (x) any such Third-Party Consent which the failure to obtain would not, individually or in the aggregate, have a Material Adverse Effect on the Company, (y) the valid approval of the Company Proposal by the stockholders of the Company, and (z) any consent, approval or waiver required by the terms of the Company Bank Credit Agreement.

Section 3.6 *SEC Documents.* The Company (i) has made available to Parent a true and complete copy of each report, schedule, registration statement and definitive proxy statement filed by the Company with the SEC since January 1, 2001, and prior to the date of this Agreement (and any amendments thereto), including exhibits and other information incorporated therein (the "*Company SEC Documents*"), which are all the documents (other than preliminary material) that the Company was required to file with the SEC since such date, and (ii) has delivered to Parent a true and complete copy of all correspondence between the SEC and any of the Target Companies since January 1, 2003. Each of the Company SEC Documents was timely filed with the SEC. As of their respective dates, each of the Company SEC Documents, as amended (including the financial statements and schedules provided therein or incorporated by reference therein) (i) complied in all material respects with the requirements of the Securities Act, the Exchange Act and SOX, as the case may be, and the rules and regulations of the SEC thereunder applicable to such Company SEC Documents, and (ii) did not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

Section 3.7 *Financial Statements.* The Company Financial Statements were prepared in accordance with GAAP applied on a consistent basis during the periods involved (except as may be indicated in the notes thereto or, in the case of unaudited statements, as permitted by Rule 10-01 of Regulation S-X of the SEC) and fairly present (in the case of the unaudited statements, subject to normal, recurring adjustments) the consolidated financial position of the Company and its subsidiaries as of their respective dates and the consolidated results of operations and the consolidated cash flows of the Company and its subsidiaries for the periods presented therein. The books and records of the Target Companies have been, and are being, maintained in accordance with GAAP and any other applicable legal and accounting requirements and reflect only actual transactions. Deloitte & Touche LLC is an independent public accounting firm with respect to the Target Companies and has not resigned or been dismissed by the Target Companies from such capacity.

Section 3.8 *Capital Structure.*

(a) The authorized capital stock of the Company consists of 200,000,000 shares of Company Common Stock and 10,000,000 shares of Company Preferred Stock, 216,000 shares of which have been designated as Series A Preferred Stock, 925,000 shares of which have been designated as Series B Preferred Stock (the "*Series B Preferred*"), 625,000 shares of which have been designated as Series C Preferred Stock (the "*Series C Preferred*"), 1,000,000 shares of which have been designated as 1996 Series A Convertible Preferred Stock (the "*1996 Preferred*"), 500,000 shares of which have been designated as 1998 Series A Junior Participating Preferred Stock (the "*1998 Preferred*") and 50,000 shares of which have been designated as 1999 Series A 8% Convertible Preferred Stock (the "*1999 Preferred*").

(b) As of the close of business on January 24, 2005, there were (i) 91,469,696 issued and outstanding shares of Company Common Stock (including 2,163,992 shares of Company Common Stock held by the KSOP (as herein defined) and including 3,926,034 shares of Company Common Stock held directly or indirectly by the Company as treasury stock), (ii) 80,000 issued and outstanding shares of Series A Preferred Stock, (iii) no shares of the Series B Preferred issued or outstanding, (iv) no shares of the Series C Preferred issued or outstanding, (v) 1,000,000 shares of the 1996 Preferred issued and outstanding, (vi) no shares of the 1998 Preferred issued or outstanding, (vii) no shares of the 1999 Preferred issued or outstanding, (viii) Company Stock Options that were issued and outstanding relating to 5,673,002 shares of Company Common Stock, (ix) reserved for issuance up to 10,255,000 shares of Company Common Stock upon conversion of the Company Convertible Notes (assuming the Company Convertible Notes were to be converted as of January 24, 2005 and the Ten Day Average Closing Stock Price (as defined in the indenture relating to the Company Convertible Notes) were calculated for the period ended January 24, 2005, the number of shares of Company Common Stock issuable upon the conversion of the Company Convertible Notes would be 353,366), and (x) Company Warrants relating to 7,228,457 shares of Company Common Stock that were issued and outstanding. As of the close of business on January 24, 2005 and as of the date hereof, 3,926,034 shares of Company Common Stock were issued and held directly or indirectly by the Company as treasury stock and no shares of Company Preferred Stock were issued and held directly by the Company as treasury stock. As of the close of business on January 24, 2005 and as of the date hereof, shares of Company Common Stock were issued and held by a Company Subsidiary or Affiliate of the Company and 1,000,000 shares of the 1996 Preferred were issued and held by Company Subsidiaries that are Controlled By the Company, which represents all the issued and outstanding shares of the 1996 Preferred.

(c) Except as set forth in Section 3.8(b), there are outstanding (i) no shares of capital stock or other voting securities of the Company, (ii) no securities of the Company or any other Person convertible into or exchangeable or exercisable for shares of capital stock or other voting securities of the Company, (iii) no stock appreciation rights or phantom stock rights to which any of the Target Companies are obligated and (iv) no subscriptions, options, warrants, calls, rights (including preemptive rights), commitments, understandings or agreements to which the Company is a party or by which it is bound obligating the Company to issue, deliver, sell, purchase, redeem or acquire shares of capital stock or other voting securities of the Company (or securities convertible into or exchangeable or exercisable for shares of capital stock or other voting securities of the Company) or obligating the Company to grant, extend or enter into any such subscription, option, warrant, call, right, commitment, understanding or agreement.

(d) All outstanding shares of Company capital stock are validly issued, fully paid and nonassessable and not subject to any preemptive right. There are no shares of Company capital stock reserved for issuance.

(e) All outstanding shares of capital stock and other voting securities of each of the corporate Company Subsidiaries are (i) validly issued, fully paid and nonassessable and not subject to any preemptive right, and (ii) owned by the Target Companies, free and clear of all Liens, claims and options of any nature (except for Permitted Encumbrances). There are outstanding (y) no securities of any Company Subsidiary or any other Person convertible into or exchangeable or exercisable for shares of capital stock, other voting securities or other equity interests of such Company Subsidiary, and (z) no subscriptions, options, warrants, calls, rights (including preemptive rights), commitments, understandings or agreements to which any Company Subsidiary is a party or by which it is bound obligating such Company Subsidiary to issue, deliver, sell, purchase, redeem or acquire shares of capital stock, other voting securities or other equity interests of such Company Subsidiary (or securities convertible into or exchangeable or exercisable for shares of capital stock, other voting securities or other equity interests of such Company Subsidiary) or

obligating any Company Subsidiary to grant, extend or enter into any such subscription, option, warrant, call, right, commitment, understanding or agreement.

(f) There is no stockholder agreement, voting trust or other agreement or understanding to which the Company is a party or by which it is bound relating to the voting of any shares of the capital stock of any of the Target Companies. There are no bonds, debentures, notes or other indebtedness of the Target Companies having the right to vote (or convertible into, or exchangeable for, securities having the right to vote) on any matters on which the stockholders of any of the Target Companies may vote.

(g) None of the Target Companies is obligated to redeem or otherwise repurchase any of its capital stock.

(h) The Company is in compliance with the applicable listing rules of the New York Stock Exchange and has not, since January 1, 2003, received any notice from the New York Stock Exchange asserting any non-compliance with such rules.

(i) Following the Effective Time, there shall be no securities of any of the Surviving Corporation, the Target Companies or any other Person convertible into or exchangeable or exercisable for shares of capital stock or other voting securities of the Surviving Corporation or any of the Target Companies.

(j) The Board of Directors has made an irrevocable determination that an event similar to the commencement of a tender or exchange offer which would, if successful, result in a Change of Control (as defined in the Company's stock option agreements) has occurred and would, if consummated, materially alter the structure or business of the Company.

(k) The exercise price for the Company Warrants is $15.00 per share of Company Common Stock. The conversion price of the Company Convertible Notes is, as of the date of this Agreement, $12.19 per share of Company Common Stock which price will be adjusted immediately following the TEL Distribution pursuant to the terms of the indenture relating to the Company Convertible Notes. For example, based on an average closing price for Company Common Stock for the 20-trading day period ended January 18, 2005 of $12.427, and the closing price of the TEL Units on January 18, 2005 of $10.395, the revised conversion price would be $12.032.

(l) There have never been any liquidation proceeds of any kind regarding the West Dilley Prospect. There are no accrued or unpaid dividends on the Series A Preferred Stock.

Section 3.9 *No Undisclosed Liabilities.* There are no material liabilities of any of the Target Companies of any kind whatsoever, whether accrued, contingent, absolute, determined, determinable or otherwise, other than (a) liabilities adequately provided for in the Company Financial Statements, (b) liabilities incurred in the ordinary course of business subsequent to September 30, 2004, (c) liabilities under this Agreement, and (d) liabilities set forth on Section 3.9 of the Company Disclosure Schedule.

Section 3.10 *Absence of Certain Changes or Events.* Except as specifically contemplated by this Agreement, since September 30, 2004, none of the Target Companies has done any of the following:

(a) Discharged or satisfied any Lien or paid any obligation or liability, absolute or contingent, other than current liabilities incurred and paid in the ordinary course of business and consistent with past practices;

(b) Paid or declared any dividends or distributions (other than in relation to the TEL Distribution), purchased, redeemed, acquired or retired any indebtedness, stock or other securities from its stockholders or other securityholders (except as relates to the conversion of the 1996 Preferred in accordance with Section 5.26), made any loans or advances or guaranteed any loans

or advances to any Person (other than loans, advances or guaranties made in the ordinary course of business and consistent with past practices), or otherwise incurred or suffered to exist any liabilities (other than current liabilities incurred in the ordinary course of business and consistent with past practices);

(c) Except for Permitted Encumbrances, suffered or permitted any Lien to arise or be granted or created against or upon any of its assets;

(d) Canceled, waived or released any rights or claims against, or indebtedness owed by, third parties (including, without limitation, any standstill agreements);

(e) Amended its articles of incorporation, bylaws or other organizational documents;

(f) Made or permitted any amendment, supplement, modification or termination of, or any acceleration under, any Company Material Agreement;

(g) Sold, leased, transferred, assigned or otherwise disposed of (i) any Oil and Gas Interests of the Company that, individually or in the aggregate, had a value of $1,000,000 or more, or (ii) any other assets that, individually or in the aggregate, had a value at the time of such lease, transfer, assignment or disposition of $1,000,000 or more (and, in each case where a sale, lease, transfer, assignment or other disposition was made, it was made for fair consideration in the ordinary course of business); provided, however, that this Section 3.10(g) shall not apply to the sale of Hydrocarbons in the ordinary course of business;

(h) Made any investment in or contribution, payment, advance or loan to any Person (other than investments, contributions, payments or advances, or commitments with respect thereto, less than $1,000,000 in the aggregate, made in the ordinary course of business and consistent with past practices);

(i) Paid, loaned or advanced (other than the payment, advance or reimbursement of expenses in the ordinary course of business and consistent with past practices) any amounts to, or sold, transferred or leased any of its assets to, or entered into any other transaction with, any of its Affiliates other than the Target Companies;

(j) Made any material change in any of the accounting principles followed by it or the method of applying such principles;

(k) Entered into any material transaction (other than this Agreement) except in the ordinary course of business and consistent with past practices;

(l) Increased benefits or benefit plan costs or changed bonus, insurance, pension, compensation or other benefit plan or arrangement or granted any bonus or increase in wages, salary or other compensation or made any other change in employment terms to (or entered into severance or retention arrangements of any type with) any officer, director or employee of any of the Target Companies (except in the ordinary course of business and consistent with past practices);

(m) Issued any note, bond or other debt security or created, incurred, assumed, or guaranteed any indebtedness for borrowed money or capitalized lease obligation involving more than $1,000,000 in the aggregate (other than pursuant to the Company Bank Credit Agreement);

(n) Delayed, postponed or accelerated the payment of accounts payable or other liabilities (except in the ordinary course of business and consistent with past practices);

(o) Canceled, compromised, waived or released any right or claim (or series of related rights and claims) involving more than $1,000,000 in the aggregate (except in the ordinary course of business and consistent with past practices);

(p) Except as relates to the conversion of the 1996 Preferred in accordance with Section 5.26, issued, sold, or otherwise disposed of any of its capital stock or other equity interest or granted any option, warrant, or other right to purchase or obtain (including upon conversion, exchange, or exercise) any of its capital stock or other equity interest (or reduced the exercise or conversion price or extended the time for exercise or conversion, other than in accordance with mandatory contractual provisions, of any rights, options or warrants to acquire its capital stock or securities);

(q) Made any loan to, or entered into any other transaction with, any of its directors, officers or employees (except in the ordinary course of business and consistent with past practices and not involving more than $100,000 in the aggregate);

(r) Made or pledged to make any charitable or other capital contribution outside the ordinary course of business and consistent with past practices;

(s) Made or committed to make capital expenditures in excess of $195,000,000 in the aggregate;

(t) Made or changed any material Tax election or settled or compromised any material income Tax liability;

(u) Entered into, modified or amended any Derivative Transaction;

(v) Otherwise been involved in any other material occurrence, event, incident, action, failure to act, or transaction involving any of the Target Companies (except in the ordinary course of business and consistent with past practices);

(w) Entered into any transaction with an Affiliate (except in the ordinary course of business and consistent with past practices);

(x) Agreed, whether in writing or otherwise, to do any of the foregoing; or

(y) Suffered any Material Adverse Effect.

Section 3.11 *Compliance with Laws, Material Agreements and Permits.* None of the Target Companies is in violation of, or in default under, and no event has occurred that (with notice or the lapse of time or both) would constitute a violation of or default under: (a) its certificate of incorporation, bylaws or other organizational documents, (b) any applicable law, rule, regulation, ordinance, order, writ, decree or judgment of any Governmental Authority, or (c) any Company Material Agreement, except (in the case of clause (b) or (c) above) for any violation or default that would not, individually or in the aggregate, have a Material Adverse Effect on the Company. Each of the Target Companies has obtained and holds all permits, licenses, variances, exemptions, orders, franchises, approvals and authorizations of all Governmental Authorities necessary for the lawful conduct of its business and the lawful ownership, use and operation of its assets ("*Company Permits*"), except for Company Permits which the failure to obtain or hold would not, individually or in the aggregate, have a Material Adverse Effect on the Company. None of the Company Permits shall be adversely affected by the consummation of the transactions contemplated under this Agreement or requires any filing or consent in connection therewith. Each of the Target Companies is in compliance with the terms of its Company Permits, except where the failure to comply would not, individually or in the aggregate, have a Material Adverse Effect on the Company. No investigation or review by any Governmental Authority with respect to any of the Target Companies is pending or, to the knowledge of the Company, threatened, other than those the outcome of which would not, individually or in the aggregate, have a Material Adverse Effect on the Company. To the knowledge of the Company, no other party to any Company Material Agreement is in material breach of the terms, provisions or conditions of such Company Material Agreement. Each Company Material Agreement (other than those listed in the Company's Form 10-K for the year ended December 31, 2003, or in subsequent

filings, as an exhibit to the Company SEC Documents) is listed on Section 3.11 of the Company Disclosure Schedule.

Section 3.12 *Governmental Regulation.* None of the Target Companies is subject to regulation under the Public Utility Holding Company Act of 1935, the Federal Power Act, the Interstate Commerce Act, the Investment Company Act of 1940 or any state public utilities laws.

Section 3.13 *Litigation.* (a) No litigation, arbitration, investigation or other proceeding is pending or, to the knowledge of the Company, threatened against any of the Target Companies or their respective assets which could reasonably be expected to have a Material Adverse Effect on the Company; and (b) none of the Target Companies is subject to any outstanding injunction, judgment, order, decree or ruling (other than routine oil and gas field regulatory orders). There is no litigation, proceeding or investigation pending or, to the knowledge of the Company, threatened against or affecting any of the Target Companies that questions the validity or enforceability of this Agreement or any other document, instrument or agreement to be executed and delivered by the Company in connection with the transactions contemplated hereby.

Section 3.14 *No Restrictions.* None of the Target Companies is a party to: (a) any agreement, indenture or other instrument that contains restrictions with respect to the payment of dividends or other distributions with respect to its capital, other than the Company Bank Credit Agreement; (b) any financial arrangement with respect to or creating any indebtedness to any Person (other than indebtedness (i) reflected in the Company Financial Statements and, with respect to any indebtedness that is material (individually or, together with related items, in the aggregate) listed in Section 3.14 of the Company Disclosure Schedule, (ii) under the Company Bank Credit Agreement, or (iii) incurred in the ordinary course of business consistent with past practices since September 30, 2004), unless such indebtedness is not material (individually or, together with related items, in the aggregate) to the Target Companies taken as a whole; (c) any agreement, contract or commitment relating to the making of any advance to, or investment in, any Person (other than restrictions under the Company Bank Credit Agreement and advances in the ordinary course of business and consistent with past practices); (d) any guaranty or other contingent liability with respect to any indebtedness or obligation of any Person (other than (i) guaranties pursuant to the Company Bank Credit Agreement, (ii) guaranties undertaken in the ordinary course of business, and (iii) the endorsement of negotiable instruments for collection in the ordinary course of business); or (e) any agreement, contract or commitment limiting in any respect its ability to compete with any Person or otherwise conduct business of any line or nature. The amount of the guaranty by Company under the Continuing Guaranty by the Company to Compass Bank, dated December 20, 2004, with respect to indebtedness of Metrix Networks, Inc., does not exceed $500,000, in terms of its total commitment or its current guaranty.

Section 3.15 *Taxes.*

(a) Each of the Target Companies and any affiliated, consolidated, combined, aggregated, or unitary group of which any such entity is or was a member has (i) timely filed in accordance with applicable law all Tax Returns required to be filed by it (all such Tax Returns being accurate and complete in all material respects), (ii) timely paid all Taxes required to be paid by it (whether shown on a Tax Return or not) other than Taxes that are not yet due, (iii) complied with all applicable laws, rules and regulations relating to the payment and withholding of Taxes, and (iv) timely withheld from employee wages and paid over to the proper Governmental Authorities all amounts required to be so withheld and paid over, except where the failure to file, pay, comply with or withhold would not, individually or in the aggregate, have a Material Adverse Effect on the Company.

(b) (i) No audits or other administrative or court proceedings are presently pending with regard to any material Taxes for which any of the Target Companies would be liable; and (ii) there are no pending requests for Tax rulings from any Governmental Authority, no outstanding

subpoenas or requests for information by any Governmental Authority with respect to any Taxes, no proposed reassessments by any Governmental Authority of any property owned or leased, and no agreements in effect to extend the time to file any Tax Return or the period of limitations for the assessment or collection of any Taxes for which any of the Target Companies would be liable.

(c) (i) There are no Liens on any of the assets of the Target Companies for unpaid Taxes, other than Liens for Taxes not yet due and payable; (ii) none of the Target Companies has any liability for the Taxes of any other Person (other than one or more of the Target Companies) under Treasury Regulation Section 1.1502-6 (or any analogous state, local or foreign law), as a successor or transferee, or by contract; and (iii) none of the Target Companies is a party to or bound by any Tax sharing, allocation, indemnification, or similar agreement or arrangement (other than such an agreement or arrangement exclusively between or among two or more of the Target Companies).

(d) The amount of liability for unpaid Taxes of the Target Companies does not, in the aggregate, materially exceed the amount of the liability accruals and reserves for Taxes reflected on the Company Financial Statements. None of the Target Companies shall be required to include any material item of income in, or exclude any material item of deduction from, taxable income for any taxable period (or portion thereof) ending after the Closing Date as a result of any (i) change in method of accounting for a taxable period ending on or prior to the Closing Date under Section 481(c) of the Code (or any corresponding or similar provision of state, local or foreign Tax Law), (ii) "closing agreement" as described in Section 7121 of the Code (or any corresponding or similar provision of state, local or foreign Tax Law) executed on or prior to the Closing Date, or (iii) deferred intercompany gain or excess loss account described in Treasury Regulations under Section 1502 of the Code (or any corresponding or similar provision of state, local or foreign Tax Law).

(e) (i) None of the Target Companies is required to treat any of its assets as owned by another person for United States federal income tax purposes or as tax-exempt bond financed property or tax-exempt use property within the meaning of Section 168 of the Code; (ii) none of the Target Companies has participated in any international boycott as defined in Section 999 of the Code; and (iii) none of the Target Companies has or has ever conducted branch operations in any foreign country within the meaning of Treasury Regulation Section 1.367(a)-6T.

(f) No shareholder of the Company that is a Non-U.S. Holder has owned more than five percent of any class of the outstanding stock of the Company at any time during the immediately preceding five-year period.

(g) None of the Target Companies has been a "distributing corporation" or a "controlled corporation" in a distribution intended to qualify for tax-free treatment under Section 355 of the Code (i) in the two-year period ending on the date of this Agreement or (ii) in a distribution that could, in conjunction with the Merger, otherwise constitute part of a "plan" or "series of related transactions" (within the meaning of Section 355(e) of the Code).

(h) None of the Target Companies has entered into, has any liability in respect of, or has any filing obligations with respect to, any "reportable transactions" as defined in Treasury Regulation Section 1.6011-4(b)(1) or similar provision of state law.

(i) Within the last three years, neither the Company nor any of its Affiliates has owned any material assets located outside the United States or conducted a material trade or business outside the United States.

(j) All of the transactions which the Company has accounted for as hedges under SFAS 133 have also been treated as hedging transactions for United States federal income Tax purposes pursuant to Treasury Regulation Section 1.1221-2.

Section 3.16 *Employee Benefit Plans.*

(a) Section 3.16(a) of the Company Disclosure Schedule sets forth a complete and accurate list of each of the following which is or has been sponsored, maintained or contributed to by the Company or any trade or business, whether or not incorporated (a "*Company ERISA Affiliate*"), or in which any employee or co-employee of any of the Target Companies participates or is covered, that together with the Company would be considered affiliated with the Company or any Company ERISA Affiliate under Section 414(b), (c), (m) or (o) of the Code or Section 4001(b)(1) of ERISA for the benefit of any person who, as of the Closing, is a current or former employee or subcontractor of the Company or any Company ERISA Affiliate: (i) each "employee benefit plan," as such term is defined in Section 3(3) of ERISA (each, a "*Company Plan*"); and (ii) each personnel policy, stock option plan, bonus plan or arrangement, incentive award plan or arrangement, vacation policy, severance or retention pay plan, policy, program or agreement, deferred compensation agreement or arrangement, executive compensation or supplemental income arrangement, retiree benefit plan or arrangement, fringe benefit program or practice (whether or not taxable), employee loan, consulting agreement, employment agreement and each other employee benefit plan, agreement, arrangement, program, practice or understanding which is not described in clause (i) above (each, a "*Company Benefit Program or Agreement*") (the Company Plans and Company Benefit Programs or Agreements are sometimes collectively referred to in this Agreement as the "*Company Employee Benefit Plans*").

(b) True, correct and complete copies of each of the Company Plans and related trusts, if applicable, including all amendments thereto, have been delivered to Parent. There has also been delivered to Parent, with respect to each Company Plan required to file such report and description, the report on Form 5500 for the past three years, to the extent applicable, and the most recent summary plan description and summaries of material modifications thereto. True, correct and complete copies or descriptions of all Company Benefit Programs or Agreements have also been delivered to Parent.

(c) (i) None of the Company, any Company ERISA Affiliate or any entity that, at any time during the past six years, was required to be treated as a single employer together with the Company or a Company ERISA Affiliate pursuant to Section 414 of the Code contributes to or has an obligation to contribute to, nor has at any time contributed to or had an obligation to contribute to, a multiemployer plan within the meaning of Section 3(37) of ERISA or any other plan subject to Title IV of ERISA; (ii) each of the Company and the Company ERISA Affiliates has performed all obligations, whether arising by operation of law or by contract, including ERISA and the Code, required to be performed by it in connection with the Company Employee Benefit Plans, and, to the knowledge of the Company, there have been no defaults or violations by any other party to the Company Employee Benefit Plans; (iii) all reports, returns, notices, disclosures and other documents relating to the Company Plans required to be filed with or furnished to governmental entities, plan participants or plan beneficiaries have been timely filed or furnished in accordance with applicable law, and each Company Employee Benefit Plan has been administered in compliance with its governing written documents; (iv) each of the Company Plans intended to be qualified under Section 401 of the Code satisfies the requirements of such Section and has received a current favorable determination letter from the Internal Revenue Service (the "*IRS*") regarding such qualified status and has not been amended, operated or administered in a way which would adversely affect such qualified status; (v) there are no actions, suits or claims pending (other than routine claims for benefits) or, to the knowledge of the Company, contemplated or threatened against, or with respect to, any of the Company Employee Benefit Plans or their assets; (vi) each trust maintained in connection with each Company Plan, which is qualified under Section 401 of the Code, is tax exempt under Section 501 of the Code; (vii) all contributions required to be made to the Company Employee Benefit Plans have been made timely; (viii) no

accumulated funding deficiency, whether or not waived, within the meaning of Section 302 of ERISA or Section 412 of the Code has been incurred, and there has been no termination or partial termination of any Company Plan within the meaning of Section 411(d)(3) of the Code; (ix) no act, omission or transaction has occurred which could result in imposition on the Company or any Company ERISA Affiliate of (A) breach of fiduciary duty liability damages under Section 409 of ERISA, (B) a civil penalty assessed pursuant to subsections (c), (i) or (1) of Section 502 of ERISA or (C) a tax imposed pursuant to Chapter 43 of Subtitle D of the Code; (x) to the knowledge of the Company, there is no matter pending with respect to any of the Company Plans before the IRS, the Department of Labor or the Pension Benefit Guaranty Corporation (the "*PBGC*"); (xi) each of the Company Employee Benefit Plans complies, in form and operation, with the applicable provisions of the Code and ERISA; (xii) each Company Employee Benefit Plan may be unilaterally amended or terminated in its entirety (otherwise than with respect to outstanding shares) without any liability or other obligation; (xiii) the Company and the Company ERISA Affiliates have no liabilities or other obligations, whether actual or contingent, under any Company Employee Benefit Plan for post-employment benefits of any nature (other than COBRA continuation coverage); and (xiv) neither the Company nor any of the Company ERISA Affiliates or any present or former director, officer, employee or other agent of the Company or any of the Company ERISA Affiliates has made any written or oral representations or promises to any present or former director, officer, employee or other agent concerning his or her terms, conditions or benefits of employment, including the tenure of any such employment or the conditions under which such employment may be terminated by the Company, any of the Company ERISA Affiliates or Parent which will be binding upon or enforceable against Parent or the Company after the Effective Time.

(d) No employee is currently on a leave of absence due to sickness or disability and no claim is pending or expected to be made by an employee, former employee or independent contractor for workers' compensation benefits.

(e) With respect to the Company Employee Benefit Plans, there exists no condition or set of circumstances in connection with any of the Target Companies that could be expected to result in liability reasonably likely to have a Material Adverse Effect on the Company under ERISA, the Code or any other applicable law. With respect to the Company Employee Benefit Plans, individually and in the aggregate, there are no unfunded benefit obligations which have not been accounted for by reserves, or otherwise properly footnoted in accordance with GAAP, on the financial statements of the Target Companies, which obligations are reasonably likely to have a Material Adverse Effect on the Company.

(f) Neither the execution or delivery of this Agreement nor the consummation of the transactions contemplated hereby shall result in any payment becoming due to any employee or group of employees of any of the Target Companies.

(g) No amounts payable or that could become payable under any Company Employee Benefit Plan as a result of the consummation of the transactions contemplated by this Agreement or otherwise shall fail to be deductible for Federal income tax purposes by virtue of either Section 280G or 162(m) of the Code.

Section 3.17 *Employment Contracts and Benefits.* Except as otherwise provided for in any Company Employee Benefit Plan: (a) none of the Target Companies is subject to or obligated under any consulting, employment, severance, retention, termination or similar arrangement, any employee benefit, incentive or deferred compensation plan with respect to any Person, or any bonus, profit sharing, pension, stock option, stock purchase or similar plan or other arrangement or other fringe benefit plan entered into or maintained for the benefit of employees of any of the Target Companies or any other Person; and (b) no employee of any of the Target Companies or any other Person owns, or has any right granted by any of the Target Companies to acquire, any interest in any of the assets or business of any of the Target Companies.

Section 3.18 *Labor Matters.*

(a) No employees of any of the Target Companies are represented by any labor organization. No labor organization or group of employees of any of the Target Companies has made a demand for recognition or certification as a union or other labor organization, and there are no representation or certification proceedings or petitions seeking a representation or certification proceeding presently pending or threatened in writing to be brought or filed with the National Labor Relations Board or any other labor relations tribunal or authority. There are no organizing activities involving any of the Target Companies pending with any labor organization or group of employees of any of the Target Companies.

(b) Each of the Target Companies is in compliance with all laws, rules, regulations and orders relating to the employment of labor, including all such laws, rules, regulations and orders relating to wages, hours, collective bargaining, discrimination, civil rights, safety and health, workers' compensation and the collection and payment of income Tax withholding, Social Security Taxes, Medicare Taxes and similar Taxes, except where the failure to comply would not, individually or in the aggregate, have a Material Adverse Effect on the Company.

Section 3.19 *Insurance.* Each of the Target Companies maintains, and through the Closing Date will maintain, insurance with reputable insurers (or pursuant to prudent self-insurance programs described in Section 3.19 of the Company Disclosure Schedule) in such amounts and covering such risks as are in accordance with prudent industry practice for companies engaged in businesses of a size and scope similar to those of the Target Companies and owning properties in the same general area in which the Target Companies conduct their businesses. None of such insurance coverage was obtained through the use of false or misleading information or the failure to provide the insurer with all information requested in order to evaluate the liabilities and risks insured. There is no material default with respect to any provision contained in any such policy or binder, and none of the Target Companies has failed to give any notice or present any claim under any such policy or binder in due and timely fashion. There are no billed but unpaid premiums past due under any such policy or binder. (a) There are no outstanding claims under any such policies or binders and, to the knowledge of the Company, there has not occurred any event that might reasonably form the basis of any claim against or relating to any of the Target Companies that is not covered by any of such policies or binders; (b) no notice of cancellation or non-renewal of any such policies or binders has been received or threatened; and (c) there are no performance bonds outstanding with respect to any of the Target Companies.

Section 3.20 *Intellectual Property.* There is no intellectual or intangible property (including, without limitation, legally enforceable licenses or other rights to use, any and all United States and foreign patents, patent applications, patent disclosures, mask works, computer software, geophysical data, trademarks, trade dress, trade names, logos, Internet domain names, copyrights and service marks, including applications to register and registrations for any of the foregoing, as well as trade secrets, know-how, data and other proprietary rights and information) that is necessary for the operation, or continued operation, of the business of any of the Target Companies or for the ownership and operation, or continued ownership and operation, of any of their assets, for which the Target

Companies do not hold valid and continuing authority in connection with the use thereof. The businesses of the Target Companies, as presently conducted, do not conflict with, infringe or violate any intellectual property rights of any other Person, and none of the Target Companies has received any claim regarding such conflict, infringement or violation, except where (in either case) any such conflict, infringement or violation could not reasonably be expected to have a Material Adverse Effect on the Company.

Section 3.21 *Title to Assets.* The Target Companies (individually or collectively) have Defensible Title to (i) the Oil and Gas Interests of the Company included or reflected in the Target Companies' Ownership Interests, (ii) the Target Companies' gas plants and gas gathering systems referenced in the Company SEC Documents and (iii) all other assets of the Target Companies (other than in the case of this item (iii) those assets for which the failure to have Defensible Title would not, individually or in the aggregate, result in Material Adverse Effect on the Target Companies, taken as a whole). Each Oil and Gas Interest included or reflected in the Company's Ownership Interests entitles the Target Companies (individually or collectively) to receive not less than the undivided interest set forth in (or derived from) the Ownership Interests of the Target Companies of all Hydrocarbons produced, saved and sold from or attributable to such Oil and Gas Interest, and the portion of the costs and expenses of operation and development of such Oil and Gas Interest that is borne or to be borne by the Target Companies (individually or collectively) is not greater than the undivided interest set forth in (or derived from) the Target Companies' Ownership Interests. The oil and gas leases and other agreements that provide the Target Companies with operating rights in the Oil and Gas Interests included or reflected in the Target Companies' Ownership Interests are legal, valid and binding and in full force and effect, and the rentals, royalties and other payments due thereunder have been properly and timely paid and there is no existing default (or event that, with notice or lapse of time or both, would become a default) under any of such oil and gas leases or other agreements, except in each case as have not had, and would not reasonably be expected to have or result in a Material Adverse Effect on the Company.

Section 3.22 *Oil and Gas Operations.*

(a) All wells included in the Oil and Gas Interests of the Company have been drilled and (if completed) completed, operated and produced in accordance with generally accepted oil and gas field practices and in compliance in all material respects with applicable oil and gas leases and applicable laws, rules and regulations, except where any failure or violation could not reasonably be expected to have a Material Adverse Effect on the Company.

(b) Proceeds from the sale of Hydrocarbons produced from the Company's Oil and Gas Interests are being received by the Target Companies in a timely manner and are not being held in suspense for any reason (except in the ordinary course of business).

(c) None of the Target Companies has received any material advance, take-or-pay or other similar payments that entitle purchasers of production to receive deliveries of Hydrocarbons without paying therefor, and, on a net, company-wide basis, the Target Companies are neither underproduced nor overproduced, in either case, to any material extent, under gas balancing or similar arrangements.

(d) No claim, notice or order from any Governmental Authority or other Person has been received by any of the Target Companies due to Hydrocarbon production in excess of allowables or similar violations that could result in curtailment of production after the Closing Date from any Oil and Gas Interests of the Company, except any such violations which individually or in the aggregate have not had, and would not be reasonably likely to have or result in, a Material Adverse Effect on the Target Companies.

(e) All material operating equipment owned or leased by the Target Companies is, in the aggregate, in a state of repair so as to be adequate in all material respects for reasonably prudent operations in the areas in which they are operated.

Section 3.23 *Oil and Gas Reserves.* The factual, non-interpretive data related to oil and gas reserves reflected in the Company Reserve Report was, as of the date of the Company Reserve Report, accurate in all material respects.

Section 3.24 *Derivative Transactions and Hedging.* Section 3.24 of the Company Disclosure Schedule contains a complete and correct list of all Derivative Transactions (including each outstanding Hydrocarbon or financial hedging position attributable to the Hydrocarbon production of the Target Companies) entered into by the Target Companies or for the account of any of its customers as of the date of this Agreement. All such Derivative Transactions were, and any Derivative Transactions entered into after the date of this Agreement will be, entered into in accordance with applicable laws, and in accordance with the investment, securities, commodities, risk management and other policies, practices and procedures employed by the Target Companies. The Target Companies have duly performed in all material respects all of their respective obligations under the Derivative Transactions to the extent that such obligations to perform have accrued, and, to the knowledge of the Company, there are no material breaches, violations, collateral deficiencies, requests for collateral or demands for payment (except for ordinary course margin deposit requests), or defaults or allegations or assertions of such by any party thereunder.

Section 3.25 *Natural Gas Act.* Any gas gathering system constituting a part of the properties of the Target Companies has as its primary function the provision of natural gas gathering services, as the term "gathering" is interpreted under Section 1(b) of the Natural Gas Act (the "*NGA*"); none of the properties has been or is certificated by the Federal Energy Regulatory Commission (the "*FERC*") under Section 7(c) of the NGA or to the knowledge of the Company is now subject to FERC jurisdiction under the NGA; and none of the properties has been or is providing service pursuant to Section 311 of the NGA.

Section 3.26 *Environmental Matters.*

(a) Except as would not result in a Material Adverse Effect on the Company, none of the Target Companies is subject to any liability or obligation (accrued, contingent, or otherwise) to investigate, cleanup, correct, abate, or take any response, remedial or corrective action under Environmental Laws relating to (i) environmental conditions on, under, or about any of the properties or assets owned, leased, operated, or used by the Target Companies or any predecessor at the present time or in the past, or (ii) the past or present use, management, handling, transport, treatment, generation, storage, disposal, or release of any Hazardous Materials, whether on-site or off-site.

(b) Except as would not result in a Material Adverse Effect on the Company, all permits, notices, approvals and authorizations required to be obtained or filed in connection with the operation of the Target Companies' business or the operation or use of any property owned, leased, or operated by the Target Companies have been obtained or filed and are currently in effect, and the Target Companies are in compliance with the terms and conditions of such permits, notices, approvals and authorizations.

(c) Except as would not result in a Material Adverse Effect on the Company, each of the Target Companies has conducted its business and operated its assets, and is conducting its business and operating its assets, in compliance with all Environmental Laws;

(d) Except as would not result in a Material Adverse Effect on the Company, none of the Target Companies has been notified by any Governmental Authority or other Person or is otherwise aware that any of the current or prior operations or assets of any of the Target

Companies is the subject of any investigation or inquiry by any Governmental Authority or other Person under Environmental Laws;

(e) Except as would not result in a Material Adverse Effect on the Company, none of the Target Companies and, to the knowledge of the Company, no other Person has filed any notice under any federal, state or local law indicating that (i) any of the Target Companies is responsible for a release or threatened release into the environment, or the improper handling, generation, treatment, storage, disposal or recycling, of any Hazardous Material, on any property now or previously owned, leased or operated by any of the Target Companies or (ii) any Hazardous Material is improperly handled, generated, treated, stored, disposed of, or recycled upon any property now or previously owned, leased or operated by any of the Target Companies;

(f) None of the Target Companies has any liability in excess of $1,000,000 in the aggregate in connection with (i) the release or threatened release into the environment at, beneath or on any property now or previously owned, leased or operated by any of the Target Companies, (ii) any obligations under or violations of Environmental Laws, or (iii) the use, release, treatment, storage, disposal, or recycling of any Hazardous Material;

(g) Except as would not result in a Material Adverse Effect on the Company, there are no pending, or to the knowledge of Company threatened, claims, complaints, notices, inquiries or requests for information involving any matter which remains unresolved (i) under Environmental Laws against any person whose liability for environmental matters any Target Company has retained or assumed either contractually or by operation of law, or (ii) with respect to any alleged violation of any Environmental Law or regarding potential liability under any Environmental Law against any Target Company relating to operations or conditions of any facilities or property (including off-site treatment, storage, disposal, or recycling of any Hazardous Material from such facilities or property) currently or formerly owned, leased or operated by any of the Target Companies;

(h) No property now or previously owned, leased or operated by any of the Target Companies is listed on the National Priorities List pursuant to CERCLA or on the CERCLIS or on any other similar federal or state list as sites requiring investigation or cleanup;

(i) To the knowledge of the Company, none of the Target Companies is transporting, has transported, or is arranging or has arranged for the transportation of any Hazardous Material to any location which is listed on the National Priorities List pursuant to CERCLA, on the CERCLIS, or on any similar federal or state list or which is the subject of federal, state or local enforcement actions or other investigations that may lead to claims in excess of $1,000,000 in the aggregate against any of the Target Companies for investigation, removal or remedial work, contribution for removal or remedial work, damage to natural resources or personal injury, including claims under CERCLA;

(j) Except as would not result in a Material Adverse Effect on the Company, none of the Target Companies owns or operates any underground storage tanks or solid waste storage, treatment and/or disposal facilities;

(k) Except as would not result in a Material Adverse Effect on the Company, to the knowledge of the Company, no asbestos, asbestos containing materials or polychlorinated biphenyls are present on or at any property or facility owned, leased or operated by any of the Target Companies;

(l) Except as would not result in a Material Adverse Effect on the Company, none of the Target Companies is operating, or required to be operating, any of its properties or facilities under any order, compliance or consent order, injunction, decree or agreement issued or entered into under, or pertaining to matters regulated by, any Environmental Law;

(m) Except as would not result in a Material Adverse Effect on the Company, none of the Target Companies has assumed contractually, or to the knowledge of the Company, by operation of law, any liabilities or obligations of third parties under Environmental Laws;

(n) Except as would not result in a Material Adverse Effect on the Company, the Company is not aware of any environmental conditions or circumstances that form, or are reasonably likely to give rise to, a claim against any Target Company or any Person whose liability for such claim any Target Company has retained or assumed contractually or by operation of law.

(o) Except as would not result in a Material Adverse Effect on the Company, no Target Company is subject to any environmental indemnification obligation regarding businesses currently or formerly owned or operated by a Target Company or regarding properties currently or formerly owned, leased or operated by a Target Company.

(p) No Target Company is required by virtue of the transactions contemplated by this Agreement to perform an environmental site assessment or to remove or remediate any Hazardous Materials.

(q) The Company has provided or made available to Parent copies of all contracts in which a Target Company has retained, assumed, or provided indemnification for liabilities for environmental matters and all material environmental permits, notices, approvals, authorizations, claims, complaints, inquiries, requests for information, orders, compliance or consent orders, injunctions, decrees, agreements, reports, data, studies, results of investigations, audits, assessments, evaluations and correspondence in the possession, custody or control of any of the Target Companies.

Section 3.27 *Books and Records.* All books, records and files of the Target Companies (including those pertaining to the Company's Oil and Gas Interests, wells and other assets, those pertaining to the production, gathering, transportation and sale of Hydrocarbons, and corporate, accounting, financial and employee records): (a) have been prepared, assembled and maintained in accordance with usual and customary policies and procedures, and (b) fairly and accurately reflect the ownership, use, enjoyment and operation by the Target Companies of their respective assets.

Section 3.28 *Brokers.* No broker, finder, investment banker or other Person is or will be, in connection with the transactions contemplated by this Agreement, entitled to any brokerage, finder's or other fee or compensation based on any arrangement or agreement made by or on behalf of any of the Target Companies and for which Parent, Merger Sub or any of the Target Companies shall have any obligation or liability.

Section 3.29 *Vote Required.* The affirmative vote of the holders of a majority of the outstanding shares of Company Common Stock is the only vote of the holders of any class or series of Company capital stock or other voting securities necessary to approve this Agreement, the Merger and the transactions contemplated hereby.

Section 3.30 *State Takeover Laws.* The Company has taken all necessary action to exempt the Merger from any applicable moratorium, fair price, business combination, control share and other anti-takeover laws under the NRS.

Section 3.31 *Affiliate Transactions.* Section 3.31 of the Company Disclosure Schedule contains a complete and correct list, as of the date of this Agreement, of all agreements, contracts, transfers of assets or liabilities or other commitments or transactions, whether or not entered into in the ordinary course of business, to or by which the Company or any of its subsidiaries, on the one hand, and any of their respective Affiliates (other than the Company or any of its direct or indirect wholly owned subsidiaries) on the other hand, are or have been a party or otherwise bound or affected, and that (a) are currently pending, in effect or have been in effect during the past 12 months, (b) involve

continuing liabilities and obligations that, individually or in the aggregate, have been, are or will be material to the Target Companies, taken as a whole and (c) are not Company Plans.

Section 3.32 *Disclosure Controls and Procedures.* Since January 1, 2003, the Company and each of its subsidiaries has had in place "disclosure controls and procedures" (as defined in Rules 13a-14(c) and 15d-14(c) of the Exchange Act) designed and maintained to ensure in all material respects that (a) transactions are executed in accordance with management's general or specific authorizations, (b) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain accountability for assets, (c) access to assets is permitted only in accordance with management's general or specific authorization, (d) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences, (e) all information (both financial and non-financial) required to be disclosed by the Company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the rules and forms of the SEC and (f) all such information is accumulated and communicated to the Company's management as appropriate to allow timely decisions regarding required disclosure and to make the certifications of the Chief Executive Officer and Chief Financial Officer of the Company required under the Exchange Act with respect to such reports. The Company's disclosure controls and procedures ensure that information required to be disclosed by the Company in the reports filed with the SEC under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms. Neither the Company nor its independent auditors have identified any "significant deficiencies" or "material weaknesses" in the Company's or any of its subsidiaries' internal controls as contemplated under Section 404 of SOX. The Company has diligently completed in all material respects its work plan relating to documentation, testing and evaluation of the Company's internal control over financial reporting for purposes of providing the report required by Section 404 of SOX and related SEC rules. As of the date of this Agreement, to the knowledge of the Company, (i) there is no reason that it will not be able, on a timely basis, to complete and include in the Company's Annual Report on Form 10-K for the year ending December 31, 2004, management's assessment of the Company's internal controls and procedures for financial reporting in accordance with Section 404 of SOX and (ii) there is no material weakness or significant deficiency, in each case as such term is defined in PCAOB Auditing Std. No. 2.

Section 3.33 *Rights Agreement.* The Company has taken all necessary action (including, if required, amending the Company Rights Agreement) so that the entering into of this Agreement, the acquisition of shares of Parent Common Stock pursuant to the consummation of the Merger and the other transactions contemplated hereby do not and will not enable or require the Company Rights to be exercised or distributed.

Section 3.34 *Opinion of Financial Advisor.* The Company has received opinions of Deutsche Bank and Merrill Lynch to the effect that, as of the date of this Agreement, the Conversion Number is fair, from a financial point of view, to the holders of shares of Company Common Stock, a signed copy of which has been delivered to Parent. The Company has received the approval of such financial advisor to permit the inclusion of a copy of its written opinion in its entirety in the Proxy Statement, subject to such advisor's review thereof as presented in the Proxy Statement.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF PARENT AND MERGER SUB

Parent and Merger Sub hereby jointly and severally represent and warrant to the Company as follows, except as set forth, specifically with reference to a particular section below, on the Parent Disclosure Schedule:

Section 4.1 *Organization.* Each of the Parent Companies: (a) is a corporation or other entity, duly organized, validly existing and in good standing under the laws of its state of incorporation or formation, (b) has the requisite power and authority to own, lease and operate its properties and to conduct its business as it is presently being conducted, and (c) is duly qualified to do business as a foreign corporation, limited liability company or limited partnership, as applicable, and is in good standing, in each jurisdiction where the character of the properties owned or leased by it or the nature of its activities makes such qualification necessary (except where any failure to be so qualified or to be in good standing would not, individually or in the aggregate, have a Material Adverse Effect on Parent). Accurate and complete copies of the articles of incorporation, minute books, other organizational documents and/or bylaws of each of the Parent Companies have heretofore been delivered to the Company. Parent has no corporate or other subsidiaries other than the Parent Subsidiaries.

Section 4.2 *Other Equity Interests.* None of the Parent Companies owns any equity interest in any general or limited partnership, corporation, limited liability company or joint venture other than the Parent Subsidiaries or as listed on the Parent Disclosure Schedule (other than joint operating and other ownership arrangements and tax partnerships entered into in the ordinary course of business that, individually or in the aggregate, are not material to the operations or business of the Parent Companies, taken as a whole, and that do not entail any material liabilities).

Section 4.3 *Authority and Enforceability.* Each of Parent and Merger Sub has the requisite corporate power and authority to enter into and deliver this Agreement and (with respect to consummation of the Merger, subject to the valid approval of the Company Proposal by the stockholders of Parent) to consummate the transactions contemplated hereby. The execution and delivery of this Agreement and (with respect to consummation of the Merger, subject to the valid approval of the Company Proposal by the stockholders of Parent) the consummation of the transactions contemplated hereby have been duly and validly authorized by all necessary corporate action on the part of Parent and Merger Sub, including approval by the Board of Directors of Parent and the Board of Directors and stockholders of Merger Sub, and no other corporate proceedings on the part of Parent or Merger Sub are necessary to authorize the execution or delivery of this Agreement or (with respect to consummation of the Merger, subject to the valid approval of the Company Proposal by the stockholders of Parent) to consummate the transactions contemplated hereby. This Agreement has been duly and validly executed and delivered by Parent and Merger Sub and (with respect to consummation of the Merger, subject to the valid approval of the Company Proposal by the stockholders of Parent, and assuming that this Agreement constitutes a valid and binding obligation of the Company) constitutes a valid and binding obligation of each of Parent and Merger Sub enforceable against each of them in accordance with its terms.

Section 4.4 *No Violations.* The execution and delivery of this Agreement do not, and the consummation of the transactions contemplated hereby and compliance by Parent and Merger Sub with the provisions hereof will not, conflict with, result in any violation of or default (with or without notice or lapse of time or both) under, give rise to a right of termination, cancellation or acceleration of any obligation or to the loss of a material benefit under, or result in the creation of any Lien on any of the properties or assets of any of the Parent Companies under, any provision of (a) the certificate or articles of incorporation, bylaws or any other organizational documents of any of the Parent Companies, (b) any loan or credit agreement, note, bond, mortgage, indenture, lease, permit,

concession, franchise, license or other agreement or instrument applicable to any of the Parent Companies (other than any such conflict, violation, default, right, loss or Lien that may arise under the Parent Bank Credit Agreement), or (c) assuming the consents, approvals, authorizations, permits, filings and notifications referred to in Section 4.5 are duly and timely obtained or made, any judgment, order, decree, statute, law, ordinance, rule or regulation applicable to any of the Parent Companies or any of their respective properties or assets, other than, in the case of clause (b) or (c) above, any such conflict, violation, default, right, loss or Lien that, individually or in the aggregate, would not have a Material Adverse Effect on Parent.

Section 4.5 *Consents and Approvals.* No consent, approval, order or authorization of, registration, declaration or filing with, or permit from, any Governmental Authority is required by or with respect to any of the Parent Companies in connection with the execution and delivery of this Agreement by Parent and Merger Sub or the consummation by Parent and Merger Sub of the transactions contemplated hereby, except for the following: (a) any such consent, approval, order, authorization, registration, declaration, filing or permit which the failure to obtain or make would not, individually or in the aggregate, have a Material Adverse Effect on Parent; (b) the filing of the Articles of Merger with the Secretary of State of Nevada pursuant to applicable provisions of the NRS; (c) the filing of a pre-merger notification report by Parent as may be required under the HSR Act and the expiration or termination of the applicable waiting period; (d) the filing with the SEC of the Registration Statement and such reports under Section 13(a) of the Exchange Act and such other compliance with the Exchange Act and the Securities Act and the rules and regulations of the SEC thereunder as may be required in connection with this Agreement and the transactions contemplated hereby and the obtaining from the SEC of such orders as may be so required; (e) the filing with a National Stock Exchange of a listing application relating to the shares of Parent Common Stock to be issued pursuant to the Merger and the obtaining from such exchange of its approvals thereof; (f) such filings and approvals as may be required by any applicable state securities, "blue sky" or takeover laws or Environmental Laws; and (g) such filings and approvals as may be required by any foreign pre-merger notification, securities, corporate or other law, rule or regulation. No Third-Party Consent is required by or with respect to Parent, Merger Sub or any Parent Subsidiary in connection with the execution and delivery of this Agreement or the consummation of the transactions contemplated hereby, except for (x) any such Third-Party Consent which the failure to obtain would not, individually or in the aggregate, have a Material Adverse Effect on Parent, (y) the valid approval of the Company Proposal (including the issuance of the Parent Common Stock in the Merger) by the stockholders of Parent, and (z) any consent, approval or waiver required by the terms of the Parent Bank Credit Agreement.

Section 4.6 *SEC Documents.* Parent (i) has made available to Company a true and complete copy of each report, schedule, registration statement and definitive proxy statement filed by Parent with the SEC since September 30, 2002, (and by Key Production Company, Inc. from January 1, 2001 to September 30, 2002) and prior to the date of this Agreement and any amendments thereto, including exhibits and other information incorporated therein (the "*Parent SEC Documents*"), which are all the documents (other than preliminary material) that Parent was required to file with the SEC since such date, and (ii) has delivered to the Company a true and complete copy of all correspondence between the SEC and any of the Parent Companies since January 1, 2003. Each of the Parent SEC Documents was timely filed with the SEC. As of their respective dates, each of the Parent SEC Documents, as amended (including the financial statements and schedules provided therein or incorporated by reference therein) (i) complied in all material respects with the requirements of the Securities Act, the Exchange Act and SOX, as the case may be, and the rules and regulations of the SEC thereunder applicable to such Parent SEC Documents, and (ii) did not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

Section 4.7 *Financial Statements.* The Parent Financial Statements were prepared in accordance with GAAP applied on a consistent basis during the periods involved (except as may be indicated in the notes thereto or, in the case of unaudited statements, as permitted by Rule 10-01 of Regulation S-X of the SEC) and fairly present (in the case of the unaudited statements, subject to normal, recurring adjustments) the consolidated financial position of Parent and its subsidiaries as of their respective dates and the consolidated results of operations and the consolidated cash flows of Parent and its subsidiaries for the periods presented therein. The books and records of the Parent Companies have been, and are being, maintained in accordance with GAAP and any other applicable legal and accounting requirements and reflect only actual transactions. KPMG LLP is an independent public accounting firm with respect to the Parent Companies and has not resigned or been dismissed by the Parent Companies from such capacity.

Section 4.8 *Capital Structure.*

(a) The authorized capital stock of Parent consists of 100,000,000 shares of Parent Common Stock and 15,000,000 shares of Parent Preferred Stock. The authorized capital stock of Merger Sub consists of 1,000 shares of Merger Sub Common Stock.

(b) As of the close of business on January 24, 2005, there are issued and outstanding 41,736,475 shares of Parent Common Stock and no shares of Parent Preferred Stock. 2,648,204 shares of Parent Common Stock are issuable upon exercise of outstanding stock options. As of the date hereof, no shares of Parent Common Stock and no shares of Parent Preferred Stock were held by Parent as treasury stock.

(c) Except as set forth in Section 4.8(b), there are outstanding (i) no shares of capital stock or other voting securities of Parent, (ii) no securities of Parent or any other Person convertible into or exchangeable or exercisable for shares of capital stock or other voting securities of Parent, (iii) no stock appreciation rights or phantom stock rights to which any of the Parent Companies are obligated and (iv) no subscriptions, options, warrants, calls, rights (including preemptive rights), commitments, understandings or agreements to which Parent is a party or by which it is bound obligating Parent to issue, deliver, sell, purchase, redeem or acquire shares of capital stock or other voting securities of Parent (or securities convertible into or exchangeable or exercisable for shares of capital stock or other voting securities of Parent) or obligating Parent to grant, extend or enter into any such subscription, option, warrant, call, right, commitment, understanding or agreement.

(d) All outstanding shares of Parent capital stock are, and (when issued) the shares of Parent Common Stock to be issued pursuant to the Merger and upon exercise of the Company Stock Options and Company Warrants will be, validly issued, fully paid and nonassessable and not subject to any preemptive right. There are no shares of Parent capital stock reserved for issuance.

(e) 1,000 shares of Merger Sub Common Stock are issued and outstanding, all of which are owned by Parent. All outstanding shares of capital stock and other voting securities of Merger Sub and of each of the other corporate Parent Subsidiaries are (i) validly issued, fully paid and nonassessable and not subject to any preemptive right, and (ii) owned by the Parent Companies, free and clear of all Liens, claims and options of any nature (except Permitted Encumbrances). There are outstanding (y) no securities of any Parent Subsidiary or any other Person convertible into or exchangeable or exercisable for shares of capital stock, other voting securities or other equity interests of such Parent Subsidiary, and (z) no subscriptions, options, warrants, calls, rights (including preemptive rights), commitments, understandings or agreements to which any Parent Subsidiary is a party or by which it is bound obligating such Parent Subsidiary to issue, deliver, sell, purchase, redeem or acquire shares of capital stock, other voting securities or other equity interests of such Parent Subsidiary (or securities convertible into or exchangeable or exercisable for shares of capital stock, other voting securities or other equity interests of such Parent Subsidiary) or

obligating any Parent Subsidiary to grant, extend or enter into any such subscription, option, warrant, call, right, commitment, understanding or agreement.

(f) There is no stockholder agreement, voting trust or other agreement or understanding to which Parent is a party or by which it is bound relating to the voting of any shares of the capital stock of any of the Parent Companies. There are no bonds, debentures, notes or other indebtedness of the Parent Companies having the right to vote (or convertible into, or exchangeable for, securities having the right to vote) on any matters on which the stockholders of any of the Parent Companies may vote.

(g) None of the Parent Companies is obligated to redeem or otherwise repurchase any of its capital stock.

(h) Parent is in compliance with the applicable listing rules of the New York Stock Exchange and has not, since January 1, 2003, received any notice from the New York Stock Exchange asserting any non-compliance with such rules.

Section 4.9 *No Undisclosed Liabilities.* There are no material liabilities of any of the Parent Companies of any kind whatsoever, whether accrued, contingent, absolute, determined, determinable or otherwise, other than (a) liabilities adequately provided for in the Parent Financial Statements, (b) liabilities incurred in the ordinary course of business subsequent to September 30, 2004, (c) liabilities under this Agreement, and (d) liabilities set forth on Section 4.9 of the Parent Disclosure Schedule.

Section 4.10 *Absence of Certain Changes or Events.* Except as specifically contemplated by this Agreement, since September 30, 2004, none of the Parent Companies has done any of the following:

(a) Discharged or satisfied any Lien or paid any obligation or liability, absolute or contingent, other than current liabilities incurred and paid in the ordinary course of business and consistent with past practices;

(b) Paid or declared any dividends or distributions, purchased, redeemed, acquired or retired any indebtedness, stock or other securities from its stockholders or other securityholders, made any loans or advances or guaranteed any loans or advances to any Person (other than loans, advances or guaranties made in the ordinary course of business and consistent with past practices), or otherwise incurred or suffered to exist any liabilities (other than current liabilities incurred in the ordinary course of business and consistent with past practices);

(c) Except for Permitted Encumbrances, suffered or permitted any Lien to arise or be granted or created against or upon any of its assets;

(d) Canceled, waived or released any rights or claims against, or indebtedness owed by, third parties (including, without limitation, any standstill agreements);

(e) Amended its certificate or articles of incorporation, bylaws or other organizational documents;

(f) Made or permitted any amendment, supplement, modification or termination of, or any acceleration under, any Parent Material Agreement;

(g) Sold, leased, transferred, assigned or otherwise disposed of (i) any Oil and Gas Interests of Parent that, individually or in the aggregate, had a value of $1,000,000 or more, or (ii) any other assets that, individually or in the aggregate, had a value at the time of such lease, transfer, assignment or disposition of $1,000,000 or more (and, in each case where a sale, lease, transfer, assignment or other disposition was made, it was made for fair consideration in the ordinary course of business); provided, however, that this Section 4.10(g) shall not apply to the sale of Hydrocarbons in the ordinary course of business;

(h) Made any investment in or contribution, payment, advance or loan to any Person (other than investments, contributions, payments or advances, or commitments with respect thereto, less than $1,000,000 in the aggregate, made in the ordinary course of business and consistent with past practices);

(i) Paid, loaned or advanced (other than the payment, advance or reimbursement of expenses in the ordinary course of business and consistent with past practices) any amounts to, or sold, transferred or leased any of its assets to, or entered into any other transaction with, any of its Affiliates other than the Parent Companies;

(j) Made any material change in any of the accounting principles followed by it or the method of applying such principles;

(k) Entered into any material transaction (other than this Agreement) except in the ordinary course of business and consistent with past practices;

(l) Increased benefits or benefit plan costs or changed bonus, insurance, pension, compensation or other benefit plan or arrangement or granted any bonus or increase in wages, salary or other compensation or made any other change in employment terms to (or entered into severance or retention arrangements of any type with) any officer, director or employee of any of the Parent Companies (except in the ordinary course of business and consistent with past practices);

(m) Issued any note, bond or other debt security or created, incurred, assumed or guaranteed any indebtedness for borrowed money or capitalized lease obligation involving more than $1,000,000 in the aggregate (other than pursuant to the Parent Bank Credit Agreement);

(n) Delayed, postponed or accelerated the payment of accounts payable or other liabilities (except in the ordinary course of business and consistent with past practices);

(o) Canceled, compromised, waived or released any right or claim (or series of related rights and claims) involving more than $1,000,000 in the aggregate (except in the ordinary course of business and consistent with past practices);

(p) Issued, sold, or otherwise disposed of any of its capital stock or other equity interest or granted any option, warrant, or other right to purchase or obtain (including upon conversion, exchange, or exercise) any of its capital stock or other equity interest (or reduced the exercise or conversion price or extended the time for exercise or conversion, other than in accordance with mandatory contractual provisions, of any rights, options or warrants to acquire its capital stock or securities);

(q) Made any loan to, or entered into any other transaction with, any of its directors, officers or employees (except in the ordinary course of business and consistent with past practices and not involving more than $100,000 in the aggregate);

(r) Made or pledged to make any charitable or other capital contribution outside the ordinary course of business and consistent with past practices;

(s) Made or committed to make capital expenditures in excess of $150,000,000 in the aggregate;

(t) Made or changed any material Tax election or settled or compromised any material income Tax liability;

(u) Entered into, modified or amended any Derivative Transaction;

(v) Otherwise been involved in any other material occurrence, event, incident, action, failure to act, or transaction involving any of the Parent Companies (except in the ordinary course of business and consistent with past practices);

(w) Entered into any transaction with an Affiliate (except in the ordinary course of business and consistent with past practices);

(x) Agreed, whether in writing or otherwise, to do any of the foregoing; or

(y) Suffered any Material Adverse Effect.

Section 4.11 *Compliance with Laws, Material Agreements and Permits.* None of the Parent Companies is in violation of, or in default under, and no event has occurred that (with notice or the lapse of time or both) would constitute a violation of or default under: (a) its certificate or articles of incorporation, bylaws or other organizational documents, (b) any applicable law, rule, regulation, ordinance, order, writ, decree or judgment of any Governmental Authority, or (c) any Parent Material Agreement, except (in the case of clause (b) or (c) above) for any violation or default that would not, individually or in the aggregate, have a Material Adverse Effect on Parent. Each of the Parent Companies has obtained and holds all permits, licenses, variances, exemptions, orders, franchises, approvals and authorizations of all Governmental Authorities necessary for the lawful conduct of its business and the lawful ownership, use and operation of its assets ("*Parent Permits*"), except for Parent Permits which the failure to obtain or hold would not, individually or in the aggregate, have a Material Adverse Effect on Parent. None of the Parent Permits shall be adversely affected by the consummation of the transactions contemplated under this Agreement or requires any filing or consent in connection therewith. Each of the Parent Companies is in compliance with the terms of its Parent Permits, except where the failure to comply would not, individually or in the aggregate, have a Material Adverse Effect on Parent. No investigation or review by any Governmental Authority with respect to any of the Parent Companies is pending or, to the knowledge of Parent, threatened, other than those the outcome of which would not, individually or in the aggregate, have a Material Adverse Effect on Parent. To the knowledge of Parent, no other party to any Parent Material Agreement is in material breach of the terms, provisions or conditions of such Parent Material Agreement. Each Parent Material Agreement (other than those listed in Parent's Form 10-K for the year ended December 31, 2003, or in subsequent filings, as an exhibit to the Parent SEC Documents) is listed on Section 4.11 of the Parent Disclosure Schedule.

Section 4.12 *Governmental Regulation.* No Parent Company is subject to regulation under the Public Utility Holding Company Act of 1935, the Federal Power Act, the Interstate Commerce Act, the Investment Company Act of 1940 or any state public utilities laws.

Section 4.13 *Litigation.* (a) No litigation, arbitration, investigation or other proceeding is pending or, to the knowledge of Parent, threatened against any of the Parent Companies or their respective assets which could reasonably be expected to have a Material Adverse Effect on Parent; and (b) no Parent Company is subject to any outstanding injunction, judgment, order, decree or ruling (other than routine oil and gas field regulatory orders). There is no litigation, proceeding or investigation pending or, to the knowledge of Parent, threatened against or affecting any of the Parent Companies that questions the validity or enforceability of this Agreement or any other document, instrument or agreement to be executed and delivered by Parent in connection with the transactions contemplated hereby.

Section 4.14 *Interim Operations of Merger Sub.* Merger Sub was formed solely for the purpose of engaging in the transactions contemplated by this Agreement and has not engaged in any business or activity (or conducted any operations) of any kind, entered into any agreement or arrangement with any person or entity, or incurred, directly or indirectly, any liabilities or obligations, except in

connection with its incorporation, the negotiation of this Agreement, the Merger and the transactions contemplated hereby.

Section 4.15 *No Restrictions.* None of the Parent Companies is a party to: (a) any agreement, indenture or other instrument that contains restrictions with respect to the payment of dividends or other distributions with respect to its capital, other than the Parent Bank Credit Agreement; (b) any financial arrangement with respect to or creating any indebtedness to any Person (other than indebtedness (i) reflected in the Parent Financial Statements and, with respect to any indebtedness that is material (individually or, together with related items, in the aggregate) listed in Section 4.15 of the Parent Disclosure Schedule, (ii) under the Parent Bank Credit Agreement, or (iii) incurred in the ordinary course of business consistent with past practices since September 30, 2004) unless such indebtedness is not material (individually or, together with related items, in the aggregate) to the Parent Companies taken as a whole; (c) any agreement, contract or commitment relating to the making of any advance to, or investment in, any Person (other than restrictions under the Parent Bank Credit Agreement and advances in the ordinary course of business and consistent with past practices); (d) any guaranty or other contingent liability with respect to any indebtedness or obligation of any Person (other than (i) guaranties pursuant to the Parent Bank Credit Agreement, (ii) guaranties undertaken in the ordinary course of business, and (iii) the endorsement of negotiable instruments for collection in the ordinary course of business); or (e) any agreement, contract or commitment limiting in any respect its ability to compete with any Person or otherwise conduct business of any line or nature.

Section 4.16 *Taxes.*

(a) Each of the Parent Companies and any affiliated, consolidated, combined, aggregated, or unitary group of which any such entity is or was a member has: (i) timely filed in accordance with the applicable law all Tax Returns required to be filed by it (all such Tax Returns being accurate and complete in all material respects), (ii) timely paid all Taxes required to be paid by it (whether shown on a Tax Return or not) other than Taxes that are not yet due, (iii) complied with all applicable laws, rules and regulations relating to the payment and withholding of Taxes, and (iv) timely withheld from employee wages and paid over to the proper Governmental Authorities all amounts required to be so withheld and paid over, except where the failure to file, pay, comply with or withhold would not, individually or in the aggregate, have a Material Adverse Effect on Parent.

(b) (i) No audits or other administrative or court proceedings are presently pending with regard to any material Taxes for which any of the Parent Companies would be liable; and (ii) there are no pending requests for Tax rulings from any Governmental Authority, no outstanding subpoenas or requests for information by any Governmental Authority with respect to any Taxes, no proposed reassessments by any Governmental Authority of any property owned or leased, and no agreements in effect to extend the time to file any Tax Return or the period of limitations for the assessment or collection of any Taxes for which any of the Parent Companies would be liable.

(c) (i) There are no Liens on any of the assets of the Parent Companies for unpaid Taxes, other than Liens for Taxes not yet due and payable; (ii) no Parent Company has any liability for the Taxes of any other Person (other than one or more of the Parent Companies) under Treasury Regulation Section 1.1502-6 (or any analogous state, local or foreign law), as a successor or transferee, or by contract; and (iii) no Parent Company is a party to or bound by any Tax sharing, allocation, indemnification, or similar agreement or arrangement (other than such an agreement or arrangement exclusively between or among two or more of the Parent Companies).

(d) The amount of liability for unpaid Taxes of the Parent Companies does not, in the aggregate, materially exceed the amount of the liability accruals and reserves for Taxes reflected on the Parent Financial Statements. None of the Parent Companies shall be required to include any material item of income in, or exclude any material item of deduction from, taxable income for any taxable period (or portion thereof) ending after the Closing Date as a result of any (i) change in method of accounting for a taxable period ending on or prior to the Closing Date under Section 481(c) of the Code (or any corresponding or similar provision of state, local or foreign Tax Law), (ii) "closing agreement" as described in Section 7121 of the Code (or any corresponding or similar provision of state, local or foreign Tax Law) executed on or prior to the Closing Date, or (iii) deferred intercompany gain or excess loss account described in Treasury Regulations under Section 1502 of the Code (or any corresponding or similar provision of state, local or foreign Tax Law).

(e) (i) no Parent Company is required to treat any of its assets as owned by another person for United States federal income tax purposes or as tax-exempt bond financed property or tax-exempt use property within the meaning of Section 168 of the Code; (ii) no Parent Company has participated in any international boycott as defined in Section 999 of the Code; and (iii) no Parent Company has or has ever conducted branch operations in any foreign country within the meaning of Treasury Regulation Section 1.367(a)-6T.

(f) No shareholder of Parent that is a Non-U.S. Holder has owned more than five percent of any class of the outstanding stock of Parent at any time during the immediately preceding five-year period.

(g) None of the Parent Companies has been a "distributing corporation" or a "controlled corporation" in a distribution intended to qualify for tax-free treatment under Section 355 of the Code (i) in the two-year period ending on the date of this Agreement or (ii) in a distribution that could, in conjunction with the Merger, otherwise constitute part of a "plan" or "series of related transactions" (within the meaning of Section 355(e) of the Code).

(h) None of the Parent Companies has entered into, has any liability in respect of, or has any filing obligations with respect to, any "reportable transactions" as defined in Treasury Regulation Section 1.6011-4(b)(1) or similar provision of state law.

(i) Within the last three years, neither Parent nor any of its Affiliates has owned any material assets located outside the United States or conducted a material trade or business outside the United States.

(j) All of the transactions which Parent has accounted for as hedges under SFAS 133 have also been treated as hedging transactions for United States federal income Tax purposes pursuant to Treasury Regulation Section 1.1221-2.

Section 4.17 *Employee Benefit Plans.*

(a) Section 4.17 of the Parent Disclosure Schedule sets forth a complete and accurate list of each of the following which is or has been sponsored, maintained or contributed to by Parent or any trade or business, whether or not incorporated (a "*Parent ERISA Affiliate*"), or in which any employee or co-employee of any of the Parent Companies participates or is covered, that together with Parent would be considered affiliated with Parent or any Parent ERISA Affiliate under Section 414(b), (c), (m) or (o) of the Code or Section 4001(b)(1) of ERISA for the benefit of any person who, as of the Closing, is a current or former employee or subcontractor of Parent or any Parent ERISA Affiliate: (i) each "employee benefit plan," as such term is defined in Section 3(3) of ERISA (each, a "*Parent Plan*"); and (ii) each personnel policy, stock option plan, bonus plan or arrangement, incentive award plan or arrangement, vacation policy, severance or retention pay plan, policy, program or agreement, deferred compensation agreement or arrangement, executive

compensation or supplemental income arrangement, retiree benefit plan or arrangement, fringe benefit program or practice (whether or not taxable), employee loan, consulting agreement, employment agreement and each other employee benefit plan, agreement, arrangement, program, practice or understanding which is not described in clause (i) above (each, a "*Parent Benefit Program or Agreement*") (the Parent Plans and Parent Benefit Programs or Agreements are sometimes collectively referred to in this Agreement as the "*Parent Employee Benefit Plans*").

(b) True, correct and complete copies of each of the Parent Plans and related trusts, if applicable, including all amendments thereto, have been delivered to the Company. There has also been delivered to the Company, with respect to each Parent Plan required to file such report and description, the report on Form 5500 for the past three years, to the extent applicable, and the most recent summary plan description and summaries of material modifications thereto. True, correct and complete copies or descriptions of all Parent Benefit Programs or Agreements have also been delivered to the Company.

(c) (i) None of Parent, any Parent ERISA Affiliate or any entity that, at any time during the past six years, was required to be treated as a single employer together with Parent or a Parent ERISA Affiliate pursuant to Section 414 of the Code contributes to or has an obligation to contribute to, nor has at any time contributed to or had an obligation to contribute to, a multiemployer plan within the meaning of Section 3(37) of ERISA or any other plan subject to Title IV of ERISA; (ii) each of Parent and the Parent ERISA Affiliates has performed all obligations, whether arising by operation of law or by contract, including ERISA and the Code, required to be performed by it in connection with the Parent Employee Benefit Plans, and, to the knowledge of Parent, there have been no defaults or violations by any other party to the Parent Employee Benefit Plans; (iii) all reports, returns, notices, disclosures and other documents relating to the Parent Plans required to be filed with or furnished to governmental entities, plan participants or plan beneficiaries have been timely filed or furnished in accordance with applicable law, and each Parent Employee Benefit Plan has been administered in compliance with its governing written documents; (iv) each of the Parent Plans intended to be qualified under Section 401 of the Code satisfies the requirements of such Section and has received a current favorable determination letter from the IRS regarding such qualified status and has not been amended, operated or administered in a way which would adversely affect such qualified status; (v) there are no actions, suits or claims pending (other than routine claims for benefits) or, to the knowledge of Parent, contemplated or threatened against, or with respect to, any of the Parent Employee Benefit Plans or their assets; (vi) each trust maintained in connection with each Parent Plan, which is qualified under Section 401 of the Code, is tax exempt under Section 501 of the Code; (vii) all contributions required to be made to the Parent Employee Benefit Plans have been made timely; (viii) no accumulated funding deficiency, whether or not waived, within the meaning of Section 302 of ERISA or Section 412 of the Code has been incurred, and there has been no termination or partial termination of any Parent Plan within the meaning of Section 411(d)(3) of the Code; (ix) no act, omission or transaction has occurred which could result in imposition on Parent or any Parent ERISA Affiliate of (A) breach of fiduciary duty liability damages under Section 409 of ERISA, (B) a civil penalty assessed pursuant to subsections (c), (i) or (1) of Section 502 of ERISA or (C) a tax imposed pursuant to Chapter 43 of Subtitle D of the Code; (x) to the knowledge of Parent, there is no matter pending with respect to any of the Parent Plans before the IRS, the Department of Labor or the PBGC; (xi) each of the Parent Employee Benefit Plans complies, in form and operation, with the applicable provisions of the Code and ERISA; (xii) each Parent Employee Benefit Plan may be unilaterally amended or terminated in its entirety (otherwise than with respect to outstanding shares) without any liability or other obligation; (xiii) Parent and the Parent ERISA Affiliates have no liabilities or other obligations, whether actual or contingent, under any Parent Employee Benefit Plan for post-employment benefits of any nature (other than COBRA continuation coverage); and (xiv) neither Parent nor any of the Parent

ERISA Affiliates or any present or former director, officer, employee or other agent of Parent or any of the Parent ERISA Affiliates has made any written or oral representations or promises to any present or former director, officer, employee or other agent concerning his or her terms, conditions or benefits of employment, including the tenure of any such employment or the conditions under which such employment may be terminated by Parent, any of the Parent ERISA Affiliates or the Company which will be binding upon or enforceable against Parent or the Company after the Effective Time.

(d) No employee is currently on a leave of absence due to sickness or disability and no claim is pending or expected to be made by an employee, former employee or independent contractor for workers' compensation benefits.

(e) (i) With respect to the Parent Employee Benefit Plans, there exists no condition or set of circumstances in connection with any of the Parent Companies that could be expected to result in liability reasonably likely to have a Material Adverse Effect on Parent under ERISA, the Code or any other applicable law; and (ii) with respect to the Parent Employee Benefit Plans, individually and in the aggregate, there are no unfunded benefit obligations which have not been accounted for by reserves, or otherwise properly footnoted in accordance with GAAP, on the financial statements of the Parent Companies, which obligations are reasonably likely to have a Material Adverse Effect on Parent.

(f) Neither the execution or delivery of this Agreement nor the consummation of the transactions contemplated hereby shall result in any payment becoming due to any employee or group of employees of any of the Parent Companies.

(g) No amounts payable or that could become payable under any Parent Employee Benefit Plan as a result of the consummation of the transactions contemplated by this Agreement or otherwise shall fail to be deductible for Federal income tax purposes by virtue of either Section 280G or 162(m) of the Code.

Section 4.18 *Employment Contracts and Benefits.* Except as otherwise provided for in any Parent Employee Benefit Plan: (a) none of the Parent Companies is subject to or obligated under any consulting, employment, severance, retention, termination or similar arrangement, any employee benefit, incentive or deferred compensation plan with respect to any Person, or any bonus, profit sharing, pension, stock option, stock purchase or similar plan or other arrangement or other fringe benefit plan entered into or maintained for the benefit of employees of any of the Parent Companies or any other Person; and (b) no employee of any of the Parent Companies or any other Person owns, or has any right granted by any of the Parent Companies to acquire, any interest in any of the assets or business of any of the Parent Companies.

Section 4.19 *Labor Matters.*

(a) No employees of any of the Parent Companies are represented by any labor organization. No labor organization or group of employees of any of the Parent Companies has made a demand for recognition or certification as a union or other labor organization, and there are no representation or certification proceedings or petitions seeking a representation or certification proceeding presently pending or threatened in writing to be brought or filed with the National Labor Relations Board or any other labor relations tribunal or authority. There are no organizing activities involving any of the Parent Companies pending with any labor organization or group of employees of any of the Parent Companies.

(b) Each of the Parent Companies is in compliance with all laws, rules, regulations and orders relating to the employment of labor, including all such laws, rules, regulations and orders relating to wages, hours, collective bargaining, discrimination, civil rights, safety and health, workers' compensation and the collection and payment of income Tax withholding, Social Security

Taxes, Medicare Taxes and similar Taxes, except where the failure to comply would not, individually or in the aggregate, have a Material Adverse Effect on Parent.

Section 4.20 *Insurance.* Each of the Parent Companies maintains, and through the Closing Date will maintain, insurance with reputable insurers (or pursuant to prudent self-insurance programs described in Section 4.20 of the Parent Disclosure Schedule) in such amounts and covering such risks as are in accordance with prudent industry practice for companies engaged in businesses of a size and scope similar to those of the Parent Companies and owning properties in the same general area in which the Parent Companies conduct their businesses. None of such insurance coverage was obtained through the use of false or misleading information or the failure to provide the insurer with all information requested in order to evaluate the liabilities and risks insured. There is no material default with respect to any provision contained in any such policy or binder, and none of the Parent Companies has failed to give any notice or present any claim under any such policy or binder in due and timely fashion. There are no billed but unpaid premiums past due under any such policy or binder. (a) There are no outstanding claims under any such policies or binders and, to the knowledge of Parent, there has not occurred any event that might reasonably form the basis of any claim against or relating to any of the Parent Companies that is not covered by any of such policies or binders; (b) no notice of cancellation or non-renewal of any such policies or binders has been received or threatened; and (c) there are no performance bonds outstanding with respect to any of the Parent Companies.

Section 4.21 *Intellectual Property.* There is no intellectual or intangible property (including, without limitation, legally enforceable licenses or other rights to use, any and all United States and foreign patents, patent applications, patent disclosures, mask works, computer software, geophysical data, trademarks, trade dress, trade names, logos, Internet domain names, copyrights and service marks, including applications to register and registrations for any of the foregoing, as well as trade secrets, know-how, data and other proprietary rights and information) that is necessary for the operation, or continued operation, of the business of any of the Parent Companies, or for the ownership and operation, or continued ownership and operation, of any of their assets, for which the Parent Companies do not hold valid and continuing authority in connection with the use thereof. The businesses of the Parent Companies, as presently conducted, do not conflict with, infringe or violate any intellectual property rights of any other Person, and none of the Parent Companies has received any claim regarding such conflict, infringement or violation, except where (in either case) any such conflict, infringement or violation could not reasonably be expected to have a Material Adverse Effect on Parent.

Section 4.22 *Title to Assets.* The Parent Companies (individually or collectively) have Defensible Title to (i) the Oil and Gas Interests of the Parent Companies included or reflected in the Parent Companies' Ownership Interests and (ii) all other assets of the Parent Companies (other than in the case of this item (ii) those assets for which the failure to have Defensible Title would not, individually or in the aggregate, result in Material Adverse Effect on the Parent Companies, taken as a whole). Each Oil and Gas Interest included or reflected in the Parent Companies' Ownership Interests entitles the Parent Companies (individually or collectively) to receive not less than the undivided interest set forth in (or derived from) Parent Companies' Ownership Interests of all Hydrocarbons produced, saved and sold from or attributable to such Oil and Gas Interest, and the portion of the costs and expenses of operation and development of such Oil and Gas Interest that is borne or to be borne by the Parent Companies (individually or collectively) is not greater than the undivided interest set forth in (or derived from) Parent Companies' Ownership Interests. The oil and gas leases and other agreements that provide the Parent Companies with operating rights in the Oil and Gas Interests included or reflected in the Parent Companies' Ownership Interests are legal, valid and binding and in full force and effect, and the rentals, royalties and other payments due thereunder have been properly and timely paid and there is no existing default (or event that, with notice or lapse of time or both, would become

a default) under any of such oil and gas leases or other agreements, except in each case as have not had, and would not reasonably be expected to have or result in a Material Adverse Effect on Parent.

Section 4.23 *Oil and Gas Operations.*

(a) All wells included in the Oil and Gas Interests of Parent have been drilled and (if completed) completed, operated and produced in accordance with generally accepted oil and gas field practices and in compliance in all material respects with applicable oil and gas leases and applicable laws, rules and regulations, except where any failure or violation could not reasonably be expected to have a Material Adverse Effect on Parent.

(b) Proceeds from the sale of Hydrocarbons produced from Parent's Oil and Gas Interests are being received by the Parent Companies in a timely manner and are not being held in suspense for any reason (except in the ordinary course of business).

(c) None of the Parent Companies has received any material advance, take-or-pay or other similar payments that entitle purchasers of production to receive deliveries of Hydrocarbons without paying therefor, and, on a net, company-wide basis, the Parent Companies are neither underproduced nor overproduced, in either case, to any material extent, under gas balancing or similar arrangements.

(d) No claim, notice or order from any Governmental Authority or other Person has been received by any of the Parent Companies due to Hydrocarbon production in excess of allowables or similar violations that could result in curtailment of production after the Closing Date from any Oil and Gas Interests of the Parent Companies, except any such violations which individually or in the aggregate have not had, and would not be reasonably likely to have or result in, a Material Adverse Effect on the Parent Companies.

(e) All material operating equipment owned or leased by the Parent Companies is, in the aggregate, in a state of repair so as to be adequate in all material respects for reasonably prudent operations in the areas in which they are operated.

Section 4.24 *Oil and Gas Reserves.* The factual, non-interpretive data related to oil and gas reserves reflected in the Parent Reserve Report was, as of the date of the Parent Reserve Report, accurate in all material respects.

Section 4.25 *Derivative Transactions and Hedging.* Section 4.25 of the Parent Disclosure Schedule contains a complete and correct list of all Derivative Transactions (including each outstanding Hydrocarbon or financial hedging position attributable to the Hydrocarbon production of the Parent Companies) entered into by the Parent Companies or for the account of any of its customers as of the date of this Agreement. All such Derivative Transactions were, and any Derivative Transactions entered into after the date of this Agreement will be, entered into in accordance with applicable laws, and in accordance with the investment, securities, commodities, risk management and other policies, practices and procedures employed by the Parent Companies. The Parent Companies have duly performed in all material respects all of their respective obligations under the Derivative Transactions to the extent that such obligations to perform have accrued, and, to the knowledge of the Parent, there are no material breaches, violations, collateral deficiencies, requests for collateral or demands for payment (except for ordinary course margin deposit requests), or defaults or allegations or assertions of such by any party thereunder.

Section 4.26 *Natural Gas Act.* Any gas gathering system constituting a part of the properties of the Parent Companies has as its primary function the provision of natural gas gathering services, as the term "gathering" is interpreted under Section 1(b) of the *NGA*; none of the properties has been or is certificated by the *FERC* under Section 7(c) of the NGA or to the knowledge of Parent are now

subject to FERC jurisdiction under the NGA; and none of the properties has been or is providing service pursuant to Section 311 of the NGA.

Section 4.27 *Environmental Matters.*

(a) Except as would not result in a Material Adverse Effect on Parent, none of the Parent Companies is subject to any liability or obligation (accrued, contingent, or otherwise) to investigate, cleanup, correct, abate, or take any response, remedial or corrective action under Environmental Laws relating to (i) environmental conditions on, under, or about any of the properties or assets owned, leased, operated, or used by the Parent Companies or any predecessor at the present time or in the past, or (ii) the past or present use, management, handling, transport, treatment, generation, storage, disposal, or release of any Hazardous Materials, whether on-site or off-site.

(b) Except as would not result in a Material Adverse Effect on Parent, all permits, notices, approvals and authorizations required to be obtained or filed in connection with the operation of the Parent Companies' business or the operation or use of any property owned, leased, or operated by the Parent Companies have been obtained or filed and are currently in effect, and the Parent Companies are in compliance with the terms and conditions of such permits, notices, approvals and authorizations.

(c) Except as would not result in a Material Adverse Effect on Parent, each of the Parent Companies has conducted its business and operated its assets, and is conducting its business and operating its assets, in compliance with all Environmental Laws;

(d) Except as would not result in a Material Adverse Effect on Parent, none of the Parent Companies has been notified by any Governmental Authority or other Person or is otherwise aware that any of the current or prior operations or assets of any of the Parent Companies is the subject of any investigation or inquiry by any Governmental Authority or other Person under Environmental Laws;

(e) Except as would not result in a Material Adverse Effect on Parent, none of the Parent Companies and, to the knowledge of Parent, no other Person has filed any notice under any federal, state or local law indicating that (i) any of the Parent Companies is responsible for release or threatened release into the environment, or the improper handling, generation, treatment, storage, disposal or recycling, of any Hazardous Material, on any property now or previously owned, leased or operated by any of the Parent Companies; or (ii) any Hazardous Material is improperly handled, generated, treated, stored, disposed of, or recycled upon any property now or previously owned, leased or operated by any of the Parent Companies;

(f) None of the Parent Companies has any liability in excess of $1,000,000 in the aggregate in connection with (i) the release or threatened release into the environment at, beneath or on any property now or previously owned, leased or operated by any of the Parent Companies, (ii) any obligations under or violations of Environmental Laws, or (iii) the use, release, treatment, storage, disposal, or recycling of any Hazardous Material;

(g) Except as would not result in a Material Adverse Effect on the Parent, there are no pending, or to the knowledge of Parent threatened claims, complaints, notices, inquiries or requests for information involving any matter which remains unresolved (i) under Environmental Laws against any person whose liability for environmental matters any Parent Company has retained or assumed either contractually or by operation of law, or (ii) with respect to any alleged violation of any Environmental Law or regarding potential liability under any Environmental Law against any Parent Company relating to operations or conditions of any facilities or property (including off-site treatment, storage, disposal, or recycling of any Hazardous Material from such

facilities or property) currently or formerly owned, leased or operated by any of the Parent Companies;

(h) No property now or previously owned, leased or operated by any of the Parent Companies is listed on the National Priorities List pursuant to CERCLA or on the CERCLIS or on any other similar federal or state list as sites requiring investigation or cleanup;

(i) To the knowledge of Parent, none of the Parent Companies is transporting, has transported, or is arranging or has arranged for the transportation of any Hazardous Material to any location which is listed on the National Priorities List pursuant to CERCLA, on the CERCLIS, or on any similar federal or state list or which is the subject of federal, state or local enforcement actions or other investigations that may lead to claims in excess of $1,000,000 in the aggregate against any of the Parent Companies for investigation, removal or remedial work, contribution for removal or remedial work, damage to natural resources or personal injury, including claims under CERCLA;

(j) Except as would not result in a Material Adverse Effect on Parent, none of the Parent Companies owns or operates any underground storage tanks or solid waste storage, treatment and/or disposal facilities;

(k) Except as would not result in a Material Adverse Effect on Parent, to the knowledge of Parent, no asbestos, asbestos containing materials or polychlorinated biphenyls are present on or at any property or facility owned, leased or operated by any of the Parent Companies;

(l) Except as would not result in a Material Adverse Effect on Parent, none of the Parent Companies is operating, or required to be operating, any of its properties or facilities under any order, compliance or consent order, injunction, decree or agreement issued or entered into under, or pertaining to matters regulated by, any Environmental Law;

(m) Except as would not result in a Material Adverse Effect on Parent, none of the Parent Companies has assumed contractually, or to the knowledge of Parent, by operation of law, any liabilities or obligations of third parties under Environmental Laws;

(n) Except as would not result in a Material Adverse Effect on Parent, Parent is not aware of any environmental conditions or circumstances that form, or are reasonably likely to give rise to, a claim against any Parent Company or any Person whose liability for such claim any Parent Company has retained or assumed contractually or by operation of law.

(o) Except as would not result in a Material Adverse Effect on Parent, no Parent Company is subject to any environmental indemnification obligation regarding businesses currently or formerly owned or operated by a Parent Company or regarding properties currently or formerly owned, leased or operated by a Parent Company.

(p) No Parent Company is required by virtue of the transactions contemplated by this Agreement to perform an environmental site assessment or to remove or remediate any Hazardous Materials.

(q) Parent has provided or made available to the Company copies of all contracts in which a Parent Company has retained, assumed, or provided indemnification for liabilities for environmental matters and all material environmental permits, notices, approvals, authorizations, claims, complaints, inquiries, requests for information, orders, compliance or consent orders, injunctions, decrees, agreements, reports, data, studies, results of investigations, audits, assessments, evaluations and correspondence in the possession, custody or control of any of the Parent Companies.

Section 4.28 *Books and Records.* All books, records and files of the Parent Companies (including those pertaining to Parent's Oil and Gas Interests, wells and other assets, those pertaining to the production, gathering, transportation and sale of Hydrocarbons, and corporate, accounting, financial and employee records): (a) have been prepared, assembled and maintained in accordance with usual and customary policies and procedures, and (b) fairly and accurately reflect the ownership, use, enjoyment and operation by the Parent Companies of their respective assets.

Section 4.29 *Funding.* Parent has available adequate funds in an aggregate amount sufficient to pay (a) all amounts required to be paid to the stockholders of the Company upon consummation of the Merger, (b) all amounts required to be paid by Parent in respect of all Company Stock Options and Company Warrants upon exercise thereof, and (c) all expenses incurred by Parent and Merger Sub in connection with this Agreement and the transactions contemplated hereby.

Section 4.30 *Brokers.* No broker, finder, investment banker or other Person is or will be, in connection with the transactions contemplated by this Agreement, entitled to any brokerage, finder's or other fee or compensation based on any arrangement or agreement made by or on behalf of any of the Parent Companies or Merger Sub and for which Parent, Merger Sub or any of the Target Companies shall have any obligation or liability.

Section 4.31 *Vote Required.* The affirmative vote of the holders of a majority of votes cast at a meeting at which a majority of the outstanding shares of Parent Common Stock are present and voting is the only vote of the holders of any class or series of Parent capital stock or other voting securities necessary to approve this Agreement, the Merger (including the issuance of the Parent Common Stock) and the transactions contemplated hereby.

Section 4.32 *Rights Agreement.* Parent has taken all necessary action (including, if required, amending the Parent Rights Agreement) so that the entering into of this Agreement, the acquisition of shares of Parent Common Stock pursuant to the consummation of the Merger and the other transactions contemplated hereby do not and will not enable or require the Parent Rights to be exercised or distributed.

Section 4.33 *State Takeover Laws.* Parent has taken all necessary action to exempt the Merger from any applicable moratorium, fair price, business combination, control share and other anti-takeover laws under the NRS.

Section 4.34 *Affiliate Transactions.* Section 4.34 of the Parent Disclosure Schedule contains a complete and correct list, as of the date of this Agreement, of all agreements, contracts, transfers of assets or liabilities or other commitments or transactions, whether or not entered into in the ordinary course of business, to or by which Parent or any of its subsidiaries, on the one hand, and any of their respective Affiliates (other than Parent or any of its direct or indirect wholly owned subsidiaries) on the other hand, are or have been a party or otherwise bound or affected, and that (a) are currently pending, in effect or have been in effect during the past 12 months, (b) involve continuing liabilities and obligations that, individually or in the aggregate, have been, are or will be material to the Parent Companies, taken as a whole and (c) are not Parent Plans.

Section 4.35 *Disclosure Controls and Procedures.* Since January 1, 2003, Parent and each of its subsidiaries has had in place "disclosure controls and procedures" (as defined in Rules 13a-14(c) and 15d-14(c) of the Exchange Act) designed and maintained to ensure in all material respects that (a) transactions are executed in accordance with management's general or specific authorizations, (b) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain accountability for assets, (c) access to assets is permitted only in accordance with management's general or specific authorization, (d) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences, (e) all information (both financial and non-financial) required to be

disclosed by Parent in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the rules and forms of the SEC and (f) all such information is accumulated and communicated to Parent's management as appropriate to allow timely decisions regarding required disclosure and to make the certifications of the Chief Executive Officer and Chief Financial Officer of Parent required under the Exchange Act with respect to such reports. Parent's disclosure controls and procedures ensure that information required to be disclosed by Parent in the reports filed with the SEC under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms. Neither Parent nor its independent auditors have identified any "significant deficiencies" or "material weaknesses" in Parent's or any of its subsidiaries' internal controls as contemplated under Section 404 of SOX. Parent has diligently completed in all material respects its work plan relating to documentation, testing and evaluation of Parent's internal control over financial reporting for purposes of providing the report required by Section 404 of SOX and related SEC rules. As of the date of this Agreement, to the knowledge of Parent, (i) there is no reason that it will not be able, on a timely basis, to complete and include in the Parent's Annual Report on Form 10-K for the year ending December 31, 2004, management's assessment of Parent's internal controls and procedures for financial reporting in accordance with Section 404 of SOX and (ii) there is no material weakness or significant deficiency, in each case as such term is defined in PCAOB Auditing Std. No. 2.

Section 4.36 *Opinion of Financial Advisor.* Parent has received an opinion of Lehman Brothers to the effect that, as of the date of this Agreement, the Conversion Number is fair, from a financial point of view, to Parent, a signed copy of which has been delivered to the Company. Parent has received the approval of such financial advisor to permit the inclusion of a copy of its written opinion in its entirety in the Proxy Statement, subject to such advisor's review thereof as presented in the Proxy Statement.

ARTICLE V

COVENANTS

Section 5.1 *Conduct of Business by Parent Pending Closing.* Parent covenants and agrees with the Company that, from the date of this Agreement until the Effective Time or the date, if any, on which this Agreement is earlier terminated pursuant to Section 7.1, each of the Parent Companies shall conduct its business only in the ordinary and usual course consistent with past practices, except as specifically contemplated in this Agreement or required by applicable law, from the date of this Agreement until the Effective Time or the date, if any, on which this Agreement is earlier terminated pursuant to Section 7.1. Without the prior written consent of the Company:

(a) None of the Parent Companies shall: (i) amend its certificate or articles of incorporation, bylaws or other organizational documents; (ii) adjust, split, combine or reclassify any of its outstanding capital stock; (iii) declare, set aside or pay any dividends or other distributions (whether payable in cash, property or securities) with respect to its capital stock; (iv) issue, sell or agree to issue or sell or amend any phantom stock or stock appreciation rights or any securities or other equity interests, including its capital stock, any rights, options or warrants to acquire its capital stock, or securities convertible into or exchangeable or exercisable for its capital stock (other than shares of Parent Common Stock issued pursuant to the exercise of any Parent Stock Option outstanding on the date of this Agreement); (v) reduce the exercise or conversion price or extend the time for exercise or conversion, other than in accordance with mandatory contractual provisions, of any rights, options or warrants to acquire its capital stock or securities; (vi) purchase, cancel, retire, redeem or otherwise acquire any of its outstanding capital stock or other securities or other equity interests, except pursuant to the terms of the Parent Employee Benefit Plans in effect as of the date of this Agreement; (vii) merge or consolidate with, or transfer all or

substantially all of its assets to, any other Person (other than the Merger); (viii) liquidate, wind-up or dissolve (or suffer any liquidation or dissolution); or (ix) enter into any contract, agreement, commitment or arrangement with respect to any of the foregoing.

(b) None of the Parent Companies shall (i) acquire any corporation, partnership or other business entity or any interest therein (other than interests in joint ventures, joint operation or ownership arrangements or tax partnerships acquired in the ordinary course of business) having an acquisition price in excess of $10,000,000; (ii) sell, lease or sublease, transfer or otherwise dispose of or mortgage, pledge or otherwise encumber any Oil and Gas Interests of Parent that have a value in excess of $5,000,000, individually, or any other assets that have a value at the time of such sale, lease, sublease, transfer or disposition in excess of $5,000,000, individually (except that this clause shall not apply to the sale of Hydrocarbons in the ordinary course of business or encumbrances under the Parent Bank Credit Agreement); (iii) farm-out any Oil and Gas Interest of Parent having a value in excess of $2,000,000 or interest therein; (iv) sell, transfer or otherwise dispose of or mortgage, pledge or otherwise encumber any securities of any other Person (including any capital stock or other securities or equity interest in any Parent Subsidiary); (v) make any loans, advances or capital contributions to, or investments in, any Person (other than loans or advances in the ordinary course of business) in an aggregate amount in excess of $500,000; (vi) enter into any Parent Material Agreement or any other agreement not terminable by any of the Parent Companies upon notice of 30 days or less and without penalty or other obligation; or (vii) enter into any contract, agreement, commitment or arrangement with respect to any of the foregoing.

(c) None of the Parent Companies shall (i) permit to be outstanding at any time under the Parent Bank Credit Agreement indebtedness for borrowed money in excess of $50,000,000; (ii) incur any indebtedness for borrowed money other than under trade credit vendor lines not exceeding $1,000,000 in the aggregate or under the Parent Bank Credit Agreement; (iii) incur any other obligation or liability (other than liabilities incurred in the ordinary course of business); (iv) assume, endorse (other than endorsements of negotiable instruments in the ordinary course of business), guarantee or otherwise become liable or responsible (whether directly, contingently or otherwise) for the liabilities or obligations of any other Person (other than Parent guarantees of Cimarex Energy Services, Inc. regarding obligations under transportation agreements) in an amount in excess of $500,000; (v) enter into, amend or modify any Derivative Transactions; or (vi) enter into any contract, agreement, commitment or arrangement with respect to any of the foregoing.

(d) The Parent Companies shall operate, maintain and otherwise deal with the Oil and Gas Interests of Parent in accordance with good and prudent oil and gas field practices and in accordance with all applicable oil and gas leases and other contracts and agreements and all applicable laws, rules and regulations, including but not limited to Environmental Laws.

(e) None of the Parent Companies shall voluntarily resign, transfer or otherwise relinquish any right it has as of the date of this Agreement, (i) as operator of any Oil and Gas Interest of Parent, except as required by law, regulation or contract, except to the extent such action would not be reasonably likely to have a Material Adverse Effect on Parent, or (ii) with respect to any standstill agreement.

(f) None of the Parent Companies shall (i) enter into, or otherwise become liable or obligated under or pursuant to: (1) any employee benefit, pension or other plan (whether or not subject to ERISA), (2) any other stock option, stock purchase, incentive or deferred compensation plan or arrangement or other fringe benefit plan, or (3) any consulting, employment, severance, retention, termination or similar agreement with any Person, or amend or extend any such plan, arrangement or agreement; (ii) except for payments made pursuant to any Parent Employee

Benefit Plan or any other plan, agreement or arrangement described in Section 4.17 of the Parent Disclosure Schedule, grant, or otherwise become liable for or obligated to pay, any severance, retention or termination payment, bonus or increase in compensation or benefits (other than payments, bonuses or increases that are mandated by the terms of agreements existing as of the date hereof or that are paid in the ordinary course of business, consistent with past practices, and not individually or in the aggregate material in amount) to, or forgive any indebtedness of, any employee or consultant of any of the Parent Companies; or (iii) enter into any contract, agreement, commitment or arrangement to do any of the foregoing.

(g) None of the Parent Companies shall create, incur, assume or permit to exist any Lien on any of its assets, except for Permitted Encumbrances

(h) The Parent Companies shall (i) keep and maintain accurate books, records and accounts; (ii) maintain in full force and effect the policies or binders of insurance described in Section 4.20; (iii) pay all Taxes, assessments and other governmental charges imposed upon any of their assets or with respect to their franchises, business, income or assets before any penalty or interest accrues thereon; (iv) pay all material claims (including claims for labor, services, materials and supplies) that have become due and payable and which by law have or may become a Lien upon any of their assets prior to the time when any penalty or fine shall be incurred with respect thereto or any such Lien shall be imposed thereon; and (v) comply in all material respects with the requirements of all applicable laws, rules, regulations and orders of any Governmental Authority, obtain or take all Governmental Actions necessary in the operation of their businesses, and comply with and enforce the provisions of all Parent Material Agreements, including paying when due all rentals, royalties, expenses and other liabilities relating to their businesses or assets; provided, however, that Parent shall not be in violation of this Section 5.1(h) if any of the Parent Companies incurs obligations for penalties and interest in connection with gross production tax reporting or other Taxes in the ordinary course of business; and provided further, that the Parent Companies may contest the imposition of any such Taxes, assessments and other governmental charges, any such claim, or the requirements of any applicable law, rule, regulation or order or any Parent Material Agreement if done so in good faith by appropriate proceedings and if adequate reserves are established in accordance with GAAP.

(i) The Parent Companies shall at all times preserve and keep in full force and effect their corporate existence and rights and franchises material to their performance under this Agreement.

(j) None of the Parent Companies shall:

(i) take any action that would reasonably be expected to result in the breach of any of the representations and warranties contained in ARTICLE IV, except as specifically permitted under other provisions of this Section 5.1(j);

(ii) approve or implement budgets for general and administrative expenses of the Parent Companies (including salary, bonuses, general operating and overhead expenses) or budgets for Capital Expenditures of the Parent Companies, or incur expenses or disburse funds for any of such purposes except pursuant to the budgets which have been approved by the Company or revisions to such budgets which are approved by the Company, such approval not to be unreasonably withheld (any budgets which have been or are approved as required herein are referred to as "*Approved Budgets*");

(iii) except to the extent already included in an Approved Budget, enter into any agreements or other arrangements with respect to, or make any payments, incur any expenses or disburse any funds for (1) any Capital Project, the completion or full capitalization of which can reasonably be expected to require the Parent Companies to expend, in the aggregate, in excess of $5,000,000, or (2) any Capital Project for the exploration of Oil and Gas Interests

with undeveloped reserves (including the acquisition of leasehold interests and seismic data, the drilling of wells and all related costs and expenses) which can reasonably be expected to require the Parent Companies to expend, in the aggregate, in excess of $5,000,000;

(iv) make any Capital Expenditure or general and administrative expense payment which exceeds, for any project, by more than 10 percent the amount set forth in the appropriate line item for such expenditure in an Approved Budget; or

(v) knowingly take, or agree to commit to take any action that would reasonably be expected to result in the failure of a condition set forth in Section 6.1 and Section 6.3(a) and (b) at, or as of any time prior to, the Effective Time, or that would impair materially the ability of the Company, Parent, Merger Sub or the holders of shares of Company Common Stock to consummate the Merger in accordance with the terms hereof or delay materially such consummation.

Section 5.2 *Conduct of Business by the Company Pending Closing.* The Company covenants and agrees with Parent and Merger Sub that, from the date of this Agreement until the Effective Time or the date, if any, on which this Agreement is earlier terminated pursuant to Section 7.1, each of the Target Companies shall conduct its business only in the ordinary and usual course and consistent with past practices, except as specifically contemplated in this Agreement or required by applicable law, from the date of this Agreement until the Effective Time or the date, if any, on which this Agreement is earlier terminated pursuant to Section 7.1. Without the prior written consent of Parent:

(a) None of the Target Companies shall: (i) amend its certificate or articles of incorporation, bylaws or other organizational documents; (ii) adjust, split, combine or reclassify any of its outstanding capital stock; (iii) declare, set aside or pay any dividends or other distributions (whether payable in cash, property or securities) with respect to its capital stock (except as contemplated by Section 5.24 for the TEL Distribution); (iv) issue, sell or agree to issue or sell or amend any phantom stock or stock appreciation rights or any securities or other equity interests, including its capital stock, any rights, options or warrants to acquire its capital stock, or securities convertible into or exchangeable or exercisable for its capital stock (other than shares of Company Common Stock issued pursuant to the exercise of any Company Warrant outstanding on the date of this Agreement, pursuant to the exercise of any Company Stock Options outstanding on the date of this Agreement, or relating to the conversion of the 1996 Preferred in accordance with Section 5.26); (v) reduce the exercise or conversion price or extend the time for exercise or conversion, other than in accordance with mandatory contractual provisions, of any rights, options or warrants to acquire its capital stock or securities; (vi) purchase, cancel, retire, redeem or otherwise acquire any of its outstanding capital stock or other securities or other equity interests, except pursuant to the terms of the Company Employee Benefit Plans in effect as of the date of this Agreement or as relates to the cancellation of the Company Stock Options in accordance with Section 2.4(c)(iii); (vii) merge or consolidate with, or transfer all or substantially all of its assets to, any other Person (other than the Merger); (viii) liquidate, wind-up or dissolve (or suffer any liquidation or dissolution); or (ix) enter into any contract, agreement, commitment or arrangement with respect to any of the foregoing.

(b) None of the Target Companies shall (i) acquire any corporation, partnership or other business entity or any interest therein (other than interests in joint ventures, joint operation or ownership arrangements or tax partnerships acquired in the ordinary course of business) having an acquisition price in excess of $2,000,000; (ii) sell, lease or sublease, transfer or otherwise dispose of or mortgage, pledge or otherwise encumber any Oil and Gas Interests of the Company that have a value in excess of $1,000,000, individually, or any other assets that have a value at the time of such sale, lease, sublease, transfer or disposition in excess of $1,000,000, individually (except that this clause shall not apply to the sale of Hydrocarbons in the ordinary course of business or

encumbrances under the Company Bank Credit Agreement); (iii) farm-out any Oil and Gas Interest of the Company having a value in excess of $2,000,000 or interest therein; (iv) sell, transfer or otherwise dispose of or mortgage, pledge or otherwise encumber any securities of any other Person (including any capital stock or other securities or equity interest in any Company Subsidiary); (v) make any loans, advances or capital contributions to, or investments in, any Person (other than loans or advances in the ordinary course of business) in an aggregate amount in excess of $500,000; (vi) enter into any Company Material Agreement or any other agreement not terminable by any of the Target Companies upon notice of 30 days or less and without penalty or other obligation; or (vii) enter into any contract, agreement, commitment or arrangement with respect to any of the foregoing.

(c) None of the Target Companies shall (i) permit to be outstanding at any time under the Company Bank Credit Agreement indebtedness for borrowed money in excess of $400,000,000, exclusive of any indebtedness incurred to fund costs relating to the transactions contemplated under this Agreement; (ii) incur any indebtedness for borrowed money other than under trade credit vendor lines not exceeding $1,000,000 in the aggregate or under the Company Bank Credit Agreement or as relates to the cash payment for the cancellation of the Company Stock Options in accordance with Section 2.4(c)(iii); (iii) incur any other obligation or liability (other than liabilities incurred in the ordinary course of business); (iv) assume, endorse (other than endorsements of negotiable instruments in the ordinary course of business), guarantee or otherwise become liable or responsible (whether directly, contingently or otherwise) for the liabilities or obligations of any other Person in an amount in excess of $500,000; (v) enter into, amend or modify any Derivative Transactions; or (vi) enter into any contract, agreement, commitment or arrangement with respect to any of the foregoing. None of the Target Companies shall incur any obligation or liability (through notes or any other instrument or form of obligation) under the Continuing Guaranty by the Company to Compass Bank, dated December 20, 2004, with respect to indebtedness of Metrix Networks, Inc., that exceeds $500,000.

(d) The Target Companies shall operate, maintain and otherwise deal with the Oil and Gas Interests of the Company in accordance with good and prudent oil and gas field practices and in accordance with all applicable oil and gas leases and other contracts and agreements and all applicable laws, rules and regulations, including but not limited to Environmental Laws.

(e) None of the Target Companies shall voluntarily resign, transfer or otherwise relinquish any right it has as of the date of this Agreement, (i) as operator of any Oil and Gas Interest of the Company, except as required by law, regulation or contract, except to the extent such action would not be reasonably likely to have a Material Adverse Effect on the Company, or (ii) with respect to any standstill agreement.

(f) None of the Target Companies shall (i) enter into, or otherwise become liable or obligated under or pursuant to: (1) any employee benefit, pension or other plan (whether or not subject to ERISA), (2) any other stock option, stock purchase, incentive or deferred compensation plan or arrangement or other fringe benefit plan, or (3) any consulting, employment, severance, retention, termination or similar agreement with any Person, or amend or extend any such plan, arrangement or agreement; (ii) except for payments made pursuant to any Company Employee Benefit Plan or any other plan, agreement or arrangement described in Section 3.16 of the Company Disclosure Schedule, grant, or otherwise become liable for or obligated to pay, any severance, retention or termination payment, bonus or increase in compensation or benefits (other than payments, bonuses or increases that are mandated by the terms of agreements existing as of the date hereof or that are paid in the ordinary course of business, consistent with past practices, and not individually or in the aggregate material in amount) to, or forgive any indebtedness of, any employee or consultant of any of the Target Companies; or (iii) enter into any contract, agreement, commitment or arrangement to do any of the foregoing.

(g) None of the Target Companies shall create, incur, assume or permit to exist any Lien on any of its assets, except for Permitted Encumbrances.

(h) The Target Companies shall (i) keep and maintain accurate books, records and accounts; (ii) maintain in full force and effect the policies or binders of insurance described in Section 3.19; (iii) pay all Taxes, assessments and other governmental charges imposed upon any of their assets or with respect to their franchises, business, income or assets before any penalty or interest accrues thereon; (iv) pay all material claims (including claims for labor, services, materials and supplies) that have become due and payable and which by law have or may become a Lien upon any of their assets prior to the time when any penalty or fine shall be incurred with respect thereto or any such Lien shall be imposed thereon; and (v) comply in all material respects with the requirements of all applicable laws, rules, regulations and orders of any Governmental Authority, obtain or take all Governmental Actions necessary in the operation of their businesses, and comply with and enforce the provisions of all Company Material Agreements, including paying when due all rentals, royalties, expenses and other liabilities relating to their businesses or assets; provided, however, that the Company shall not be in violation of this Section 5.2(h) if any of the Target Companies incurs obligations for penalties and interest in connection with gross production tax reporting or other Taxes in the ordinary course of business; and provided further, that the Target Companies may contest the imposition of any such Taxes, assessments and other governmental charges, any such claim, or the requirements of any applicable law, rule, regulation or order or any Company Material Agreement if done so in good faith by appropriate proceedings and if adequate reserves are established in accordance with GAAP.

(i) The Target Companies shall at all times preserve and keep in full force and effect their corporate existence and rights and franchises material to their performance under this Agreement.

(j) None of the Target Companies shall:

(i) take any action that would reasonably be expected to result in the breach of any of the representations and warranties contained in ARTICLE III, except as specifically permitted under other provisions of this Section 5.2(j);

(ii) approve or implement budgets for general and administrative expenses of the Target Companies (including salary, bonuses, general operating and overhead expenses) or budgets for Capital Expenditures of the Target Companies, or incur expenses or disburse funds for any of such purposes except pursuant to the budgets which have been approved by Parent or revisions to such budgets which are approved by Parent, such approval not to be unreasonably withheld (any budgets which have been or are approved as required herein are referred to as "*Approved Budgets*");

(iii) except to the extent already included in an Approved Budget, enter into any agreements or other arrangements with respect to, or make any payments, incur any expenses or disburse any funds for (1) any onshore Capital Project, the completion or full capitalization of which can reasonably be expected to require the Target Companies to expend, in the aggregate, in excess of $2,000,000, or (2) any Capital Project for the onshore exploration of Oil and Gas Interests with undeveloped reserves (including the acquisition of onshore leasehold interests and seismic data, the drilling of onshore wells and all related costs and expenses) which can reasonably be expected to require the Target Companies to expend, in the aggregate, in excess of $2,000,000;

(iv) except to the extent already included in an Approved Budget, enter into any agreements or other arrangements requiring payment in any single case or series of related cases exceeding $1,000,000 with respect to, or make any payments, incur any expenses or disburse any funds (in any single case or series of related cases exceeding $1,000,000) for (1) any offshore Capital Project or (2) any Capital Project for the offshore exploration of Oil and Gas Interests with undeveloped reserves (including the acquisition of offshore leasehold interests and seismic data, the drilling of offshore wells and all related costs and expenses);

(v) make any Capital Expenditure or general and administrative expense payment which, for any project, exceeds by more than 10 percent the amount set forth in the appropriate line item for such expenditure in an Approved Budget; or

(vi) knowingly take, or agree to commit to take, any action that would reasonably be expected to result in the failure of a conditions set forth in Section 6.1 and Section 6.2(a) and (b) at, or as of any time prior to, the Effective Time, or that would impair materially the ability of the Company, Parent, Merger Sub or the holders of shares of Company Common Stock to consummate the Merger in accordance with the terms hereof or delay materially such consummation.

Section 5.3 *Access to Assets, Personnel and Information.*

(a) Upon reasonable notice and subject to applicable Laws relating to the exchange of information, from the date hereof until the Effective Time, Parent shall: (i) afford to the Company and the Company Representatives, at the Company's sole expense, reasonable access to any of the assets, books and records, contracts, employees, representatives, agents and facilities of the Parent Companies; and (ii) upon request, furnish promptly to the Company (at the Company's expense) access to, or a copy of, any file, book, record, contract, permit, correspondence, or other written information, document or data concerning any of the Parent Companies (or any of their respective assets) that is within the possession or control of any of the Parent Companies.

(b) Upon reasonable notice and subject to applicable Laws relating to the exchange of information, from the date hereof until the Effective Time, the Company shall: (i) afford to Parent and the Parent Representatives, at Parent's sole expense, reasonable access to any of the assets, books and records, contracts, employees, representatives, agents and facilities of the Target Companies; and (ii) upon request, furnish promptly to Parent (at Parent's expense) access to, or a copy of, any file, book, record, contract, permit, correspondence, or other written information, document or data concerning any of the Target Companies (or any of their respective assets) that is within the possession or control of any of the Target Companies.

(c) The Company and the Company Representatives shall, at the Company's sole expense, have the right to make an environmental and physical assessment of the assets of the Parent Companies and, in connection therewith, shall have the right (during normal business hours, or as otherwise permitted by Parent) to enter and inspect such assets and all buildings and improvements thereon, and generally conduct such non-invasive tests, examinations, investigations and studies as the Company reasonably deems necessary, desirable or appropriate for the preparation of engineering or other reports relating to such assets, their condition and the presence of Hazardous Materials and compliance with Environmental Laws. Parent shall be provided not less than 24 hours prior notice of such activities, and Parent Representatives shall have the right to witness all such tests and investigations. The Company shall (and shall cause the Company Representatives to) keep any data or information acquired by any such examinations and the results of any analyses of such data and information strictly confidential and shall not (and shall cause the Company Representatives not to) disclose any of such data, information or results to any Person unless otherwise required by law or regulation and then only after written notice to Parent of the determination of the need for disclosure. The Company shall provide Parent a copy

of any environmental report or assessment prepared on behalf of the Company with respect to any of the Parent Companies or any of their properties or assets. The Company shall indemnify, defend and hold the Parent Companies and the Parent Representatives harmless from and against any and all claims to the extent arising out of or as a result of the activities of the Company and the Company Representatives on the assets of the Parent Companies in connection with conducting such environmental and physical assessment, except to the extent of and limited by the negligence or willful misconduct of any of the Parent Companies or any Parent Representative.

(d) Parent and the Parent Representatives shall, at Parent's sole expense, have the right to make an environmental and physical assessment of the assets of the Target Companies and, in connection therewith, shall have the right (during normal business hours, or as otherwise permitted by the Company) to enter and inspect such assets and all buildings and improvements thereon, and generally conduct such non-invasive tests, examinations, investigations and studies as Parent reasonably deems necessary, desirable or appropriate for the preparation of engineering or other reports relating to such assets, their condition and the presence of Hazardous Materials and compliance with Environmental Laws. The Company shall be provided not less than 24 hours prior notice of such activities, and Company Representatives shall have the right to witness all such tests and investigations. Parent shall (and shall cause the Parent Representatives to) keep any data or information acquired by any such examinations and the results of any analyses of such data and information strictly confidential and shall not (and shall cause the Parent Representatives not to) disclose any of such data, information or results to any Person unless otherwise required by law or regulation and then only after written notice to the Company of the determination of the need for disclosure. Parent shall provide the Company a copy of any environmental report or assessment prepared on behalf of Parent with respect to any of the Target Companies or any of their properties or assets. Parent shall indemnify, defend and hold the Target Companies and the Company Representatives harmless from and against any and all claims to the extent arising out of or as a result of the activities of Parent and the Parent Representatives on the assets of the Target Companies in connection with conducting such environmental and physical assessment, except to the extent of and limited by the negligence or willful misconduct of any of the Target Companies or any Company Representative.

(e) From the date hereof until the Effective Time, each of Parent and the Company shall: (i) furnish to the other, promptly upon receipt, filing or other submission (as the case may be), a copy of each communication between such Party and the SEC after the date hereof relating to the Merger, the Registration Statement or otherwise and each report, schedule, registration statement or other document filed by such Party with the SEC after the date hereof relating to the Merger, the Registration Statement or otherwise; and (ii) promptly advise the other of the substance of any oral communications between such Party and the SEC relating to the Merger, the Registration Statement or otherwise.

(f) The Company shall not (and shall cause the Company Subsidiaries and the Company Representatives not to), and Parent shall not (and shall cause the Parent Subsidiaries and the Parent Representatives not to), use any information obtained pursuant to this Section 5.3 for any purpose unrelated to the consummation of the transactions contemplated by this Agreement.

(g) Notwithstanding anything in this Section 5.3 to the contrary: (i) the Company shall not be obligated under the terms of this Section 5.3 to disclose to Parent or the Parent Representatives, or grant Parent or the Parent Representatives access to, information that is within the possession or control of any of the Target Companies but subject to a valid and binding confidentiality agreement with a third party without first obtaining the consent of such third party, provided, that the Company shall use its reasonable efforts to obtain any such consent, and, provided further, that the Company shall make appropriate substitute disclosure arrangements in circumstances in which such consent is not obtained promptly; and (ii) Parent shall not be obligated under the

terms of this Section 5.3 to disclose to the Company or the Company Representatives, or grant the Company or the Company Representatives access to, information that is within the possession or control of any of the Parent Companies but subject to a valid and binding confidentiality agreement with a third party without first obtaining the consent of such third party, provided, that Parent shall use its reasonable efforts to obtain any such consent and, provided further, that the Parent shall make appropriate substitute disclosure arrangements in circumstances in which such consent is not obtained promptly.

(h) To facilitate approvals of activities of the Parties that are restricted under Section 5.1 and Section 5.2, Parent Representatives and Company Representatives agree to meet on a regular basis to review matters relating to their respective Capital Projects (including the status of expenditures under Approved Budgets (such as outstanding authorizations for expenditures), the success of their Capital Projects to date, proposals to initiate new Capital Projects or substantially increase commitments to existing Capital Projects), commodity hedging issues and any other matters restricted under Section 5.1 and Section 5.2.

Section 5.4 *No Solicitation.*

(a) From the date of this Agreement until the Effective Time or, if earlier, the termination of this Agreement in accordance with its terms, the Company shall not, shall cause each of the Target Companies to not, shall cause each officer, director or employee of the Company or any of the Target Companies to not, and shall cause each investment banker, attorney or other advisor or representative of the Company or any of the Target Companies to not (with respect to any of the Target Companies),

(i) solicit, initiate, or knowingly encourage the submission of, any Takeover Proposal (as herein defined),

(ii) approve or recommend any Takeover Proposal, enter into any agreement, agreement-in-principle or letter of intent with respect to or accept any Takeover Proposal (or resolve to or publicly propose to do any of the foregoing), or

(iii) participate or engage in any discussions or negotiations regarding, or furnish to any Person any information with respect to, or knowingly take any action to facilitate any inquiries or the making of any proposal that constitutes, or would reasonably be expected to lead to, any Takeover Proposal;

provided, however, that (x) if (under circumstances in which the Company has complied with all of its obligations under this Section 5.4(a)), prior to this Agreement having been approved by the Required Company Stockholder Vote (as herein defined), the Company receives an unsolicited written Takeover Proposal from a third party that the Board of Directors of the Company determines in good faith (after consulting with its financial advisors) is, or is reasonably likely to result in, a Superior Proposal (as herein defined), the Company and its representatives may conduct such additional discussions and provide such information as the Board of Directors of the Company shall determine, but only if, prior to such provision of such information or conduct of such additional discussions (A) such third party shall have entered into a confidentiality agreement in customary form that is no less favorable to the Company than the Confidentiality Agreement (and containing additional provisions that expressly permit the Company to comply with the provisions of this Section 5.4) and (B) the Board of Directors of the Company determines in its good faith judgment, after receiving the advice of outside legal counsel, that such action is required in order for the Board of Directors of the Company to comply with its fiduciary duties under applicable law; (y) at any time prior to this Agreement having been approved by the Required Company Stockholder Vote, and subject to the Company's compliance with its obligations under this Section 5.4(a), the Company's Board of Directors may (1) withdraw (or

amend or modify in a manner adverse to Parent or Merger Sub), or publicly propose to withdraw (or amend or modify in a manner adverse to Parent or Merger Sub), the recommendation or declaration of advisability by the Company's Board of Directors of this Agreement, the Merger or the other transactions contemplated by this Agreement and recommend, or publicly propose to recommend, any Takeover Proposal, or (2) recommend, adopt or approve or publicly propose to recommend, adopt or approve any Takeover Proposal, and/or (3) in compliance with Section 7.3, allow the Company to enter into a binding written agreement concerning a transaction that constitutes a Superior Proposal, in the case of subclauses (1), (2) and (3) of this clause (y) only after (A) the Board of Directors of the Company determines in good faith (after providing Parent and Merger Sub with three business days to propose a Parent Alternative Transaction (as defined herein) and after consulting with its financial advisors) that such Takeover Proposal is a Superior Proposal and (B) the Board of Directors of the Company determines in its good faith judgment, after receiving the advice of outside legal counsel, that such action is required in order for the Board of Directors of the Company to comply with its fiduciary duties under applicable law; and (z) nothing contained in subclauses (i) or (ii) above shall prohibit the Company or its Board of Directors from disclosing to the Company's stockholders a position with respect to any tender or exchange offer by a third party pursuant to Rules 14d-9 and 14e-2 promulgated under the Exchange Act, in either case to the extent required by applicable law, provided that the Board of Directors of the Company shall not recommend that the stockholders of the Company tender their Company Common Stock in connection with any such tender or exchange offer unless the Board of Directors of the Company determines in good faith (after receiving the advice of its financial adviser and after providing Parent and Merger Sub with three business days to propose an alternative transaction, which alternative transaction may be conditioned upon receipt of further evidence of the ability and intent of the other prospective purchaser to close (a "*Parent Alternative Transaction*")) that such Takeover Proposal is a Superior Proposal. The Company shall immediately cease and cause to be terminated and shall cause its affiliates and the Target Companies and its or their respective officers, directors, employees, representatives or agents, to terminate all existing discussions or negotiations, if any, with any Persons conducted heretofore with respect to, or that could reasonably be expected to lead to, a Takeover Proposal and shall communicate with any such parties (and their agents or advisors) in possession of confidential information regarding any of the Target Companies directing them to return or destroy such information. The Company shall ensure that its officers, directors and key employees and its investment bankers, attorneys and other representatives are aware of and comply with the provisions of this Section.

(b) For purposes of this Agreement, (i) "*Takeover Proposal*" shall mean any inquiry, proposal or offer from any Person (other than Parent, Merger Sub or any of their affiliates) relating to any acquisition, merger, consolidation, reorganization, share exchange, recapitalization, liquidation, direct or indirect business combination, asset acquisition or other similar transaction involving any of the Target Companies of (A) assets or businesses that constitute or represent 10% or more of the total revenue, operating income, EBITDA or assets of the Target Companies, taken as a whole, or (B) 10% or more of the outstanding shares of Company Common Stock or any other Company capital stock (or other equity or voting interests in the Company) or capital stock of, or other equity or voting interests in, any of the Target Companies directly or indirectly holding, individually or taken together, the assets or business referred to in clause (A) above, in each case other than the transactions contemplated by this Agreement and (ii) the term "*Superior Proposal*" means any bona fide, fully financed written Takeover Proposal to effect a merger, consolidation, reorganization, share exchange, recapitalization, liquidation, direct or indirect business combination, or other similar transaction made by a third party to acquire, directly or indirectly, (x) 50% or more of the assets of the Target Companies, taken as a whole or (y) 50% or more of the outstanding voting securities of the Company, in any such case on terms that the Board of Directors of the Company determines in its good faith judgment (after consulting with its financial

advisors and outside counsel), taking into account all financial, legal and regulatory terms and conditions of the Takeover Proposal and this Agreement, including any changes to the terms of this Agreement offered by Parent through a Parent Alternative Transaction in response to such Takeover Proposal, including any conditions to such Takeover Proposal, the timing of the closing thereof, the risk of nonconsummation, the ability of the Person making the Takeover Proposal to finance the transaction contemplated thereby, any required governmental or other consents, filings and approvals, (A) would, if consummated, result in a transaction that is more favorable to the Company's stockholders from a financial point of view as compared to the transactions contemplated by this Agreement (as modified by a Parent Alternative Transaction) and (B) is reasonably likely to be completed without undue delay.

(c) In addition to the other obligations of the Company set forth in this Section 5.4, the Company shall promptly advise Parent orally and in writing of any request for information with respect to any Takeover Proposal, or any inquiry with respect to or which could result in a Takeover Proposal, the material terms and conditions of such request, Takeover Proposal or inquiry, and the identity of the Person making the same.

(d) Nothing in this Section 5.4 shall permit the Company to terminate this Agreement except as specifically provided in ARTICLE VII.

Section 5.5 *Company Stockholders Meeting.* The Company shall take all action necessary in accordance with applicable law and its articles of incorporation and bylaws to convene a meeting of its stockholders as promptly as practicable after the date hereof for the purpose of voting on the Company Proposal. Subject to Section 5.4(a), the Board of Directors of the Company shall recommend approval of the Company Proposal and shall take all lawful action to solicit such approval, including timely mailing the Proxy Statement/Prospectus to the stockholders of the Company.

Section 5.6 *Parent Stockholders Meeting.* Parent shall take all action necessary in accordance with applicable law and its articles of incorporation and bylaws to convene a meeting of its stockholders as promptly as practicable after the date hereof for the purpose of voting on the Company Proposal. The Board of Directors of Parent shall recommend approval of the Company Proposal and shall take all lawful action to solicit such approval, including timely mailing the Proxy Statement/Prospectus to the stockholders of Parent.

Section 5.7 *Registration Statement and Proxy Statement/Prospectus.*

(a) Parent and the Company shall cooperate and promptly prepare the Registration Statement, and, subject to Parent's receiving promptly the required information from the Company, Parent shall file the Registration Statement with the SEC as soon as practicable after the date hereof. Parent shall use all reasonable efforts, and the Company shall cooperate with Parent (including furnishing promptly all information concerning the Company and the holders of Company Common Stock as may be reasonably requested by Parent), to have the Registration Statement (as it may be amended or supplemented) declared effective under the Securities Act as promptly as practicable after such filing. Parent shall use all reasonable efforts, and the Company shall cooperate with Parent, to obtain all necessary state securities laws or "blue sky" permits, approvals and registrations in connection with the issuance of Parent Common Stock pursuant to the Merger.

(b) Parent shall cause the Registration Statement (including the Proxy Statement/Prospectus), at the time it becomes effective under the Securities Act, to comply as to form in all material respects with the applicable provisions of the Securities Act, the Exchange Act and the rules and regulations of the SEC thereunder. The Company shall cause the information it provides for such purpose to comply as to form in all material respects with such provisions.

(c) The Company hereby covenants and agrees with Parent that: (i) the Registration Statement (at the time it becomes effective under the Securities Act and at the Effective Time) shall not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading (provided, however, that this clause (i) shall apply only to information contained in the Registration Statement that was supplied by the Company for inclusion therein); and (ii) the Proxy Statement/Prospectus (at the time it is first mailed to stockholders of the Company and Parent, at the time of the Company Meeting and the Parent Meeting, and at the Effective Time) shall not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they are made, not misleading (provided, however, that this clause (ii) shall apply only to information contained in the Proxy Statement/Prospectus that was supplied by the Company for inclusion therein). If, at any time prior to the Effective Time, any event with respect to the Company, or with respect to other information supplied by the Company for inclusion in the Registration Statement, occurs and such event is required to be described in an amendment to the Registration Statement, the Company shall promptly notify Parent of such occurrence and shall cooperate with Parent in the preparation and filing of such amendment. If, at any time prior to the Effective Time, any event with respect to the Company, or with respect to other information supplied by the Company for inclusion in the Proxy Statement/Prospectus, occurs and such event is required to be described in a supplement to the Proxy Statement/Prospectus, the Company shall promptly notify Parent of such occurrence and shall cooperate with Parent in the preparation, filing and dissemination of such supplement.

(d) Parent hereby covenants and agrees with the Company that: (i) the Registration Statement (at the time it becomes effective under the Securities Act and at the Effective Time) shall not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading (provided, however, that this clause (i) shall not apply to any information contained in the Registration Statement that was supplied by the Company for inclusion therein); and (ii) the Proxy Statement/Prospectus (at the time it is first mailed to stockholders of the Company and Parent, at the time of the Company Meeting and the Parent Meeting, and at the Effective Time) shall not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they are made, not misleading (provided, however, that this clause (ii) shall not apply to any information contained in the Proxy Statement/Prospectus that was supplied by the Company for inclusion therein). If, at any time prior to the Effective Time, any event with respect to Parent, or with respect to other information (not supplied by the Company) included in the Registration Statement, occurs and such event is required to be described in an amendment to the Registration Statement, such event shall be so described and such amendment shall be promptly prepared and filed. If, at any time prior to the Effective Time, any event with respect to Parent, or with respect to other information (not supplied by the Company) included in the Proxy Statement/Prospectus, occurs and such event is required to be described in a supplement to the Proxy Statement/Prospectus, Parent shall promptly notify the Company of such occurrence and shall cooperate with the Company in the preparation, filing and dissemination of such supplement.

(e) Neither the Registration Statement nor the Proxy Statement/Prospectus nor any amendment or supplement thereto shall be filed or disseminated to the stockholders of the Company or Parent without the approval of both Parent and the Company (not to be unreasonably withheld). Parent shall advise the Company, promptly after it receives notice thereof, of the time when the Registration Statement has become effective under the Securities Act, the issuance of any stop order with respect to the Registration Statement, the suspension of the qualification of the Parent Common Stock issuable in connection with the Merger for offering or sale in any

jurisdiction, or any comments or requests for additional information by the SEC with respect to the Registration Statement.

Section 5.8 *Stock Exchange Listing.* Parent shall cause the shares of Parent Common Stock to be issued in the Merger and upon exercise of the Company Stock Options and the Company Warrants (if still outstanding and as assumed by Parent) to be approved for listing on Parent's primary National Stock Exchange, subject to official notice of issuance, prior to the Closing Date. Parent shall also cause the Company Warrants (if still outstanding and as assumed by Parent) to be approved for listing on a National Stock Exchange prior to the Closing Date.

Section 5.9 *Additional Arrangements.* Subject to the terms and conditions herein provided, each of the Company and Parent shall take, or cause to be taken, all action and shall do, or cause to be done, all things necessary, appropriate or reasonably desirable under any applicable laws and regulations (including the HSR Act) or under applicable governing agreements to consummate and make effective the transactions contemplated by this Agreement, including using its reasonable best efforts to obtain all necessary waivers, consents and approvals and effecting all necessary registrations and filings. Each of the Company and Parent shall take, or cause to be taken, all action or shall do, or cause to be done, all things necessary, appropriate or reasonably desirable to cause the covenants and conditions applicable to the transactions contemplated hereby to be performed or satisfied as soon as practicable. In addition, if any Governmental Authority shall have issued any order, decree, ruling or injunction, or taken any other action that would have the effect of restraining, enjoining or otherwise prohibiting or preventing the consummation of the transactions contemplated hereby, each of the Company and Parent shall use its reasonable efforts to have such order, decree, ruling or injunction or other action declared ineffective as soon as practicable.

Section 5.10 *Agreements of Affiliates.* At least 10 days prior to the Effective Time, the Company shall cause to be prepared and delivered to Parent a list identifying all Persons who, at the time of the Company Meeting, may be deemed to be "affiliates" of the Company as that term is used in paragraphs (c) and (d) of Rule 145 under the Securities Act. The Company shall use its best efforts (without payment or compensation) to cause each Person who is identified as an affiliate of the Company in such list to execute and deliver to Parent, on or prior to the Closing Date, a written agreement, in the form attached hereto as Exhibit 5.10. Parent shall be entitled to place legends as specified in such agreements on the Parent Certificates representing any Parent Common Stock to be issued to such Persons in the Merger, irrespective of whether or not they sign such agreements.

Section 5.11 *Section 16.* Prior to the Closing Date, Parent and the Company, and their respective boards of directors, shall adopt resolutions consistent with the interpretive guidance of the SEC and take any other actions as may be required to cause any dispositions of Company Common Stock (including derivative securities with respect to Company Common Stock) or acquisitions of Parent Common Stock (including derivative securities with respect to Parent Common Stock) resulting from the transactions contemplated hereby by each individual who is subject to the reporting requirements of Section 16(a) of the Exchange Act to be exempt from Section 16(b) of the Exchange Act under Rule 16b-3 promulgated under the Exchange Act.

Section 5.12 *Public Announcements.* Prior to the Closing, the Company and Parent shall consult with each other before issuing any press release or otherwise making any public statement with respect to the transactions contemplated by this Agreement and shall not issue any press release or make any such public statement prior to obtaining the approval of the other party; provided, however, that such approval shall not be required where such release or announcement is required by applicable law or stock exchange rule; and provided further, that either the Company or Parent may respond to inquiries by the press or others regarding the transactions contemplated by this Agreement, so long as such responses are consistent with such Party's previously issued press releases.

Section 5.13 *Notification of Certain Matters.* The Company shall give prompt notice to Parent of any of the following: (a) any representation or warranty contained in ARTICLE III being untrue or inaccurate when made, (b) the occurrence of any event or development that would cause (or could reasonably be expected to cause) any representation or warranty contained in ARTICLE III to be untrue or inaccurate on the Closing Date, or (c) any failure of the Company to comply with or satisfy any covenant, condition, or agreement to be complied with or satisfied by it hereunder. Parent shall give prompt notice to the Company of any of the following: (x) any representation or warranty contained in ARTICLE IV being untrue or inaccurate when made, (y) the occurrence of any event or development that would cause (or could reasonably be expected to cause) any representation or warranty contained in ARTICLE IV to be untrue or inaccurate on the Closing Date, or (z) any failure of Parent to comply with or satisfy any covenant, condition, or agreement to be complied with or satisfied by it hereunder.

Section 5.14 *Payment of Expenses.* Subject to the provisions of Section 7.2 and Section 7.3, each Party shall pay its own expenses incident to preparing for, entering into and carrying out this Agreement and the consummation of the transactions contemplated hereby, whether or not the Merger shall be consummated, except that: (a) the fee for filing the Registration Statement with the SEC and the costs and expenses associated with printing the Proxy Statement/Prospectus and complying with any applicable state securities or "blue sky" laws shall be borne by Parent; and (b) the costs and expenses associated with mailing the Proxy Statement/Prospectus to the stockholders of (i) the Company, and soliciting the votes of the stockholders of the Company, shall be borne by the Company, and (ii) Parent, and soliciting the votes of the stockholders of Parent, shall be borne by Parent.

Section 5.15 *Indemnification and Insurance.*

(a) Parent agrees that all rights to indemnification now existing in favor of any officers, directors, employees, controlling stockholders or agents of any of the Target Companies, as provided in their respective charters or bylaws (or similar organizational documents), and any existing indemnification agreements or arrangements of any of the Target Companies, shall survive the Merger and shall continue in full force and effect for a period of not less than six years from the Effective Time (or such longer period as may be provided in any existing indemnification agreement between any of the Target Companies, and any current or former officer or director thereof); provided, that, in the event any claim or claims are asserted or made within such six-year period, all rights to indemnification in respect of any such claim or claims shall continue until final disposition of any and all such claims.

(b) From and after the Effective Time, Parent shall, for a period of six years after the Effective Time, indemnify, defend and hold harmless each person who is now, or has been at any time prior to the date of this Agreement or who becomes prior to the Effective Time, an officer, director, employee, controlling stockholder or agent of any of the Target Companies (collectively, the "*Indemnified Parties*") against all losses, expenses (including attorneys' fees), claims, damages, liabilities and amounts that are paid in settlement with the approval of the indemnifying party (which approval shall not be unreasonably withheld) of, or otherwise in connection with, any threatened or actual claim, action, suit, proceeding or investigation (a "*Claim*"), based in whole or in part on or arising in whole or in part out of the fact that the Indemnified Party (or the person controlled by the Indemnified Party) is or was a director, officer, employee, controlling stockholder or agent (including a trustee or fiduciary of any Company Employee Benefit Plan but subject to any conditions or limitations on the indemnity set forth in the applicable Company Employee Benefit Plan) and pertaining to any matter existing or arising out of actions or omissions occurring at or prior to the Effective Time (including any Claim arising out of this Agreement or any of the transactions contemplated hereby), whether asserted or claimed prior to, at or after the Effective Time, in each case to the fullest extent permitted under applicable Nevada law, and shall pay any expenses, as incurred, in advance of the final disposition of any such action or proceeding to each

Indemnified Party to the fullest extent permitted under applicable Nevada law. In determining whether an Indemnified Party is entitled to indemnification under this Section 5.15, if requested by such Indemnified Party, such determination shall be made by special, independent counsel selected by Parent and approved by the Indemnified Party (which approval shall not be unreasonably withheld), and who has not otherwise performed services for Parent or any of its Affiliates within the last three years (other than in connection with such matters). Without limiting the foregoing, in the event any such claim, action, suit, proceeding or investigation is brought against any Indemnified Party(ies) (whether arising before or after the Effective Time): (i) Parent shall have the right to control the defense of such matter with Parent's regularly engaged independent legal counsel or other counsel selected by Parent and reasonably satisfactory to the Indemnified Party(ies), and Parent shall pay all reasonable fees and expenses of such counsel; and (ii) the Indemnified Party(ies) shall cooperate with Parent, at Parent's expense, in the defense of any such matter. Parent shall not be liable for any settlement effected without its prior written consent, which consent shall not unreasonably be withheld. In the event of any Claim, any Indemnified Party wishing to claim indemnification shall promptly notify Parent thereof (provided, that failure to so notify Parent shall not affect the obligations of Parent except to the extent that Parent shall have been prejudiced as a result of such failure) and shall deliver to Parent the undertaking contemplated by the applicable provisions of the NRS, but without any requirement for the posting of a bond. Without limiting the foregoing, in the event any such Claim is brought against any of the Indemnified Parties, such Indemnified Party(ies) may retain only one law firm (plus one local counsel, if necessary) to represent them with respect to each such matter unless the use of counsel chosen to represent the Indemnified Parties would present such counsel with a conflict of interest, or the representation of all of the Indemnified Parties by the same counsel would be inappropriate due to actual or reasonably probable differing interests between them, in which case such additional counsel as may be required (as shall be reasonably determined by the Indemnified Parties and Parent) may be retained by the Indemnified Parties at the cost and expense of Parent and Parent shall pay all reasonable fees and expenses of such counsel for such Indemnified Parties. Notwithstanding the foregoing, nothing contained in this Section 5.15 shall be deemed to grant any right to any Indemnified Party which is not permitted to be granted to an officer, director, employee, controlling stockholder or agent of Parent under applicable Nevada law.

(c) From and after the Effective Time, Parent shall cause to be maintained in effect for not less than six years from the Effective Time the current policies of directors' and officers' liability insurance maintained by the Company, but only to the extent related to actions or omissions prior to the Effective Time; provided, that (i) Parent may substitute therefor policies of at least the same coverage containing terms and conditions which are no less advantageous; (ii) such substitution shall not result in gaps or lapses in coverage with respect to matters occurring prior to the Effective Time; and (iii) Parent shall not be required to pay an annual premium in excess of 200% of the last annual premium paid by the Company prior to the date hereof and if Parent is unable to obtain the insurance required by this Section 5.15(c) it shall obtain as much comparable insurance as possible for an annual premium equal to such maximum amount.

(d) Following the Merger, if Parent or any of its successors or assigns (i) consolidates with or merges into any other Person and shall not be the continuing or surviving corporation or entity of such consolidation or merger, or (ii) transfers or conveys all or substantially all of its properties and assets to any Person or Persons, then, and in each such case, proper provision shall be made so that the successors and assigns of Parent and any of their successors and assigns, assume the obligations of the Parties and Parent set forth in this Section 5.15.

(e) This Section 5.15 shall survive the consummation of the Merger at the Effective Time, is intended to benefit the Company and the Indemnified Parties (each of whom may enforce the provisions of this Section 5.15) and shall be binding on the successors and assigns of Parent.

Section 5.16 *Employees; Employee Benefits.*

(a) For a period of six months following the Closing Date, the Company or its Subsidiaries shall, subject to earlier termination of employment for cause (as determined in accordance with the definition of "cause" set forth in the Company's Extraordinary Transaction Compensation Policy) or by voluntary termination, continue to provide those Persons (other than Persons currently covered by written employment agreements) who are employed by the Company or any of its Subsidiaries immediately prior to the Effective Time (the "*Continuing Employees*"), with employment at respective levels of base salary and incentive and bonus opportunities (but not equity compensation) and benefits (including vacation, paid time off, medical, dental, vision, life, accidental death and dismemberment and disability benefits) that are substantially comparable, in the aggregate to each Continuing Employee, to those provided by the Target Companies immediately prior to the Effective Time; provided, that on and after October 1, 2005, each such Continuing Employee may, at the option of Parent, be enrolled in one or more of the Parent Employee Benefit Plans (with benefits of similarly situated employees of Parent and its Subsidiaries) rather than in any remaining Company Employee Benefit Plans. The Continuing Employees shall be eligible to participate in Parent's 401(k) plan immediately after the Effective Time, according to the terms of Parent's 401(k) plan and applicable law, and with the prior service credit provided for in Section 5.16(b).

(b) The service of each Continuing Employee with the Company or its Subsidiaries (or any predecessor employer) prior to the Effective Time shall be treated as service with Parent and its Subsidiaries for purposes of each Parent Employee Benefit Plan (including retirement, vacation, paid time off and severance plans) in which such Continuing Employee is eligible to participate after the Effective Time, including for purposes of eligibility, vesting and benefit levels and accruals (other than defined benefit pension plan accruals).

(c) Following the Effective Time, Parent shall, or shall cause its Subsidiaries to, (i) waive any pre-existing condition, exclusion, actively-at-work requirements or waiting periods and (ii) provide full credit for any co-payments, deductibles or similar payments made or incurred prior to the Effective Time (or, if later, any applicable plan transition date) for the plan year in which the Effective Time (or such transition date) occurs, in each case for purposes of each Parent Plan in which any Continuing Employee or his or her eligible dependents is eligible to participate after the Effective Time.

(d) Parent shall, and shall cause its Subsidiaries to, honor, in accordance with its terms (but without duplication or multiple effect), each severance policy or plan listed on Section 5.16(d) of the Company Disclosure Schedule and all obligations thereunder, including any rights or benefits arising as a result of the transactions contemplated hereby (either alone or in combination with any other event); provided that the period of time during which severance may be triggered under any severance policy or plan listed on Section 5.16(d) of the Company Disclosure Schedule (without duplication or multiple effect) shall be extended, with respect to each Continuing Employee to which such policy or plan applies, for the period of such Continuing Employee's actual employment with the Company or its Subsidiaries after Closing (up to a maximum extension of six months for all covered participants under the Magnum Hunter Resources, Inc. Employee Severance Policy and all covered participants under the Magnum Hunter Resources, Inc. Extraordinary Transaction Compensation Policy who are entitled to receive, as a Termination Payment thereunder, three months or less of Base Salary (as defined therein)). Parent hereby acknowledges that the consummation of the Merger constitutes a change of control, change in control or extraordinary transaction, as the case may be, for all purposes under such Company Employee Benefit Plans.

(e) Notwithstanding anything herein to the contrary, the Company shall be entitled to (i) amend, modify or terminate any nonqualified deferred compensation plan (as defined in Section 409A of the Code) maintained by any of the Target Companies prior to the Effective Time, as determined by the Company (with the approval of Parent), in order to comply with any rules, regulations or other guidance promulgated by any Governmental Entity under Section 409A of the Code or otherwise to avoid the imposition of any Tax or interest penalty on any participant therein under Section 409A of the Code and (ii) adopt and operate a nonqualified deferred compensation plan that will provide for the deferral of compensation in taxable years beginning on and after January 1, 2005, in lieu of deferral of such compensation under any nonqualified deferred compensation plan in existence as of the date hereof, and having such other terms and conditions as are substantially similar to the terms of any such existing nonqualified deferred compensation plan and are in compliance with Section 409A of the Code. Following the Effective Time, Parent shall not, and shall not permit any of its Subsidiaries or any of its or their respective employees to, take any action or omit to take any action that results, or would be reasonably likely to result, in the imposition of any Tax or interest penalty under Section 409A of the Code on any current or former participant in any such existing or new nonqualified deferred compensation plan, including any "material modification" (within the meaning of Section 885(d)(2)(B) of the American Jobs Creation Act of 2004) of any such nonqualified deferred compensation plan with respect to amounts deferred in taxable years beginning before January 1, 2005. Parent shall indemnify and hold harmless each such participant on an after-tax basis from any Tax or interest penalty imposed under Section 409A of the Code to the extent imposed as a result of any such act or omission.

(f) The parties agree that the consummation of the transactions contemplated by this Agreement shall constitute a "Change in Control" as defined in those employment agreements entered into among the Company, Gruy Petroleum Management Co. and certain executives as identified on Section 5.16(f) of the Company Disclosure Schedule and that on and after the Effective Time such executives shall have "Good Reason" to voluntarily terminate employment in accordance with such agreements, which termination shall entitle such executives to lump sum termination payments, benefits continuation and other benefits pursuant to Sections 8(c)-(e) of such agreements. The lump sum termination payments payable to the executives upon voluntary termination of employment pursuant to Section 8(c) of the employment agreements are set forth on Section 5.16(f) of the Company Disclosure Schedule.

(g) The parties agree that the consummation of the transactions contemplated by this Agreement shall constitute a "Change of Control" as defined in the Company's Outside Director Policy and that the removal of the Company's directors as of the Effective Time as provided in Section 2.3(c) of this Agreement entitles the outside directors of the Company to additional compensation pursuant to Section 3.1 of such policy. The additional compensation payable to each outside director pursuant to Section 3.1 of the Company's Outside Director Policy is set forth on Section 5.16(g) of the Company Disclosure Schedule. Company Stock Options held by outside directors of the Company shall be cashed out in accordance with the provisions of Section 2.4(c)(iii) of this Agreement.

(h) Payments required to be made under the executive employment agreements described in Section 5.16(f) and the Company's Outside Director Policy and the other severance policies or plans described in Section 5.16(d) shall be made at the time provided in such agreements, policies or plans, or, if time of payment is not provided for, within 5 days of an employee or director satisfying the requirements for entitlement to such payments; provided, however, that any payments subject to Section 409A of the Code and related rules, regulations or other guidance made to a key employee (as defined in Code Section 416(i) without regard to subsection (5) thereof) shall be made at a time that will not result in the imposition of any Tax or interest

penalty under Section 409A of the Code, even if compliance with Section 409A of the Code will result in a delay in payment.

(i) To the extent that any employment agreement or written Company policy does not already so specifically provide, if any of the persons set forth on Section 5.16(i) of the Company Disclosure Schedule pays or becomes obligated to pay any excise tax under Section 4999 of the Code on any payment he receives (whether under any such employment agreement, policy or otherwise, and including but not limited to the value of accelerated vesting of Company Stock Options) in connection with the transactions contemplated by this Agreement, the parties agree that the Company shall pay to such person an amount equal to the total excise tax paid or payable.

Section 5.17 *Parent Board of Directors.* At the Effective Time, Parent shall cause one then existing member of the Company's Board of Directors selected by Parent to be elected to the Board of Directors of Parent.

Section 5.18 *Registration Statements Relating to Company Warrants and Company Convertible Notes.* Prior to the Effective Time, Parent shall file with the SEC a registration statement on Form S-3 with respect to the shares of Parent Common Stock to be issued upon exercise of the Company Warrants (if reasonably expected to be outstanding at the Effective Time in accordance with their currently existing terms) and conversion of the Company Convertible Notes. Parent shall use all reasonable efforts to have such registration statement become effective at the Effective Time and to maintain the effectiveness of such registration statement (and maintain the current status of the related prospectus) for so long as any Company Warrants and Company Convertible Notes remain outstanding in accordance with their currently existing terms. The provisions of this Section 5.18 are intended to be for the benefit of, and shall be enforceable by, the Parties and each holder of a Company Warrant and their respective heirs and representatives. To the extent required by applicable securities law and regulations, Parent shall also file with the SEC a registration statement with respect to the Company Warrants and Company Convertible Notes.

Section 5.19 *Bank Credit Agreements.* Each of Parent and the Company shall use its reasonable best efforts to obtain, on or before the Closing Date: (a) any required consents of the lenders under the Parent Bank Credit Agreement and the Company Bank Credit Agreement, respectively, to the Merger and the other transactions contemplated by this Agreement (which in the case of the Company Bank Credit Agreement shall include the lenders' consent to the TEL Distribution and the lenders' agreement to waive any default that could arise if any of the holders of the Company Convertible Notes exercises its right to convert or to have the Company repurchase its Notes); or (b) a new credit facility for Parent in an amount sufficient to pay off all then outstanding indebtedness under both the Parent Bank Credit Agreement and the Company Bank Credit Agreement and provide a similar amount of borrowing capacity as the Parent Bank Credit Agreement and the Company Bank Credit Agreement.

Section 5.20 *Tax Matters.*

(a) Parent, Merger Sub and the Company shall each, and shall cause its respective subsidiaries to, use its reasonable efforts to cause the Merger to qualify as a "reorganization" within the meaning of Section 368(a) of the Code and to obtain the Tax opinions set forth in Section 6.2(d) and Section 6.3(c). Parent, Merger Sub and the Company agree to file all Tax Returns consistent with the treatment of the Merger as a "reorganization" within the meaning of Section 368(a) of the Code. This Agreement is intended to constitute a "plan of reorganization" within the meaning of Treasury Regulation Section 1.368-2(g).

(b) Officers of Parent, Merger Sub and the Company shall execute and deliver to Thompson & Knight LLP, Tax counsel for the Company, and Holme Roberts & Owen LLP, Tax counsel for Parent, certificates substantially in the form agreed to by the Parties and such law firms

at such time or times as may reasonably be requested by such law firms, including prior to the time the Registration Statement is declared effective by the SEC and the Effective Time, in connection with such Tax counsel's respective delivery of opinions pursuant to Section 6.2(d) and Section 6.3(c). Each of Parent, Merger Sub and the Company shall use its reasonable best efforts not to take or cause to be taken any action that would cause to be untrue (or fail to take or cause not to be taken any action which would cause to be untrue) any of the certifications and representations included in the certificates described in this Section 5.20.

Section 5.21 *Termination of the Company Stock Ownership Plan.* The Company sponsors and maintains the Company 401(k) Employee Stock Ownership Plan (the "*KSOP*"). Prior to the Closing Date, the Board of Directors of the Company shall take all such action as may be necessary to terminate the KSOP effective as of a date prior to the Closing Date. As soon as practicable after the date hereof, the current trustee of the KSOP shall be replaced by a qualified institutional trustee selected by the Company and acceptable to Parent. On or prior to the termination date, the new trustee of the KSOP shall cause the KSOP to repay any existing loan(s) of the KSOP (in accordance with the terms of the loan, the terms of the KSOP, applicable law and in a manner mutually acceptable to the Company and Parent) and the plan administrator shall allocate any unallocated assets remaining after the loan is repaid in accordance with the terms of the KSOP document and applicable law. Upon the termination date, the accounts of all participants affected by the termination shall become fully vested and the plan administrator of the KSOP shall direct the trustee of the trust related to the KSOP to distribute the assets remaining in the trust, after payment of any expenses properly allocable thereto and after receipt of a determination letter from the Internal Revenue Service to the effect that the termination of the KSOP will not adversely affect its qualified status, to participants and beneficiaries in proportion to their respective account balances; provided, however, that distributions will not be delayed until after receipt of a favorable determination letter with respect to those participants who are otherwise entitled to a distribution under the KSOP by reason of death, disability, retirement, termination of employment or any other reason permitted under the terms of the KSOP (other than plan termination). Except as otherwise provided in the KSOP, any distributions made after termination of the KSOP may be made, in whole or in part, in cash or in kind; provided, however, that participants shall have the right, as provided in the KSOP document, to demand payment from their vested KSOP Accounts under the KSOP in the form of Company Common Stock or if the distribution occurs after the Closing Date, Parent Common Stock (except to the extent of the value of any factional shares, which shall be distributed in cash). The termination of the KSOP and the exercise of all rights, including but not limited to voting, appurtenant to Company stock in the KSOP shall be effected in a manner mutually acceptable to Company and Parent. Parent agrees to take all such action as may be necessary to permit rollovers of participant distributions from the KSOP to a defined contribution plan maintained by Parent or one of its Subsidiaries, provided that such defined contribution plan shall be required to accept a direct rollover in kind only to the extent permitted under the terms of such plan.

Section 5.22 *SOX 404 Certification.* Each of the Company and Parent shall complete and include in its Annual Report on Form 10-K for the year ending December 31, 2004, management's assessment of the Company's internal controls and procedures for financial reporting in accordance with Section 404 of SOX.

Section 5.23 *Reserve Data.* Each of the Company and Parent shall deliver to the other Party, promptly after filing with the SEC its respective Annual Report on Form 10-K for the year ending December 31, 2004, a true and complete copy of all oil and gas reserve data supporting the oil and gas reserve disclosures by such Party in its respective Annual Report.

Section 5.24 *Dividend of TEL Offshore Trust Units.*

(a) Prior to the tenth day before the date of the Company Meeting, the Board of Directors of the Company may declare a distribution (the "*TEL Distribution*") of trust units of TEL Offshore

Trust (the "*TEL Units*") to the holders of Company Common Stock, with each share of Company Common Stock entitled to receive that number of TEL Units equal to the quotient obtained by dividing the number of TEL Units owned by the Company on the TEL Distribution Record Date by the number of then outstanding shares of Company Common Stock; provided, however, that the Company may pay cash in lieu of fractional TEL Units or, in any jurisdiction in which the Company reasonably determines on the advice of counsel that distribution of the TEL Units is inadvisable under applicable state "blue sky" laws (provided, that the Company shall use its reasonable best efforts beginning as soon as practicable following the date hereof to pursue diligently appropriate registrations or exemptions in such jurisdictions) or will likely delay the distribution of the TEL Units beyond the Effective Time. In the event of any stock split, combination, reclassification, share dividend or other event similarly altering or affecting the value of TEL Units, the foregoing shall be adjusted to the extent deemed appropriate by the Board of Directors of the Company, and subject to the reasonable approval of Parent, to accomplish the purposes hereof. The resolutions of the Board of Directors declaring the TEL Distribution and setting forth the terms and conditions described above shall in form and substance be reasonably satisfactory to Parent.

(b) The TEL Distribution shall occur on a date, if at all, prior to the Effective Time and be payable to the holders of record of Company Common Stock at the close of business on the record date fixed by the Company's Board of Directors for the TEL Distribution (the "*TEL Distribution Record Date*").

Section 5.25 *Company Debt Instruments.*

(a) The Company shall provide, or shall cause to be provided, in accordance with the applicable provisions of each of the indentures relating to the Company Convertible Notes and the Company Senior Secured Notes (such Company Convertible Notes and Company Senior Secured Notes, collectively, the "*Notes*" and such indentures, collectively, the "*Indentures*"), to the trustee under each such Indenture and to each Holder (as defined in each respective Indenture), any notices required by the Indentures by virtue of a Change of Control (as defined in each Indenture).

(b) The Surviving Corporation shall, on the Closing Date, execute such supplemental indentures to the Indentures as are required under the Indentures.

(c) The Surviving Corporation shall take all such further actions, including the delivery of any officers' certificates and opinions of counsel required by the Indentures, as may be necessary to comply with all of the terms and conditions of the Indentures.

(d) Parent and the Surviving Corporation shall deliver to all Holders the notices required by the Indentures with respect to the right of the Holders to require repurchase of the Notes and or the conversion thereof upon the occurrence of a Change of Control, and thereafter Parent and the Surviving Corporation shall comply with all other provisions of the Indentures relating to the right of Holders to require repurchase of the Notes and/or the conversion thereof.

Section 5.26 *Conversion of 1996 Preferred.* Prior to the Effective Time, the Company shall cause each of the Company Subsidiaries that is Controlled By the Company and who owns shares of 1996 Preferred to convert all of the issued and outstanding shares of the 1996 Preferred into shares of Company Common Stock, pursuant to the terms set forth in the certificate of designations for the 1996 Preferred.

ARTICLE VI

CONDITIONS

Section 6.1 *Conditions to Each Party's Obligation to Effect the Merger.* The respective obligations of each Party to effect the Merger shall be subject to the satisfaction, at or prior to the Closing Date, of the following conditions, any or all of which may be waived in whole or in part by both Parent and the Company:

(a) *Stockholder Approval.* The Company Proposal shall have been duly and validly approved and adopted by a vote of a majority of the shares of Company Common Stock, all as required by the NRS and the articles of incorporation and bylaws of the Company (the "*Required Company Stockholder Vote*"). The Company Proposal shall have been duly and validly approved and adopted by the stockholders of Parent, all as required by the NRS and the articles of incorporation and bylaws of Parent (the "*Required Parent Stockholder Vote*").

(b) *Approvals of Governmental Authorities.* Any applicable waiting period under the HSR Act shall have expired or been terminated and all filings required to be made prior to the Effective Time with, and all consents, approvals, permits and authorizations required to be obtained prior to the Effective Time from, any Governmental Authority in connection with the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby by the Company, Parent and Merger Sub shall have been made or obtained (as the case may be), except where the failure to obtain any such consents, approvals, permits and authorizations (other than those from the SEC or with respect to the HSR Act) would not be reasonably likely to result in a Material Adverse Effect on Parent (assuming the Merger has taken place) or to materially adversely affect the consummation of the Merger.

(c) *Securities Law Matters.* The Registration Statement shall have been declared effective by the SEC under the Securities Act and shall be effective at the Effective Time, and no stop order suspending such effectiveness shall have been issued, no action, suit, proceeding or investigation by the SEC to suspend such effectiveness shall have been initiated and be continuing, and all necessary approvals under state securities laws relating to the issuance or trading of the Parent Common Stock to be issued in the Merger shall have been received.

(d) *No Injunctions or Restraints.* No temporary restraining order, preliminary or permanent injunction or other order issued by any court of competent jurisdiction or other legal restraint or prohibition preventing the consummation of the Merger shall be in effect; provided, however, that, prior to invoking this condition, each Party shall have complied fully with its obligations under Section 5.9 and, in addition, shall have used all reasonable efforts to have any such decree, ruling, injunction or order vacated, except as otherwise contemplated by this Agreement.

(e) *Stock Exchange Listing.* The shares of Parent Common Stock to be issued in the Merger and upon exercise of the Company Stock Options and the Company Warrants shall have been authorized for listing on Parent's primary National Stock Exchange, subject to official notice of issuance. The Company Warrants shall have been authorized for listing on Parent's primary National Stock Exchange.

Section 6.2 *Conditions to Obligations of Parent and Merger Sub.* The obligations of Parent and Merger Sub to effect the Merger are subject to the satisfaction of the following conditions, any or all of which may be waived in whole or in part by Parent and Merger Sub:

(a) *Representations and Warranties.* The representations and warranties of the Company set forth in ARTICLE III shall, taken individually and together, be true and correct in all

respects (provided that any representation or warranty contained therein that is qualified by a materiality standard or a Material Adverse Effect qualification or a knowledge qualification, or qualification of like effect, shall not be deemed to be so qualified for purposes of compliance with this condition) as of the date of this Agreement and (except to the extent such representation or warranty speaks only as of an earlier date) as of the Closing Date as though made on and as of that time, and Parent shall have received a certificate signed by a Responsible Officer of the Company to such effect; provided, however, that the condition set forth in this Section 6.2(a) shall be deemed to be satisfied even if one or more of such representations and warranties are not true and correct, so long as the failure of such representations and warranties (without, as set forth above, giving effect to the individual materiality thresholds or qualifications (such as, without limitation, a Material Adverse Effect qualification) or knowledge qualifications otherwise included as a part of such representations and warranties) to be true and correct (individually or in the aggregate) has not had and would not be reasonably likely to have or result in a Material Adverse Effect on the Company or materially adversely affect the ability of the Company to consummate the transactions contemplated hereby.

(b) *Performance of Covenants and Agreements by the Company.* The Company shall have performed in all material respects all covenants and agreements required to be performed by it under this Agreement at or prior to the Closing Date, and Parent shall have received a certificate signed by a Responsible Officer of the Company to such effect.

(c) *No Material Adverse Change.* From the date of this Agreement through the Closing, there shall not have occurred any Material Adverse Effect on the Target Companies, taken as a whole.

(d) *Tax Opinion.* Parent shall have received an opinion (reasonably acceptable in form and substance to Parent) from counsel selected by Parent, on the date on which the Registration Statement is declared effective by the SEC and on the Closing Date, in each case dated as of such respective date, to the effect that (i) the Merger will be treated for United States federal income tax purposes as a reorganization within the meaning of Section 368(a) of the Code, (ii) each of Parent, the Company and Merger Sub will be a party to the reorganization within the meaning of Section 368(b) of the Code, (iii) no gain or loss will be recognized by Parent, the Company or Merger Sub as a result of the Merger, and such opinion shall not have been withdrawn, revoked or modified. Such opinion may be based upon customary assumptions and on representations of the Parties and stockholders of the Parties. If Parent does not receive such opinion from such counsel, the Company has the right to provide such opinion from its counsel, and if so provided, then the condition contained in this Section 6.2(d) shall be deemed to have been satisfied.

(e) *Rights Agreement.* Neither this Agreement nor consummation of the Merger shall have caused or shall cause any of the Company Rights to become exercisable or to be distributed.

(f) *Consents.* All consents and approvals required to be obtained by any of the Target Companies prior to the Effective Time from any Persons (other than any Governmental Authority) in connection with the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby shall have been made or obtained, except to the extent that the failure to obtain such consents and approvals, individually or in the aggregate, has not had and would not be reasonably likely to have or result in a Material Adverse Effect on the Target Companies, taken as a whole, or materially adversely affect the consummation of the transactions contemplated hereby.

Section 6.3 *Conditions to Obligation of the Company.* The obligation of the Company to effect the Merger is subject to the satisfaction of the following conditions, any or all of which may be waived in whole or in part by the Company:

(a) *Representations and Warranties.* The representations and warranties of Parent and Merger Sub set forth in ARTICLE IV shall, taken individually and together, be true and correct in all respects (provided that any representation or warranty contained therein that is qualified by a materiality standard or a Material Adverse Effect qualification or a knowledge qualification, or qualification of like effect, shall not be deemed to be so qualified for purposes of compliance with this condition) as of the date of this Agreement and (except to the extent such representation or warranty speaks only as of an earlier date) as of the Closing Date as though made on and as of that time, and the Company shall have received a certificate signed by a Responsible Officer of Parent to such effect; provided, however, that the condition set forth in this Section 6.3(a) shall be deemed to be satisfied even if one or more of such representations and warranties are not true and correct, so long as the failure of such representations and warranties (without, as set forth above, giving effect to the individual materiality thresholds or qualifications (such as, without limitation, a Material Adverse Effect qualification) or knowledge qualifications otherwise included as a part of such representations and warranties) to be true and correct (individually or in the aggregate) has not had and would not be reasonably likely to have or result in a Material Adverse Effect on Parent or materially adversely affect the ability of the Parent and Merger Sub to consummate the transactions contemplated hereby.

(b) *Performance of Covenants and Agreements by Parent and Merger Sub.* Parent and Merger Sub shall have performed in all material respects all covenants and agreements required to be performed by them under this Agreement at or prior to the Closing Date, and the Company shall have received a certificate signed by a Responsible Officer of Parent to such effect.

(c) *Tax Opinion.* The Company shall have received an opinion (reasonably acceptable in form and substance to the Company) from counsel selected by the Company, on the date on which the Registration Statement is declared effective by the SEC and on the Closing Date, in each case dated as of such respective date, to the effect that (i) the Merger will be treated for United States federal income tax purposes as a reorganization within the meaning of Section 368(a) of the Code, (ii) each of Parent, the Company and Merger Sub will be a party to the reorganization within the meaning of Section 368(b) of the Code, (iii) no gain or loss will be recognized by Parent, the Company and Merger Sub as a result of the Merger, and (iv) no gain or loss, except with respect to the amount of cash received in lieu of fractional shares by former holders of Company Common Stock and except with respect to any cash received by any Dissenting Stockholder, will be recognized by a stockholder of the Company as a result of the Merger, and such opinion shall not have been withdrawn, revoked or modified. Such opinion may be based upon customary assumptions and on representations of the Parties and stockholders of the Parties. If the Company does not receive such opinion from such counsel, Parent has the right to provide such opinion from its counsel, and if so provided, then the condition contained in this Section 6.3(c) shall be deemed to have been satisfied.

(d) *No Material Adverse Change.* From the date of this Agreement through the Closing, there shall not have occurred any Material Adverse Effect on the Parent Companies, taken as a whole.

(e) *Rights Agreement.* Neither this Agreement nor consummation of the Merger shall have caused or shall cause any of the Parent Rights to become exercisable or to be distributed.

(f) *Delivery of Transfer Instructions.* Parent shall have delivered to its authorized transfer agent an irrevocable letter of instruction in a form reasonably satisfactory to the Company authorizing and directing the transfer to holders of shares of Company Common Stock one or more Parent Certificates representing those shares of Parent Common Stock to be issued to such holders upon surrender of such holders' certificates representing such shares of Company Common Stock.

(g) *Consents.* All consents and approvals required to be obtained by any of the Parent Companies prior to the Effective Time from any Persons (other than any Governmental Authority) in connection with the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby shall have been made or obtained, except to the extent that the failure to obtain such consents and approvals, individually or in the aggregate, has not had and would not be reasonably likely to have or result in a Material Adverse Effect on the Parent Companies, taken as a whole, or materially adversely affect the consummation of the transactions contemplated hereby.

ARTICLE VII

TERMINATION

Section 7.1 *Termination Rights.* This Agreement may be terminated and the Merger may be abandoned at any time prior to the Effective Time, whether before or after the Required Company Stockholder Vote or the Required Parent Company Vote, respectively:

(a) By mutual written consent of Parent and the Company;

(b) By either the Company or Parent if (i) the Merger has not been consummated by July 25, 2005 (which date shall automatically be extended to October 1, 2005 in the event that the SEC has not declared the Registration Statement effective by June 1, 2005) (provided, however, that the right to terminate this Agreement pursuant to this clause (i) shall not be available to any Party whose breach of any representation or warranty or failure to perform any covenant or agreement under this Agreement has been the cause of or resulted in the failure of the Merger to occur on or before such date); (ii) any Governmental Authority shall have issued an order, decree or ruling or taken any other action permanently restraining, enjoining or otherwise prohibiting the Merger and such order, decree, ruling or other action shall have become final and nonappealable (provided, however, that the right to terminate this Agreement pursuant to this clause (ii) shall not be available to any Party until such Party has used all reasonable efforts to remove such injunction, order or decree); or (iii) the Company Proposal shall not have been approved by (A) the Required Company Stockholder Vote at the Company Meeting or at any adjournment thereof or (B) the Required Parent Stockholder Vote at the Parent Meeting or at any adjournment thereof;

(c) By Parent if (i) there has been a breach of the representations and warranties made by the Company in ARTICLE III of this Agreement such that the condition described in Section 6.2(a) is not met (provided, however, that Parent shall not be entitled to terminate this Agreement pursuant to this clause (i) unless Parent has given the Company notice of such breach and the Company has failed to cure such breach within 10 days following such notice (but in any event not later than July 25, 2005 (which date shall automatically be extended to October 1, 2005 in the event that the SEC has not declared the Registration Statement effective by June 1, 2005)), and the condition described in Section 6.2(a), other than the provision thereof relating to the certificate signed by a Responsible Officer of the Company, would not be satisfied if the Closing

were to occur on the day on which Parent gives the Company notice of such termination); or (ii) the Company has failed to comply in any material respect with any of its covenants or agreements contained in this Agreement and such failure has not been, or cannot be, cured within 10 days after notice and demand for cure thereof (but in any event not later than July 25, 2005 (which date shall automatically be extended to October 1, 2005 in the event that the SEC has not declared the Registration Statement effective by June 1, 2005));

(d) By the Company if (i) there has been a breach of the representations and warranties made by Parent and Merger Sub in ARTICLE IV of this Agreement such that the condition described in Section 6.3(a) is not met (provided, however, that the Company shall not be entitled to terminate this Agreement pursuant to this clause (i) unless the Company has given Parent notice of such breach and Parent has failed to cure such breach within 10 days following such notice (but in any event not later than July 25, 2005 (which date shall automatically be extended to October 1, 2005 in the event that the SEC has not declared the Registration Statement effective by June 1, 2005)), and the condition described in Section 6.3(a), other than the provision thereof relating to the certificate signed by a Responsible Officer of Parent, would not be satisfied if the Closing were to occur on the day on which the Company gives Parent notice of such termination); or (ii) Parent or Merger Sub has failed to comply in any material respect with any of its respective covenants or agreements contained in this Agreement, and, in either such case, such breach or failure has not been, or cannot be, cured within 10 days after notice and a demand for cure thereof (but in any event not later than July 25, 2005 (which date shall automatically be extended to October 1, 2005 in the event that the SEC has not declared the Registration Statement effective by June 1, 2005));

(e) by Parent, if

(i) the Board of Directors of the Company shall have withdrawn or modified or amended in any respect adverse to Parent its adoption of or recommendation in favor of this Agreement or the Merger or shall have failed to make such favorable recommendation;

(ii) the Board of Directors of the Company (or any committee thereof) shall have recommended to the stockholders of the Company any Takeover Proposal or shall have resolved to, or publicly announced an intention to, do so; or

(iii) the Company shall have commited a willful, material breach of Section 5.4.

(f) by the Company, if prior to the Company Meeting, (A) the Company shall not have breached Section 5.4 in any material respect, (B) the Board of Directors of the Company authorizes the Company, subject to complying with the terms of Section 5.4 and Section 7.1(f), to enter into a binding written agreement concerning a transaction that constitutes a Superior Proposal and the Company notifies Parent in writing that it intends to enter into such an agreement, attaching the most current version of such agreement to such notice and (C) the Company prior to such termination pays to Parent in immediately available funds any fees required to be paid pursuant to Section 7.3.

The party desiring to terminate this Agreement shall give written notice of such termination to the other party.

Section 7.2 *Effect of Termination.* If this Agreement is terminated by either the Company or Parent pursuant to the provisions of Section 7.1, this Agreement shall forthwith become void except for, and there shall be no further obligation on the part of any Party or its respective Affiliates, directors, officers or stockholders except pursuant to, the provisions of Section 5.3(c) (but only to the extent of the confidentiality and indemnification provisions contained therein), Section 5.7(c), Section 5.7(d), Section 5.14 and Section 7.3, ARTICLE VIII and the Confidentiality Agreement (which shall continue pursuant to their terms); provided, however, that a termination of this Agreement shall

not relieve any Party from any liability for damages incurred as a result of a willful breach by such Party of its representations, warranties, covenants, agreements or other obligations hereunder occurring prior to such termination.

Section 7.3 *Fees and Expenses.* If (i) this Agreement is terminated pursuant to Section 7.1(e) or Section 7.1(f) or (ii) (A) a Takeover Proposal in respect of the Company is publicly announced or is proposed or offered or made to the Company or the Company's stockholders prior to this Agreement having been approved by the Required Company Stockholder Vote, (B) this Agreement is terminated by either party, as applicable, pursuant to Section 7.1(b) (solely with respect to the failure to obtain the Required Company Stockholder Vote without breach by the Company of its obligations under Section 5.4) and (C) within 12 months following such termination the Company shall consummate or enter into, directly or indirectly, an agreement with the proponent of such Takeover Proposal or an Affiliate of such proponent, the Company shall promptly, but in no event later than one business day after termination of this Agreement (or on the date of such consummation or, if earlier, entry into such agreement in the case of (ii) above), pay Parent a fee in immediately available funds of $45,000,000. For purposes of this Section 7.3, the references in the definition of Takeover Proposal to 10% shall be changed to 50%.

ARTICLE VIII

MISCELLANEOUS

Section 8.1 *Nonsurvival of Representations and Warranties.* None of the representations or warranties contained in this Agreement or in any instrument delivered pursuant to this Agreement shall survive the consummation of the Merger.

Section 8.2 *Amendment.* This Agreement may be amended by the Parties at any time before or after the Required Company Stockholder Vote or the Required Parent Stockholder Vote; provided, however, that, after any such approval, no amendment shall be made that by law requires further approval by such stockholders without such further approval. This Agreement may not be amended except by a written instrument signed by an authorized representative of each of the Parties.

Section 8.3 *Notices.* Any notice or other communication required or permitted hereunder shall be in writing and either delivered personally (effective upon delivery), by facsimile transmission (effective on the next day after transmission), by recognized overnight delivery service (effective on the next day after delivery to the service), or by registered or certified mail, postage prepaid and return receipt requested (effective on the third business day after the date of mailing), at the following

addresses or facsimile transmission numbers (or at such other address(es) or facsimile transmission number(s) for a Party as shall be specified by like notice):

To Parent and/or Merger Sub:	Cimarex Energy Co. 1700 Lincoln, Suite 1800 Denver, Colorado 80203 Attention: Paul Korus
with a copy to:	Holme Roberts & Owen LLP 1700 Lincoln, Suite 4100 Denver, Colorado 80203 Attention: Thomas A. Richardson and J. Gregory Holloway
To the Company:	Magnum Hunter Resources, Inc. 600 East Las Colinas Blvd., Suite 1100 Irving, Texas 75039 Attention: Jerry Box
with a copy to:	Thompson & Knight LLP 1700 Pacific Avenue, Suite 3300 Dallas, Texas 75201 Attention: Andrew B. Derman and Joe Dannenmaier

Section 8.4 *Counterparts.* This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement, and shall become effective when one or more counterparts have been signed by each of the Parties and delivered to the other Parties, it being understood that all Parties need not sign the same counterpart.

Section 8.5 *Severability.* Any term or provision of this Agreement that is invalid or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement or affecting the validity or enforceability of any of the terms or provisions of this Agreement in any other jurisdiction. If any provision of this Agreement is so broad as to be unenforceable, such provision shall be interpreted to be only so broad as is enforceable. This Section shall be subject to Section 8.8.

Section 8.6 *Entire Agreement; No Third Party Beneficiaries.* This Agreement (together with the Confidentiality Agreement and the documents and instruments delivered by the Parties in connection with this Agreement): (a) constitutes the entire agreement and supersedes all other prior agreements and understandings, both written and oral, among the Parties with respect to the subject matter hereof; and (b) except as provided in ARTICLE II and Section 5.3(c), Section 5.3(d), Section 5.15, Section 5.16, and Section 5.18, is solely for the benefit of the Parties and their respective successors, legal representatives and assigns and does not confer on any other Person any rights or remedies hereunder.

Section 8.7 *Applicable Law.* This Agreement shall be governed in all respects, including validity, interpretation and effect, by the laws of the State of Delaware regardless of the laws that might otherwise govern under applicable principles of conflicts of laws thereof.

Section 8.8 *No Remedy in Certain Circumstances.* Each Party agrees that, should any court or other competent authority hold any provision of this Agreement or part hereof to be null, void or unenforceable, or order any Party to take any action inconsistent herewith or not to take an action consistent herewith or required hereby, the validity, legality and enforceability of the remaining

provisions and obligations contained or set forth herein shall not in any way be affected or impaired thereby, unless the foregoing inconsistent action or the failure to take any action constitutes a material breach of this Agreement or makes this Agreement impossible to perform, in which case this Agreement shall terminate pursuant to ARTICLE VII. Except as otherwise contemplated by this Agreement, to the extent that a Party took an action inconsistent herewith or failed to take action consistent herewith or required hereby pursuant to an order or judgment of a court or other competent Governmental Authority, such Party shall not incur any liability or obligation unless such Party breached its obligations under Section 5.9 or did not in good faith seek to resist or object to the imposition or entering of such order or judgment.

Section 8.9 *Assignment.* Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any of the Parties (whether by operation of law or otherwise) without the prior written consent of the other Parties. Subject to the preceding sentence, this Agreement shall be binding upon, inure to the benefit of and be enforceable by the Parties and their respective successors and assigns.

Section 8.10 *Waivers.* At any time prior to the Effective Time, the Parties may, to the extent legally allowed: (a) extend the time for the performance of any of the obligations or other acts of the other Parties, (b) waive any inaccuracies in the representations and warranties contained herein or in any document delivered pursuant hereto, and (c) waive performance of any of the covenants or agreements, or satisfaction of any of the conditions, contained herein. Any agreement on the part of a Party to any such extension or waiver shall be valid only if set forth in a written instrument signed by an authorized representative of such Party. Except as provided in this Agreement, no action taken pursuant to this Agreement, including any investigation by or on behalf of any Party, shall be deemed to constitute a waiver by the Party taking such action of compliance with, or reliance on, any representations, warranties, covenants or agreements contained in this Agreement. The waiver by any Party of a breach of any provision hereof shall not operate or be construed as a waiver of any prior or subsequent breach of the same or any other provisions hereof.

Section 8.11 *Confidentiality Agreement.* The Confidentiality Agreement shall remain in full force and effect following the execution of this Agreement until terminated as described in Section 7.2, is hereby incorporated herein by reference, and shall constitute a part of this Agreement for all purposes; provided, however, that any standstill provisions contained therein shall, effective as of the Closing, be deemed to have been waived to the extent necessary for the Parties to consummate the Merger in accordance with the terms of this Agreement. Any and all information received by Parent and the Company pursuant to the terms and provisions of this Agreement shall be governed by the applicable terms and provisions of the Confidentiality Agreement.

Section 8.12 *Incorporation.* Exhibits and Schedules referred to herein are attached to and by this reference incorporated herein for all purposes.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives, on the date first written above.

"Company"
MAGNUM HUNTER RESOURCES, INC.

By: /s/ JERRY BOX
Name: Jerry Box
Title: Chairman

By: /s/ GARY C. EVANS
Name: Gary C. Evans
Title: President and CEO

"Parent"
CIMAREX ENERGY CO.

By: /s/ F. H. MERELLI
Name: F.H. Merelli
Title: Chairman, CEO and President

"Merger Sub"
CIMAREX NEVADA ACQUISITION CO.

By: /s/ F. H. MERELLI
Name: F.H. Merelli
Title: Chairman, CEO and President

AMENDMENT NO. 1

to

AGREEMENT AND PLAN OF MERGER

This Amendment No. 1 to Agreement and Plan of Merger (this "*Amendment*") is made and entered into as of February 18, 2005, by and among Cimarex Energy Co., a Delaware corporation ("*Parent*"), Cimarex Nevada Acquisition Co., a Nevada corporation and a wholly-owned subsidiary of Parent ("*Merger Sub*"), and Magnum Hunter Resources, Inc., a Nevada corporation (the "*Company*").

WHEREAS, the Company, Parent and Merger Sub entered into an Agreement and Plan of Merger dated as of January 25, 2005 by and among such Parties (the "*Merger Agreement*"); and

WHEREAS, the Parties have differing interpretations of the meaning of Section 5.16(d) of the Merger Agreement; and

WHEREAS, due to information unknown to the Parties at the time the Merger Agreement was entered into, with respect to the Company's representations and warranties under Section 3.15(f) of the Merger Agreement, the Company cannot satisfy the condition to closing set forth in Section 6.3(c) of the Merger Agreement as it is currently written; and

WHEREAS, each of the Parties to the Merger Agreement desires to enter into this Amendment in order to amend the above-referenced provisions of the Merger Agreement;

NOW, THEREFORE, in consideration of the foregoing and the respective representations, warranties, covenants and agreements set forth herein and in the Merger Agreement, the parties hereto agree as follows:

ARTICLE 1
AMENDMENTS

Section 1.1 *Employees; Employee Benefits*. Section 5.16(d) of the Merger Agreement shall hereby be amended to read in its entirety as follows:

> "(d) Parent shall, and shall cause its Subsidiaries to, honor, in accordance with its terms (but without duplication or multiple effect), each severance policy or plan listed on Section 5.16(d) of the Company Disclosure Schedule and all obligations thereunder, including any rights or benefits arising as a result of the transactions contemplated hereby (either alone or in combination with any other event); provided that the end of the Transaction Period under the Company's Extraordinary Transaction Compensation Policy shall be extended from the 180th day following the Closing to the first anniversary of the Closing and the period of time during which severance may be triggered under the Company's Employee Severance Policy shall end on the first anniversary of the Closing (and no severance may be triggered under either such policy or plan after such date). With respect to the Company's Employee Severance Policy, the Parties acknowledge and agree that if a Continuing Employee is involuntarily terminated for any reason other than cause, poor performance or refusal to be reassigned (with respect to duties) or if a Continuing Employee voluntarily terminates employment for the reasons set forth in the specific eligibility provisions related to a change in control as provided in the Employee Severance Policy, then such employee shall be entitled to (i) a severance payment equal to one month's base pay for each year of service (up to a maximum of twelve months) payable in accordance with the terms of the first paragraph of Section III of the Employee Severance Policy, (ii) have his or her COBRA premiums reduced to the amount the employee would be required to pay if he or she were an active employee, for a number of months equal to the same number of months of severance pay received by the employee, (iii) an additional payment equal to the pro-rata share of any annual short-term

incentive bonus the employee might have been eligible to receive based on Company and individual performance (with the amount of any such bonus received by such employee during fiscal year 2005 as the base for any such proration), and (iv) a payment equal to the amount of accrued but unused vacation pay and commissions earned to the date of termination of employment. The parties further acknowledge and agree that the Termination Payment under the Company's Extraordinary Transaction Compensation Policy is the "revised stay bonus" listed on the attachment to that policy, and that the amount of the revised stay bonus for each covered employee has previously been furnished to Parent. In addition, in the event that a Continuing Employee's employment is involuntarily terminated other than for cause (as determined in accordance with the definition of "cause" set forth in the Company's Extraordinary Transaction Compensation Policy) on or after the Closing Date but before the end of the 6-month period following the Closing Date, then such employee shall be entitled to receive an additional payment equal to the base salary and incentive bonus opportunities (determined, with respect to bonus, as set forth above) and the value of benefits such employee would have received (absent such involuntary termination) during the remainder of such 6-month period. Parent hereby acknowledges that the consummation of the Merger constitutes a change of control, change in control or extraordinary transaction, as the case may be, for all purposes under such Company Employee Benefit Plans. To the extent not specifically otherwise addressed in this Section 5.16(d), the written terms of the Employee Severance Policy and the Extraordinary Transaction Compensation Policy shall continue to apply."

Section 1.2 *Conditions to Obligations of Parent and Merger Sub*. Section 6.3(c) of the Merger Agreement shall hereby be amended to read in its entirety as follows:

"(c) *Tax Opinion*. The Company shall have received an opinion (reasonably acceptable in form and substance to the Company) from counsel selected by the Company, on the date on which the Registration Statement is declared effective by the SEC and on the Closing Date, in each case dated as of such respective date, to the effect that (i) the Merger will be treated for United States federal income tax purposes as a reorganization within the meaning of Section 368(a) of the Code, (ii) each of Parent, the Company and Merger Sub will be a party to the reorganization within the meaning of Section 368(b) of the Code, (iii) no gain or loss will be recognized by Parent, the Company or Merger Sub as a result of the Merger, (iv) no gain or loss will be recognized by U.S. stockholders of the Company with respect to shares of Company Common Stock or Series A Preferred Stock that are exchanged solely for Parent Common Stock in the Merger, except with respect to the amount of cash received instead of fractional shares of Parent Common Stock by U.S. stockholders of Company Common Stock and except with respect to any cash received by any Dissenting Stockholder, and (v) no gain or loss will be recognized by non-U.S. stockholders of the Company with respect to shares of Company Common Stock that are exchanged solely for Parent Common Stock in the Merger, provided such non-U.S. stockholders have not held (either directly or indirectly, after the application of the constructive ownership rules of Section 318 of the Code as modified by Section 897(c)(6)(C) of the Code) more than 5% of the outstanding shares of Company Common Stock at any time during the shorter of (1) the five-year period ending at the Effective Time of the Merger or (2) the period during which such non-U.S. stockholders held such shares of Company Common Stock, and such opinion shall not have been withdrawn, revoked or modified. Such opinion may be based upon customary assumptions and on representations of the Parties and stockholders of the Parties. If the Company does not receive such opinion from such counsel, Parent has the right to provide such opinion from its counsel, and if so provided, then the condition contained in this Section 6.3(c) shall be deemed to have been satisfied."

Section 1.3 *General*. All references to the "Agreement" in the Merger Agreement shall mean the Merger Agreement as amended by this Amendment. Except as expressly modified by this Amendment,

all provisions of the Merger Agreement remain unmodified and in full force and effect. This Amendment shall be effective as of February 18, 2005.

ARTICLE 2
MISCELLANEOUS

Section 2.1 *Capitalized Terms*. Capitalized terms used but not defined herein shall have the meanings given to such terms in the Merger Agreement.

Section 2.2 *Applicable Law*. This Amendment shall be governed in all respects, including validity, interpretation and effect, by the laws of the State of Delaware regardless of the laws that might otherwise govern under applicable principles of conflicts of laws thereof.

Section 2.3 *Descriptive Headings*. The descriptive headings herein are inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of this Amendment.

Section 2.4 *Counterparts*. This Amendment may be executed in one or more counterparts, all of which shall be considered one and the same agreement, and shall become effective when one or more counterparts have been signed by each of the Parties and delivered to the other Parties, it being understood that all Parties need not sign the same counterpart.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have caused this Amendment to be executed by their duly authorized representatives, on the date first written above.

"Company"
MAGNUM HUNTER RESOURCES, INC.

By: /s/ GARY C. EVANS

Name: Gary C. Evans
Title: President and CEO

"Parent"
CIMAREX ENERGY CO.

By: /s/ F.H. MERELLI

Name: F.H. Merelli
Title: Chairman, CEO and President

"Merger Sub"
CIMAREX NEVADA ACQUISITION CO.

By: /s/ F.H. MERELLI

Name: F.H. Merelli
Title: Chairman, CEO and President

AMENDMENT NO. 2

TO

AGREEMENT AND PLAN OF MERGER

This Amendment No. 2 to Agreement and Plan of Merger (this "*Amendment*") is made and entered into as of April 20, 2005, by and among Cimarex Energy Co., a Delaware corporation ("*Parent*"), Cimarex Nevada Acquisition Co., a Nevada corporation and a wholly-owned subsidiary of Parent ("*Merger Sub*"), and Magnum Hunter Resources, Inc., a Nevada corporation (the "*Company*").

WHEREAS, the Company, Parent and Merger Sub entered into an Agreement and Plan of Merger dated as of January 25, 2005 by and among such Parties, as amended by Amendment No. 1 thereto among such Parties dated as of February 18, 2005 (the "*Merger Agreement*"); and

WHEREAS, in connection with filing Amendment No. 2 to the Registration Statement, each of the Parties to the Merger Agreement desires to enter into this Amendment in order to amend a condition to closing of the Merger Agreement;

NOW, THEREFORE, in consideration of the foregoing and the respective representations, warranties, covenants and agreements set forth herein and in the Merger Agreement, the parties hereto agree as follows:

ARTICLE 1
AMENDMENT

Section 1.1 *Conditions to Obligations of Parent and Merger Sub*. Section 6.3(c) of the Merger Agreement shall hereby be amended to read in its entirety as follows:

"(c) *Tax Opinion*. The Company shall have received an opinion (reasonably acceptable in form and substance to the Company) from counsel selected by the Company, on the date on which the Registration Statement is declared effective by the SEC and on the Closing Date, in each case dated as of such respective date, to the effect that (i) the Merger will be treated for United States federal income tax purposes as a reorganization within the meaning of Section 368(a) of the Code, (ii) each of Parent, the Company and Merger Sub will be a party to the reorganization within the meaning of Section 368(b) of the Code, (iii) no gain or loss will be recognized by Parent, the Company or Merger Sub as a result of the Merger, (iv) no gain or loss will be recognized by U.S. stockholders of the Company with respect to shares of Company Common Stock that are exchanged solely for Parent Common Stock in the Merger, except with respect to the amount of cash received instead of fractional shares of Parent Common Stock by U.S. stockholders of Company Common Stock; (v) no gain or loss should be recognized by U.S. stockholders of the Company with respect to shares of Series A Preferred Stock that are exchanged solely for Parent Common Stock in the Merger, except with respect to any cash received by any Dissenting Stockholder, and (vi) no gain or loss will be recognized by non-U.S. stockholders of the Company with respect to shares of Company Common Stock that are exchanged solely for Parent Common Stock in the Merger, provided such non-U.S. stockholders have not held (either directly or indirectly, after the application of the constructive ownership rules of Section 318 of the Code as modified by Section 897(c)(6)(C) of the Code) more than 5% of the outstanding shares of Company Common Stock at any time during the shorter of (1) the five-year period ending at the Effective Time of the Merger or (2) the period during which such non-U.S. stockholders held such shares of Company Common Stock, and such opinion shall not have been withdrawn, revoked or modified. Such opinion may be based upon customary assumptions and on representations of the Parties and stockholders of the Parties. If the Company does not receive such opinion from such

counsel, Parent has the right to provide such opinion from its counsel, and if so provided, then the condition contained in this Section 6.3(c) shall be deemed to have been satisfied."

Section 1.2 *General*. All references to the "Agreement" in the Merger Agreement shall mean the Merger Agreement as amended by this Amendment. Except as expressly modified by this Amendment, all provisions of the Merger Agreement remain unmodified and in full force and effect. This Amendment shall be effective as of April 20, 2005.

ARTICLE 2
MISCELLANEOUS

Section 2.1 *Capitalized Terms*. Capitalized terms used but not defined herein shall have the meanings given to such terms in the Merger Agreement.

Section 2.2 *Applicable Law*. This Amendment shall be governed in all respects, including validity, interpretation and effect, by the laws of the State of Delaware regardless of the laws that might otherwise govern under applicable principles of conflicts of laws thereof.

Section 2.3 *Descriptive Headings*. The descriptive headings herein are inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of this Amendment.

Section 2.4 *Counterparts*. This Amendment may be executed in one or more counterparts, all of which shall be considered one and the same agreement, and shall become effective when one or more counterparts have been signed by each of the Parties and delivered to the other Parties, it being understood that all Parties need not sign the same counterpart.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have caused this Amendment to be executed by their duly authorized representatives, on the date first written above.

"Company"
MAGNUM HUNTER RESOURCES, INC.

By: /s/ RICHARD R. FRAZIER

Name: Richard R. Frazier
Title: President and CEO

"Parent"
CIMAREX ENERGY CO.

By: /s/ F.H. MERELLI

Name: F.H. Merelli
Title: Chairman, CEO and President

"Merger Sub"
CIMAREX NEVADA ACQUISITION CO.

By: /s/ F.H. MERELLI

Name: F.H. Merelli
Title: Chairman, CEO and President

Annex B

[LETTERHEAD OF LEHMAN BROTHERS INC.]

January 25, 2005

Board of Directors
Cimarex Energy Co.
1700 Lincoln Street
Suite 1800
Denver, Colorado 80203

Members of the Board:

We understand that Cimarex Energy Co. ("Cimarex") and Magnum Hunter Resources, Inc. ("Magnum Hunter") are considering entering into a transaction (the "Proposed Transaction") pursuant to which (i) Magnum Hunter will merge with and into a wholly-owned subsidiary of Cimarex (the "Merger") and (ii) upon effectiveness of the Merger, each share of common stock of Magnum Hunter will be converted into the right to receive 0.415 shares of the common stock of Cimarex (the "Exchange Ratio"). We further understand that prior to the Merger, Magnum Hunter will distribute the units of beneficial interests it holds of the publicly-traded TEL Offshore Trust to its shareholders in the form of a dividend. The terms and conditions of the Merger are set forth in more detail in the draft Agreement and Plan of Merger, dated as of January 24, 2005, among Cimarex, Cimarex Nevada Acquisition Co. and Magnum Hunter (the "Agreement").

We have been requested by the Board of Directors of Cimarex to render our opinion with respect to the fairness, from a financial point of view, to Cimarex of the Exchange Ratio to be paid by Cimarex in the Merger. We have not been requested to opine as to, and our opinion does not in any manner address, Cimarex's underlying business decision to proceed with or effect the Proposed Transaction.

In arriving at our opinion, we reviewed and analyzed: (1) the Agreement and its schedules, and the specific terms of the Merger; (2) publicly available information concerning Cimarex and Magnum Hunter that we believe to be relevant to our analysis, including, without limitation, the Annual Reports on Form 10-K for the year ended December 31, 2003 for each of Cimarex and Magnum Hunter, and the Quarterly Reports on Form 10-Q for the nine-months ended September 30, 2004 for each of Cimarex and Magnum Hunter; (3) financial and operating information with respect to the respective businesses, operations and prospects of Cimarex and Magnum Hunter as furnished to us by Cimarex and Magnum Hunter, respectively; (4) estimates of proved and non-proved reserves generated internally at each of Cimarex and Magnum Hunter (the "Internal Reserve Estimates"), third-party reserve reports for each of Cimarex and Magnum Hunter as of December 31, 2003 (the "Third Party Reserve Reports"), and projected future production, revenue, operating costs and capital investments for each of Cimarex and Magnum Hunter provided to us by the managements of Cimarex and Magnum Hunter, respectively (the "Projected Metrics"); (5) the trading histories of Cimarex common stock and Magnum Hunter common stock from January 22, 2004 to January 21, 2005 and a comparison of those trading histories with each other and with those of other companies that we deemed relevant; (6) a comparison of the historical financial results and present financial condition of Cimarex and Magnum Hunter with each other and with those of other companies that we deemed relevant; (7) a comparison of the financial terms of the Merger with the financial terms of certain other transactions that we deemed relevant; (8) the pro forma impact of the Merger on the future financial performance of Cimarex; (9) the relative contributions of Cimarex and Magnum Hunter to the current and future financial performance of the combined company on a pro forma basis; and (10) published estimates of independent equity research analysts (including Lehman Brothers') with respect to the future financial performance of Cimarex and Magnum Hunter. In addition, we have (i) had discussions with the managements of Cimarex and Magnum Hunter concerning (a) their respective businesses, operations,

assets, financial conditions, reserves, production profiles, hedging levels, exploration programs and prospects and (b) strategic benefits to Cimarex of the Merger and (ii) undertaken such other studies, analyses and investigations as we deemed appropriate.

In arriving at our opinion, we have assumed and relied upon the accuracy and completeness of the financial and other information used by us without assuming any responsibility for independent verification of such information and have further relied upon the assurances of the managements of Cimarex and Magnum Hunter that they are not aware of any facts or circumstances that would make such information inaccurate or misleading. We have not been provided with, and did not have access to, financial projections of Cimarex or Magnum Hunter prepared by the managements of Cimarex and Magnum Hunter, respectively. Accordingly, upon advice of Cimarex, we have assumed that the published estimates of independent equity research analysts are a reasonable basis upon which to evaluate the future financial performance of Cimarex and Magnum Hunter, respectively, and that each of Cimarex and Magnum Hunter will perform substantially in accordance with such estimates. Upon advice of Cimarex and Magnum Hunter, respectively, we have assumed that (i) the Internal Reserve Estimates and the Projected Metrics have been reasonably prepared on a basis reflecting the best currently available estimates and judgments of the managements of Cimarex and Magnum Hunter, respectively, and that the Internal Reserve Estimates and the Projected Metrics will be realized substantially in accordance therewith, and (ii) the Third Party Reserve Reports are a reasonable basis upon which to evaluate the reserve balances at each of Cimarex and Magnum Hunter as of December 31, 2003. In addition, upon the direction of Cimarex, we have not analyzed the merits or the amounts of any actual or potential contingent liabilities of Magnum Hunter or factored them into our analysis in arriving at our opinion. In arriving at our opinion, we have not conducted a physical inspection of the properties and facilities of Cimarex and Magnum Hunter and have not made or obtained from third parties any evaluations or appraisals of the assets or liabilities of Cimarex or Magnum Hunter other than the Third Party Reserve Reports. Upon advice of Cimarex and its legal and accounting advisors, we have assumed that the Merger will qualify as a reorganization within the meaning of Section 368(a) of the Internal Revenue Code of 1986, as amended, and therefore as a tax-free transaction to the stockholders of Cimarex. Our opinion necessarily is based upon market, economic and other conditions as they exist on, and can be evaluated as of, the date of this letter. In addition, we express no opinion as to the price at which shares of common stock of Cimarex or Magnum Hunter actually will trade following announcement of the Merger.

Based upon and subject to the foregoing, we are of the opinion as of the date hereof that, from a financial point of view, the Exchange Ratio to be paid by Cimarex in the Merger is fair to Cimarex.

We have been retained by Cimarex solely to render our opinion in connection with the Proposed Transaction and will receive a fee for our services, a portion of which is contingent upon the consummation of the Merger. In addition, Cimarex has agreed to indemnify us for certain liabilities that may arise out of the rendering of this opinion. We also have performed various investment banking services for Magnum Hunter in the past and have received customary fees for such services. In the ordinary course of our business, we actively trade in the debt and equity securities of Cimarex and Magnum Hunter for our own account and for the accounts of our customers and, accordingly, may at any time hold a long or short position in such securities.

This opinion is for the use and benefit of the Board of Directors of Cimarex and is rendered to the Board of Directors in connection with its consideration of the Merger. This opinion is not intended to be and does not constitute a recommendation to any stockholder of Cimarex or shareholder of Magnum Hunter as to how such stockholder or shareholder should vote with respect to the Merger.

Very truly yours,

/s/ LEHMAN BROTHERS INC.

Annex C

[LETTERHEAD OF DEUTSCHE BANK SECURITIES INC.]

January 25, 2005

Board of Directors
Magnum Hunter Resources, Inc.
600 East Las Colinas Blvd
Dallas, Texas 75039

Gentlemen:

Deutsche Bank Securities Inc. ("Deutsche Bank") has acted as financial advisor to Magnum Hunter Resources, Inc. ("Magnum Hunter" or the "Company") in connection with the proposed combination of Magnum Hunter and Cimarex Energy Co. ("Cimarex") pursuant to the Agreement and Plan of Merger, dated as of January 25, 2005, among Magnum Hunter, Cimarex and Cimarex Nevada Acquisition Co., a wholly owned subsidiary of Cimarex ("Cimarex Merger Sub") (the "Merger Agreement"), which provides, among other things, for the merger of Cimarex Merger Sub with and into Magnum Hunter (the "Transaction"), as a result of which Magnum Hunter will become a wholly owned subsidiary of Cimarex. As set forth more fully in the Merger Agreement, as a result of the Transaction, each share of the Common Stock, par value $0.002 per share, of the Company ("Company Common Stock") other than Magnum Hunter treasury stock will be converted into the right to receive 0.415 shares (the "Exchange Ratio") of Common Stock, par value $0.01 per share, of Cimarex ("Cimarex Common Stock"). The terms and conditions of the Transaction are more fully set forth in the Merger Agreement.

You have requested Deutsche Bank's opinion, as investment bankers, as to the fairness, from a financial point of view, to the holders of the Company Common Stock of the Exchange Ratio**.**

In connection with Deutsche Bank's role as financial advisor to Magnum Hunter, and in arriving at its opinion, Deutsche Bank has reviewed certain publicly available financial and other information concerning the Company and Cimarex and certain internal analyses and other information furnished to it by the Company and Cimarex. Deutsche Bank has also held discussions with members of the senior managements of Magnum Hunter and Cimarex regarding the businesses and prospects of their respective companies and the joint prospects of a combined company. In addition, Deutsche Bank has (i) reviewed the reported prices and trading activity for Magnum Hunter Common Stock and Cimarex Common Stock, (ii) compared certain financial and stock market information for the Company and Cimarex with similar information for certain other companies whose securities are publicly traded, (iii) reviewed the financial terms of certain recent business combinations which it deemed comparable in whole or in part, (iv) reviewed the terms of the Merger Agreement and certain related documents, and (v) performed such other studies and analyses and considered such other factors as it deemed appropriate.

Deutsche Bank has not assumed responsibility for independent verification of, and has not independently verified, any information, whether publicly available or furnished to it, concerning Magnum Hunter or Cimarex, including, without limitation, any financial information, forecasts or projections considered in connection with the rendering of its opinion. Accordingly, for purposes of its opinion, Deutsche Bank has assumed and relied upon the accuracy and completeness of all such information and Deutsche Bank has not conducted a physical inspection of any of the properties or assets, and has not prepared or obtained any independent evaluation or appraisal of any of the assets or liabilities, of Magnum Hunter or Cimarex. With respect to the financial forecasts and projections, including the analyses and forecasts of certain cost savings, operating efficiencies, revenue effects and financial synergies expected by Magnum Hunter and Cimarex to be achieved as a result of the

Transaction (collectively, the "Synergies"), made available to Deutsche Bank and used in its analyses, Deutsche Bank has assumed that they have been reasonably prepared on bases reflecting the best currently available estimates and judgments of the management of Magnum Hunter or Cimarex, as the case may be, as to the matters covered thereby. In rendering its opinion, Deutsche Bank expresses no view as to the reasonableness of such forecasts and projections, including the Synergies, or the assumptions on which they are based. Deutsche Bank's opinion is necessarily based upon economic, market and other conditions as in effect on, and the information made available to it as of, the date hereof.

For purposes of rendering its opinion, Deutsche Bank has assumed that, in all respects material to its analysis, the representations and warranties of Magnum Hunter, Cimarex and Cimarex Merger Sub contained in the Merger Agreement are true and correct, Magnum Hunter, Cimarex and Cimarex Merger Sub will each perform all of the covenants and agreements to be performed by it under the Merger Agreement and all conditions to the obligations of each of Magnum Hunter, Cimarex and Cimarex Merger Sub to consummate the Transaction will be satisfied without any waiver thereof. Deutsche Bank has also assumed that all material governmental, regulatory or other approvals and consents required in connection with the consummation of the Transaction will be obtained and that in connection with obtaining any necessary governmental, regulatory or other approvals and consents, or any amendments, modifications or waivers to any agreements, instruments or orders to which either Magnum Hunter or Cimarex is a party or is subject or by which it is bound, no limitations, restrictions or conditions will be imposed or amendments, modifications or waivers made that would have a material adverse effect on Magnum Hunter or Cimarex or materially reduce the contemplated benefits of the Transaction to Magnum Hunter or the holders of the Company Common Stock. In addition, you have informed Deutsche Bank, and accordingly for purposes of rendering its opinion Deutsche Bank has assumed, that the Transaction will be tax-free to each of Magnum Hunter and Cimarex and their respective stockholders.

Deutsche Bank does not express any opinion as to the price or range of prices at which the Company Common Stock or the Cimarex Common Stock may trade subsequent to the announcement of the Transaction or as to the price or range of prices at which the Cimarex Common Stock may trade subsequent to the consummation of the Transaction.

This opinion is addressed to, and for the use and benefit of, the Board of Directors of Magnum Hunter and is not a recommendation to the stockholders of Magnum Hunter to approve the Transaction. This opinion is limited to the fairness, from a financial point of view, to the holders of the Company Common Stock of the Exchange Ratio, and Deutsche Bank expresses no opinion as to the merits of the underlying decision by Magnum Hunter to engage in the Transaction.

Deutsche Bank will be paid a fee for its services as financial advisor to Magnum Hunter in connection with the Transaction, all of which is contingent upon consummation of the Transaction. We are an affiliate of Deutsche Bank AG (together with its affiliates, the "DB Group"). One or more members of the DB Group have, from time to time, provided investment banking, commercial banking (including extension of credit) and other financial services to Magnum Hunter and Cimarex or their affiliates for which it has received compensation. In the ordinary course of business, members of the DB Group may actively trade in the securities and other instruments and obligations of Magnum Hunter and Cimarex for their own accounts and for the accounts of their customers. Accordingly, the DB Group may at any time hold a long or short position in such securities, instruments and obligations.

Based upon and subject to the foregoing, it is Deutsche Bank's opinion as of the date hereof as investment bankers that the Exchange Ratio is fair, from a financial point of view, to the holders of the Company Common Stock.

Very truly yours,

/s/ DEUTSCHE BANK SECURITIES INC.

DEUTSCHE BANK SECURITIES INC.

Annex D

[LETTERHEAD OF MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED]

January 25, 2005

Board of Directors
Magnum Hunter Resources, Inc.
600 East Las Colinas Blvd, Suite 1100
Irving, TX 75039

Members of the Board of Directors:

Magnum Hunter Resources, Inc. (the "Company"), Cimarex Energy Co. (the "Acquiror") and Cimarex Nevada Acquisition Co., a wholly owned subsidiary of the Acquiror (the "Acquisition Sub"), have entered into an Agreement and Plan of Merger dated as of January 25, 2005 (the "Agreement") pursuant to which the Acquisition Sub will be merged with the Company in a transaction (the "Merger") in which each outstanding share of the Company's common stock, par value $.002 per share (the "Company Shares"), will be converted into the right to receive 0.415 shares (the "Exchange Ratio") of the common stock of the Acquiror, par value $.01 per share (the "Acquiror Shares").

You have asked us whether, in our opinion, the Exchange Ratio is fair from a financial point of view to the holders of the Company Shares.

In arriving at the opinion set forth below, we have, among other things:

(1) Reviewed certain publicly available business and financial information relating to the Company and the Acquiror that we deemed to be relevant;

(2) Reviewed certain information, including financial forecasts, relating to the business, earnings, cash flow, assets, liabilities and prospects of the Company and the Acquiror furnished to us by the Company and the Acquiror, respectively;

(3) Reviewed certain proved reserve data of the Company and the Acquiror as well as information relating to potential future drilling sites and the probable and possible reserves;

(4) Conducted discussions with members of senior management and representatives of the Company and the Acquiror concerning the matters described in clauses 1, 2 and 3 above, as well as their respective businesses and prospects before and after giving effect to the Merger;

(5) Reviewed the market prices and valuation multiples for the Company Shares and the Acquiror Shares and compared them with those of certain publicly traded companies that we deemed to be relevant;

(6) Reviewed the results of operations of the Company and the Acquiror and compared them with those of certain publicly traded companies that we deemed to be relevant;

(7) Compared the proposed financial terms of the Merger with the financial terms of certain other transactions that we deemed to be relevant;

(8) Participated in certain discussions and negotiations among representatives of the Company and the Acquiror and their financial and legal advisors;

(9) Reviewed the potential pro forma impact of the Merger;

(10) Reviewed the Agreement; and

Explanation of Responses:

(11) Reviewed such other financial studies and analyses and took into account such other matters as we deemed necessary, including our assessment of general economic, market and monetary conditions.

In preparing our opinion, we have assumed and relied on the accuracy and completeness of all information supplied or otherwise made available to us, discussed with or reviewed by or for us, or publicly available, and we have not assumed any responsibility for independently verifying such information or undertaken an independent evaluation or appraisal of any of the assets or liabilities of the Company or the Acquiror or been furnished with any such evaluation or appraisal (other than reserve data referred to herein), nor have we evaluated the solvency or fair value of the Company or the Acquiror under any state or federal laws relating to bankruptcy, insolvency or similar matters. In addition, we have not assumed any obligation to conduct any physical inspection of the properties or facilities of the Company or the Acquiror. With respect to the financial forecast information furnished to or discussed with us by the Company or the Acquiror, we have assumed that they have been reasonably prepared and reflect the best currently available estimates and judgment of the Company's or the Acquiror's management as to the expected future financial performance of the Company or the Acquiror, as the case may be. We have further assumed that the Merger will qualify as a tax-free reorganization for U.S. federal income tax purposes.

Our opinion is necessarily based upon market, economic and other conditions as they exist and can be evaluated on, and on the information made available to us as of, the date hereof. We have assumed that in the course of obtaining the necessary regulatory or other consents or approvals (contractual or otherwise) for the Merger, no restrictions, including any divestiture requirements or amendments or modifications, will be imposed that will have a material adverse effect on the contemplated benefits of the Merger.

We are acting as financial advisor to the Company in connection with the Merger and will receive a fee from the Company for our services contingent upon the consummation of the Merger. In addition, the Company has agreed to indemnify us for certain liabilities arising out of our engagement. We have, in the past, provided financial advisory services to the Company and the Acquiror and may continue to do so and have received, and may receive, fees for the rendering of such services. In addition, in the ordinary course of our business, we may actively trade the Company Shares and other securities of the Company, as well as the Acquiror Shares and other securities of the Acquiror, for our own account and for the accounts of customers and, accordingly, may at any time hold a long or short position in such securities.

This opinion is for the use and benefit of the Board of Directors of the Company. Our opinion does not address the merits of the underlying decision by the Company to engage in the Merger and does not constitute a recommendation to any shareholder as to how such shareholder should vote on the proposed Merger or any matter related thereto. In addition, you have not asked us to address, and this opinion does not address, the fairness to, or any other consideration of, the holders of any class of securities, creditors or other constituencies of the Company, other than the holders of the Company Shares.

We are not expressing any opinion herein as to the prices at which the Company Shares or the Acquiror Shares will trade following the announcement or consummation of the Merger.

On the basis of and subject to the foregoing, we are of the opinion that, as of the date hereof, the Exchange Ratio is fair from a financial point of view to the holders of the Company Shares.

Very truly yours,

MERRILL LYNCH, PIERCE, FENNER & SMITH
INCORPORATED

Annex E

STOCKHOLDER VOTING AGREEMENT

THIS STOCKHOLDER VOTING AGREEMENT (this "**Agreement**") is made, entered into, and effective as of January 25, 2005 by and among Cimarex Energy Co., a Delaware corporation (the "**Cimarex**"), and the persons listed on *Schedule A*(*Stockholders*) to this Agreement (each, a "**Stockholder**" and, collectively, the "**Stockholders**").

RECITALS

WHEREAS, concurrently with the execution and delivery of this Agreement, Cimarex, Cimarex Nevada Acquisition Co., a Nevada corporation and a wholly-owned subsidiary of Cimarex ("**Merger Sub**"), and Magnum Hunter Resources, Inc., a Nevada corporation ("**Magnum**"), are entering into an Agreement and Plan of Merger (the "**Merger Agreement**"), which provides, among other things, for the merger of Merger Sub with and into Magnum (the "**Merger**"), all on the terms and subject to the conditions set forth in the Merger Agreement; and

WHEREAS, as an inducement and a condition to entering into the Merger Agreement, Cimarex has required that each Stockholder agree, and each Stockholder has agreed, to enter into this Agreement;

AGREEMENT

NOW, THEREFORE, in and as consideration of and for the foregoing premises and the representations, warranties, agreements, and covenants contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

1. *Definitions*. Any and all capitalized terms used in this Agreement and not otherwise defined in this Agreement shall have the meaning(s) assigned to such term(s) in the Merger Agreement which is incorporated herein by reference.

2. *Voting*. Unless and until this Agreement is terminated:

(a) Each Stockholder shall, at each meeting of the stockholders of Magnum, if any, however called, or in connection with each written consent of the stockholders of Magnum, if any, vote (or cause to be voted) all shares of Company Common Stock then held of record and/or beneficially owned by such Stockholder (the "**Shares**") (to the extent such Stockholder has the right to vote or direct the voting of such Shares), (i) in favor of the Merger, the execution and delivery by Magnum of the Merger Agreement and the approval of the terms thereof and each of the other actions contemplated by the Merger Agreement and this Agreement and any actions required in furtherance thereof and hereof and (ii) against any proposal relating to a Superior Proposal and against any action or agreement that would impede, frustrate, prevent, or nullify this Agreement, or result in a breach in any respect of any covenant, representation, or warranty or any other obligation or agreement of Magnum under the Merger Agreement or which would result in any of the conditions set forth in Article VI of the Merger Agreement not being fulfilled.

(b) Each Stockholder hereby covenants and agrees that, except as contemplated by this Agreement and/or the Merger Agreement, such Stockholder shall not (i) offer to transfer (which term shall include, without limitation, any sale, tender, gift, pledge, assignment or other disposition), transfer, or consent to any transfer of, any of the Shares beneficially owned by such Stockholder (to the extent such Stockholder has the right to dispose of or direct the disposition of such Shares) or any interest therein without the prior written consent of Cimarex, such consent not to be unreasonably withheld, conditioned, or delayed in the case of a gift or similar estate planning transaction (it being understood that Cimarex may decline to consent to any such transfer if the

person acquiring such Shares does not agree to take such Shares subject to the terms of this Agreement), (ii) enter into any contract, option, or other agreement or understanding with respect to any transfer of any such Shares or any interest therein, (iii) grant any proxy, power-of-attorney, or other authorization or consent in or with respect to any such Shares (other than pursuant to and in accordance with this Agreement), (iv) deposit any such Shares into a voting trust or enter into a voting agreement or arrangement with respect to any such Shares (other than pursuant to and in accordance with this Agreement), or (v) take any other action that would make any representation or warranty of such Stockholder contained herein untrue or incorrect in any material respect or in any way restrict, limit, or interfere in any material respect with the performance of the obligations of such Stockholder hereunder or the transactions contemplated hereby or by the Merger Agreement.

(c) Subject to the terms and conditions of this Agreement, each of the parties hereto agrees to use all commercially reasonable efforts to take, or cause to be taken, all actions, and to do, or cause to be done, all things necessary, proper, and/or advisable under applicable laws to consummate and make effective the transactions contemplated by this Agreement. Each party hereto shall promptly consult with the other parties hereto and provide any necessary information and material with respect to all filings made by any party hereto with any Governmental Authority in connection with this Agreement and the transactions contemplated hereby.

(d) Each Stockholder hereby waives any rights of appraisal or rights to dissent from the Merger that such Stockholder may have.

3. *Representations and Warranties of Each Stockholder*. Each Stockholder hereby represents and warrants, severally and not jointly, to Cimarex as follows:

(a) *Ownership of Shares*. Such Stockholder is the "beneficial owner" (as defined in Rule 13d-3 under the Securities Exchange Act of 1934, as amended, which meaning shall apply for all purposes of this Agreement) of, and has the sole power to vote and dispose of, the number of Shares set forth opposite the name of such Stockholder on *Schedule A* (*Stockholders*) hereto and is the beneficial owner of options and/or warrants (collectively, the "**Options**") to purchase the number of shares of Company Common Stock set forth opposite the name of such Stockholder on *Schedule A* (*Stockholders*) hereto, in each case, free and clear of any security interests, liens, charges, encumbrances, equities, claims, options or limitations of whatever nature and free of any other limitation or restriction (including, without limitation, any restriction on the right to vote, sell, or otherwise dispose of such Shares or Options), except, in each case, as may exist by reason of this Agreement or pursuant to applicable law or, in the case of the Options, the restrictions on transferability and/or on exercise or purchase provided for in the applicable option or warrant agreement and/or any related plan, as applicable. The number of Shares and Options set forth opposite the name of such Stockholder on *Schedule A* (*Stockholders*) hereto represents all of the shares of capital stock of Magnum beneficially owned by such Stockholder as of the date of this Agreement.

(b) Such Stockholder has the power and authority to enter into and perform all of such Stockholder's obligations under this Agreement. This Agreement has been duly and validly executed and delivered by such Stockholder and, assuming due execution and delivery by, and enforceability against, Cimarex, constitutes a legal, valid and binding agreement of such Stockholder, enforceable against such Stockholder in accordance with its terms, except as such enforcement may be limited by any equitable defense. There is no beneficiary or holder of a voting trust certificate or other interest of any trust of which such Stockholder is a trustee, or any party to any other agreement or arrangement, whose consent is required for the execution and delivery of this Agreement or the consummation by such Stockholder of the transactions contemplated thereby.

(c) No filing with, and no permit, authorization, consent or approval of, any Governmental Authority is necessary for the execution and delivery of this Agreement by such Stockholder, the consummation by such Stockholder of the transactions contemplated hereby and the compliance by such Stockholder with the provisions hereof and none of the execution and delivery of this Agreement by such Stockholder, the consummation by such Stockholder of the transactions contemplated hereby or compliance by such Stockholder with any of the provisions hereof, except in cases in which any conflict, breach, default or violation described below would not interfere with the ability of such Stockholder to perform such Stockholder's obligations hereunder, shall (i) conflict with or result in any breach of any organizational documents applicable to such Stockholder, (ii) result in a violation or breach of, or constitute (with or without notice or lapse of time or both) a default (or give rise to any third party right of termination, cancellation, modification or acceleration) under, any of the terms, conditions or provisions of any note, loan agreement, bond, mortgage, indenture, license, contract, commitment, arrangement, understanding, agreement or other instrument or obligation of any kind, including, without limitation, any voting agreement, proxy arrangement, pledge agreement, stockholders agreement or voting trust, to which such Stockholder is a party or by which such Stockholder or any properties or assets of such Stockholder may be bound, or (iii) violate any order, writ, injunction, decree, judgment, order, statute, rule or regulation applicable to such Stockholder or any properties or assets of such Stockholder.

(d) Except as permitted by this Agreement, the Shares beneficially owned by such Stockholder and the certificates representing such Shares are now, and at all times during the term hereof shall be, held by such Stockholder, or by a nominee or custodian for the benefit of such Stockholder, free and clear of all liens, proxies, voting trusts or agreements, understandings or arrangements or any other rights whatsoever, except for any such liens or proxies arising hereunder. The transfer by such Stockholder of the Shares to Cimarex in accordance with the terms of the Merger Agreement shall pass to and unconditionally vest in Cimarex good and valid title to all such Shares, free and clear of all liens, proxies, voting trusts or agreements, understandings or arrangements or any other rights whatsoever.

(e) No broker, investment banker, financial advisor or other person is entitled to any broker's, finder's, financial advisor's or other similar fee or commission in connection with, or as a result of, the execution of this Agreement based upon arrangements made by or on behalf of such Stockholder.

4. *Stop Transfer*. Each Stockholder shall request that Magnum not register the transfer (book-entry or otherwise) of any certificate or uncertificated interest representing any of the Shares beneficially owned by such Stockholder, unless such transfer is made in compliance with this Agreement.

5. *Termination*. This Agreement shall terminate with respect to each Stockholder upon the earliest of (a) the Effective Time, (b) the termination of the Merger Agreement, and (c) July 25, 2005 (which date shall automatically be extended to October 1, 2005 in the event that the SEC has not declared the Registration Statement effective by June 1, 2005).

6. *No Limitation*. Notwithstanding any other provision hereof, nothing in this Agreement shall be construed to prohibit any Stockholder, or any officer or affiliate of any Stockholder that is or has been designated as a member of the Board of Directors of Magnum, from taking any action solely in his or her capacity as a member of the Board of Directors of Magnum or from exercising his or her fiduciary duties as a member of such Board of Directors to the extent specifically permitted by the Merger Agreement.

7. *Miscellaneous.*

(a) This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all other prior agreements and understandings, both written and oral, between the parties hereto with respect to the subject matter hereof.

(b) This Agreement shall not be assigned by operation of law or otherwise without the prior written consent of each Stockholder (in the case of an assignment by Cimarex) or Cimarex (in the case of an assignment by any Stockholder); *provided*, *however*, that Cimarex may assign the rights and obligations of Cimarex hereunder to any subsidiary of Cimarex, but no such assignment shall relieve Cimarex of the obligations of Cimarex hereunder.

(c) Without limiting any other rights Cimarex may have hereunder in respect of any transfer of any Shares, each Stockholder agrees that this Agreement and the obligations hereunder shall attach to the Shares beneficially owned by such Stockholder and shall be binding upon any person to which legal or beneficial ownership of such Shares shall pass, whether by operation of law or otherwise, including, without limitation, such Stockholder's heirs, guardians, administrators or successors.

(d) This Agreement may not be amended, changed, supplemented or otherwise modified with respect to any Stockholder except by an instrument in writing signed on behalf of such Stockholder and Cimarex.

(e) All notices, requests, claims, demands and other communications hereunder shall be in writing and shall be given (and shall be deemed to have been duly received if given) by hand delivery or by facsimile transmission with confirmation of receipt, as follows:

If to Cimarex:

Cimarex Energy Co.
1700 Lincoln, Suite 1800
Denver, Colorado 80203
Attention: Paul Korus
Fax: 303.295.3494

with a copy (which shall not constitute notice) to:

Holme Roberts & Owen LLP
1700 Lincoln, Suite 4100
Denver, Colorado 80203
Attention: Thomas A. Richardson and J. Gregory Holloway
Fax: 303.866.0200 and 303.866.0200

If to a Stockholder:

At the addresses and facsimile numbers set forth on *Schedule A* hereto.

with a copy (which shall not constitute notice) to:

Haynes and Boone, LLP
901 Main Street, Suite 3100
Dallas, Texas 75202-3789
Attention: Greg R. Samuel, Esq.
Fax: 214.200.0577

or to such other address or facsimile number as the person to whom notice is given may have previously furnished to the other parties hereto in writing in the manner set forth above.

(f) Whenever possible, each provision or portion of any provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law but if any provision or

portion of any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction such invalidity, illegality or unenforceability shall not affect any other provision or portion of any provision in such jurisdiction, and this Agreement shall be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision or portion of any provision had never been contained herein.

(g) All rights, powers and remedies provided under this Agreement or otherwise available in respect hereof at law or in equity shall be cumulative and not alternative, and the exercise of any thereof by any party shall not preclude the simultaneous or later exercise of any other such right, power or remedy by such party.

(h) The failure of any party hereto to exercise any right, power or remedy provided under this Agreement or otherwise available in respect hereof at law or in equity, or to insist upon compliance by any other party hereto with its obligations hereunder, and any custom or practice of the parties at variance with the terms hereof, shall not constitute a waiver by such party of its right to exercise any such or other right, power or remedy or to demand such compliance.

(i) This Agreement shall be binding upon and inure solely to the benefit of each party hereto, and nothing in this Agreement, express or implied, is intended to confer upon any other person any rights or remedies of any nature whatsoever under or by reason of this Agreement.

(j) This Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware.

(k) The parties agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement in any Delaware state court located in the City of Wilmington or any Federal court located in the United States District Court for the District of Delaware, Wilmington, Delaware, this being in addition to any other remedy to which they are entitled at law or in equity. In addition, each of the parties hereto (i) consents to submit itself to the personal jurisdiction of any Delaware state court located in the City of Wilmington or any Federal court located in the United States District Court for the District of Delaware, Wilmington, Delaware in the event any dispute arises out of this Agreement or any transaction contemplated by this Agreement, (ii) agrees that it shall not attempt to deny or defeat such personal jurisdiction by motion or other request for leave from any such court and (iii) agrees that it shall not bring any action relating to this Agreement or any transaction contemplated by this Agreement in any court other than any such court. The parties hereto irrevocably and unconditionally waive any objection to the laying of venue of any action, suit or proceeding arising out of this Agreement or the transactions contemplated hereby in the courts of the State of Delaware located in the City of Wilmington or in any Federal court located in the United States District Court for the District of Delaware, Wilmington, Delaware, and hereby further irrevocably and unconditionally waive and agree not to plead or claim in any such court that any such action, suit or proceeding brought in any such court has been brought in a inconvenient forum.

(l) The descriptive headings used herein are inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of this Agreement.

(m) This Agreement may be executed in counterparts (by fax or otherwise), each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

(n) Except as otherwise provided herein, each party shall pay its, his or her own expenses incurred in connection with this Agreement.

Remainder of Page Intentionally Left Blank. Signature Page(s) to Follow.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Stockholder Voting Agreement effective as of the date first written above.

Cimarex:

Cimarex Energy Co.

By: /s/ PAUL KORUS

Name: Paul Korus
Title: Vice President and CFO

Stockholders:

/s/ GARY C. EVANS

Gary C. Evans

Jacquelyn Evelyn Enterprises, Inc.

By: /s/ GARY C. EVANS

Name: Gary C. Evans
Title: Secretary

Annex F

Rights of Dissenting Owners

NRS 92A.300 Definitions. As used in NRS 92A.300 to 92A.500, inclusive, unless the context otherwise requires, the words and terms defined in NRS 92A.305 to 92A.335, inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by 1995, 2086)

NRS 92A.305 "Beneficial stockholder" defined. "Beneficial stockholder" means a person who is a beneficial owner of shares held in a voting trust or by a nominee as the stockholder of record.

(Added to NRS by 1995, 2087)

NRS 92A.310 "Corporate action" defined. "Corporate action" means the action of a domestic corporation.

(Added to NRS by 1995, 2087)

NRS 92A.315 "Dissenter" defined. "Dissenter" means a stockholder who is entitled to dissent from a domestic corporation's action under NRS 92A.380 and who exercises that right when and in the manner required by NRS 92A.400 to 92A.480, inclusive.

(Added to NRS by 1995, 2087; A 1999, 1631)

NRS 92A.320 "Fair value" defined. "Fair value," with respect to a dissenter's shares, means the value of the shares immediately before the effectuation of the corporate action to which he objects, excluding any appreciation or depreciation in anticipation of the corporate action unless exclusion would be inequitable.

(Added to NRS by 1995, 2087)

NRS 92A.325 "Stockholder" defined. "Stockholder" means a stockholder of record or a beneficial stockholder of a domestic corporation.

(Added to NRS by 1995, 2087)

NRS 92A.330 "Stockholder of record" defined. "Stockholder of record" means the person in whose name shares are registered in the records of a domestic corporation or the beneficial owner of shares to the extent of the rights granted by a nominee's certificate on file with the domestic corporation.

(Added to NRS by 1995, 2087)

NRS 92A.335 "Subject corporation" defined. "Subject corporation" means the domestic corporation which is the issuer of the shares held by a dissenter before the corporate action creating the dissenter's rights becomes effective or the surviving or acquiring entity of that issuer after the corporate action becomes effective.

(Added to NRS by 1995, 2087)

NRS 92A.340 Computation of interest. Interest payable pursuant to NRS 92A.300 to 92A.500, inclusive, must be computed from the effective date of the action until the date of payment, at the average rate currently paid by the entity on its principal bank loans or, if it has no bank loans, at a rate that is fair and equitable under all of the circumstances.

(Added to NRS by 1995, 2087)

NRS 92A.350 Rights of dissenting partner of domestic limited partnership. A partnership agreement of a domestic limited partnership or, unless otherwise provided in the partnership agreement, an agreement of merger or exchange, may provide that contractual rights with respect to the partnership interest of a dissenting general or limited partner of a domestic limited partnership are available for any class or group of partnership interests in connection with any merger or exchange in which the domestic limited partnership is a constituent entity.

(Added to NRS by 1995, 2088)

NRS 92A.360 Rights of dissenting member of domestic limited-liability company. The articles of organization or operating agreement of a domestic limited-liability company or, unless otherwise provided in the articles of organization or operating agreement, an agreement of merger or exchange, may provide that contractual rights with respect to the interest of a dissenting member are available in connection with any merger or exchange in which the domestic limited-liability company is a constituent entity.

(Added to NRS by 1995, 2088)

NRS 92A.370 Rights of dissenting member of domestic nonprofit corporation.

1. Except as otherwise provided in subsection 2, and unless otherwise provided in the articles or bylaws, any member of any constituent domestic nonprofit corporation who voted against the merger may, without advance notice, but within 30 days after the effective date of the merger, resign from membership and is thereby excused from all contractual obligations to the constituent or surviving corporations which did not occur before his resignation and is thereby entitled to those rights, if any, which would have existed if there had been no merger and the membership had been terminated or the member had been expelled.

2. Unless otherwise provided in its articles of incorporation or bylaws, no member of a domestic nonprofit corporation, including, but not limited to, a cooperative corporation, which supplies services described in chapter 704 of NRS to its members only, and no person who is a member of a domestic nonprofit corporation as a condition of or by reason of the ownership of an interest in real property, may resign and dissent pursuant to subsection 1.

(Added to NRS by 1995, 2088)

NRS 92A.380 Right of stockholder to dissent from certain corporate actions and to obtain payment for shares.

1. Except as otherwise provided in NRS 92A.370 and 92A.390, any stockholder is entitled to dissent from, and obtain payment of the fair value of his shares in the event of any of the following corporate actions:

(a) Consummation of a conversion or plan of merger to which the domestic corporation is a constituent entity:

(1) If approval by the stockholders is required for the conversion or merger by NRS 92A.120 to 92A.160, inclusive, or the articles of incorporation, regardless of whether the stockholder is entitled to vote on the conversion or plan of merger; or

(2) If the domestic corporation is a subsidiary and is merged with its parent pursuant to NRS 92A.180.

(b) Consummation of a plan of exchange to which the domestic corporation is a constituent entity as the corporation whose subject owner's interests will be acquired, if his shares are to be acquired in the plan of exchange.

(c) Any corporate action taken pursuant to a vote of the stockholders to the extent that the articles of incorporation, bylaws or a resolution of the board of directors provides that voting or nonvoting stockholders are entitled to dissent and obtain payment for their shares.

2. A stockholder who is entitled to dissent and obtain payment pursuant to NRS 92A.300 to 92A.500, inclusive, may not challenge the corporate action creating his entitlement unless the action is unlawful or fraudulent with respect to him or the domestic corporation.

(Added to NRS by 1995, 2087; A 2001, 1414, 3199; 2003, 3189)

NRS 92A.390 Limitations on right of dissent: Stockholders of certain classes or series; action of stockholders not required for plan of merger.

1. There is no right of dissent with respect to a plan of merger or exchange in favor of stockholders of any class or series which, at the record date fixed to determine the stockholders entitled to receive notice of and to vote at the meeting at which the plan of merger or exchange is to be acted on, were either listed on a national securities exchange, included in the national market system by the National Association of Securities Dealers, Inc., or held by at least 2,000 stockholders of record, unless:

(a) The articles of incorporation of the corporation issuing the shares provide otherwise; or

(b) The holders of the class or series are required under the plan of merger or exchange to accept for the shares anything except:

(1) Cash, owner's interests or owner's interests and cash in lieu of fractional owner's interests of:

(I) The surviving or acquiring entity; or

(II) Any other entity which, at the effective date of the plan of merger or exchange, were either listed on a national securities exchange, included in the national market system by the National Association of Securities Dealers, Inc., or held of record by a least 2,000 holders of owner's interests of record; or

(2) A combination of cash and owner's interests of the kind described in sub-subparagraphs (I) and (II) of subparagraph (1) of paragraph (b).

2. There is no right of dissent for any holders of stock of the surviving domestic corporation if the plan of merger does not require action of the stockholders of the surviving domestic corporation under NRS 92A.130.

(Added to NRS by 1995, 2088)

NRS 92A.400 Limitations on right of dissent: Assertion as to portions only to shares registered to stockholder; assertion by beneficial stockholder.

1. A stockholder of record may assert dissenter's rights as to fewer than all of the shares registered in his name only if he dissents with respect to all shares beneficially owned by any one person and notifies the subject corporation in writing of the name and address of each person on whose behalf he asserts dissenter's rights. The rights of a partial dissenter under this subsection are determined as if the shares as to which he dissents and his other shares were registered in the names of different stockholders.

2. A beneficial stockholder may assert dissenter's rights as to shares held on his behalf only if:

(a) He submits to the subject corporation the written consent of the stockholder of record to the dissent not later than the time the beneficial stockholder asserts dissenter's rights; and

(b) He does so with respect to all shares of which he is the beneficial stockholder or over which he has power to direct the vote.

(Added to NRS by 1995, 2089)

NRS 92A.410 Notification of stockholders regarding right of dissent.

1. If a proposed corporate action creating dissenters' rights is submitted to a vote at a stockholders' meeting, the notice of the meeting must state that stockholders are or may be entitled to assert dissenters' rights under NRS 92A.300 to 92A.500, inclusive, and be accompanied by a copy of those sections.

2. If the corporate action creating dissenters' rights is taken by written consent of the stockholders or without a vote of the stockholders, the domestic corporation shall notify in writing all stockholders entitled to assert dissenters' rights that the action was taken and send them the dissenter's notice described in NRS 92A.430.

(Added to NRS by 1995, 2089; A 1997, 730)

NRS 92A.420 Prerequisites to demand for payment for shares.

1. If a proposed corporate action creating dissenters' rights is submitted to a vote at a stockholders' meeting, a stockholder who wishes to assert dissenter's rights:

(a) Must deliver to the subject corporation, before the vote is taken, written notice of his intent to demand payment for his shares if the proposed action is effectuated; and

(b) Must not vote his shares in favor of the proposed action.

2. A stockholder who does not satisfy the requirements of subsection 1 and NRS 92A.400 is not entitled to payment for his shares under this chapter.

(Added to NRS by 1995, 2089; 1999, 1631)

NRS 92A.430 Dissenter's notice: Delivery to stockholders entitled to assert rights; contents.

1. If a proposed corporate action creating dissenters' rights is authorized at a stockholders' meeting, the subject corporation shall deliver a written dissenter's notice to all stockholders who satisfied the requirements to assert those rights.

2. The dissenter's notice must be sent no later than 10 days after the effectuation of the corporate action, and must:

(a) State where the demand for payment must be sent and where and when certificates, if any, for shares must be deposited;

(b) Inform the holders of shares not represented by certificates to what extent the transfer of the shares will be restricted after the demand for payment is received;

(c) Supply a form for demanding payment that includes the date of the first announcement to the news media or to the stockholders of the terms of the proposed action and requires that the person asserting dissenter's rights certify whether or not he acquired beneficial ownership of the shares before that date;

(d) Set a date by which the subject corporation must receive the demand for payment, which may not be less than 30 nor more than 60 days after the date the notice is delivered; and

(e) Be accompanied by a copy of NRS 92A.300 to 92A.500, inclusive.

(Added to NRS by 1995, 2089)

NRS 92A.440 Demand for payment and deposit of certificates; retention of rights of stockholder.

1. A stockholder to whom a dissenter's notice is sent must:

(a) Demand payment;

(b) Certify whether he or the beneficial owner on whose behalf he is dissenting, as the case may be, acquired beneficial ownership of the shares before the date required to be set forth in the dissenter's notice for this certification; and

(c) Deposit his certificates, if any, in accordance with the terms of the notice.

2. The stockholder who demands payment and deposits his certificates, if any, before the proposed corporate action is taken retains all other rights of a stockholder until those rights are cancelled or modified by the taking of the proposed corporate action.

3. The stockholder who does not demand payment or deposit his certificates where required, each by the date set forth in the dissenter's notice, is not entitled to payment for his shares under this chapter.

(Added to NRS by 1995, 2090; A 1997, 730; 2003, 3189)

NRS 92A.450 Uncertificated shares: Authority to restrict transfer after demand for payment; retention of rights of stockholder.

1. The subject corporation may restrict the transfer of shares not represented by a certificate from the date the demand for their payment is received.

2. The person for whom dissenter's rights are asserted as to shares not represented by a certificate retains all other rights of a stockholder until those rights are cancelled or modified by the taking of the proposed corporate action.

(Added to NRS by 1995, 2090)

NRS 92A.460 Payment for shares: General requirements.

1. Except as otherwise provided in NRS 92A.470, within 30 days after receipt of a demand for payment, the subject corporation shall pay each dissenter who complied with NRS 92A.440 the amount the subject corporation estimates to be the fair value of his shares, plus accrued interest. The obligation of the subject corporation under this subsection may be enforced by the district court:

(a) Of the county where the corporation's registered office is located; or

(b) At the election of any dissenter residing or having its registered office in this state, of the county where the dissenter resides or has its registered office. The court shall dispose of the complaint promptly.

2. The payment must be accompanied by:

(a) The subject corporation's balance sheet as of the end of a fiscal year ending not more than 16 months before the date of payment, a statement of income for that year, a statement of changes in the stockholders' equity for that year and the latest available interim financial statements, if any;

(b) A statement of the subject corporation's estimate of the fair value of the shares;

(c) An explanation of how the interest was calculated;

(d) A statement of the dissenter's rights to demand payment under NRS 92A.480; and

(e) A copy of NRS 92A.300 to 92A.500, inclusive.

(Added to NRS by 1995, 2090)

NRS 92A.470 Payment for shares: Shares acquired on or after date of dissenter's notice.

1. A subject corporation may elect to withhold payment from a dissenter unless he was the beneficial owner of the shares before the date set forth in the dissenter's notice as the date of the first announcement to the news media or to the stockholders of the terms of the proposed action.

2. To the extent the subject corporation elects to withhold payment, after taking the proposed action, it shall estimate the fair value of the shares, plus accrued interest, and shall offer to pay this amount to each dissenter who agrees to accept it in full satisfaction of his demand. The subject corporation shall send with its offer a statement of its estimate of the fair value of the shares, an explanation of how the interest was calculated, and a statement of the dissenters' right to demand payment pursuant to NRS 92A.480.

(Added to NRS by 1995, 2091)

NRS 92A.480 Dissenter's estimate of fair value: Notification of subject corporation; demand for payment of estimate.

1. A dissenter may notify the subject corporation in writing of his own estimate of the fair value of his shares and the amount of interest due, and demand payment of his estimate, less any payment pursuant to NRS 92A.460, or reject the offer pursuant to NRS 92A.470 and demand payment of the fair value of his shares and interest due, if he believes that the amount paid pursuant to NRS 92A.460 or offered pursuant to NRS 92A.470 is less than the fair value of his shares or that the interest due is incorrectly calculated.

2. A dissenter waives his right to demand payment pursuant to this section unless he notifies the subject corporation of his demand in writing within 30 days after the subject corporation made or offered payment for his shares.

(Added to NRS by 1995, 2091)

NRS 92A.490 Legal proceeding to determine fair value: Duties of subject corporation; powers of court; rights of dissenter.

1. If a demand for payment remains unsettled, the subject corporation shall commence a proceeding within 60 days after receiving the demand and petition the court to determine the fair value of the shares and accrued interest. If the subject corporation does not commence the proceeding within the 60-day period, it shall pay each dissenter whose demand remains unsettled the amount demanded.

2. A subject corporation shall commence the proceeding in the district court of the county where its registered office is located. If the subject corporation is a foreign entity without a resident agent in the state, it shall commence the proceeding in the county where the registered office of the domestic corporation merged with or whose shares were acquired by the foreign entity was located.

3. The subject corporation shall make all dissenters, whether or not residents of Nevada, whose demands remain unsettled, parties to the proceeding as in an action against their shares. All parties must be served with a copy of the petition. Nonresidents may be served by registered or certified mail or by publication as provided by law.

4. The jurisdiction of the court in which the proceeding is commenced under subsection 2 is plenary and exclusive. The court may appoint one or more persons as appraisers to receive evidence and recommend a decision on the question of fair value. The appraisers have the powers described in the order appointing them, or any amendment thereto. The dissenters are entitled to the same discovery rights as parties in other civil proceedings.

5. Each dissenter who is made a party to the proceeding is entitled to a judgment:

(a) For the amount, if any, by which the court finds the fair value of his shares, plus interest, exceeds the amount paid by the subject corporation; or

(b) For the fair value, plus accrued interest, of his after-acquired shares for which the subject corporation elected to withhold payment pursuant to NRS 92A.470.

(Added to NRS by 1995, 2091)

NRS 92A.500 Legal proceeding to determine fair value: Assessment of costs and fees.

1. The court in a proceeding to determine fair value shall determine all of the costs of the proceeding, including the reasonable compensation and expenses of any appraisers appointed by the court. The court shall assess the costs against the subject corporation, except that the court may assess costs against all or some of the dissenters, in amounts the court finds equitable, to the extent the court finds the dissenters acted arbitrarily, vexatiously or not in good faith in demanding payment.

2. The court may also assess the fees and expenses of the counsel and experts for the respective parties, in amounts the court finds equitable:

(a) Against the subject corporation and in favor of all dissenters if the court finds the subject corporation did not substantially comply with the requirements of NRS 92A.300 to 92A.500, inclusive; or

(b) Against either the subject corporation or a dissenter in favor of any other party, if the court finds that the party against whom the fees and expenses are assessed acted arbitrarily, vexatiously or not in good faith with respect to the rights provided by NRS 92A.300 to 92A.500, inclusive.

3. If the court finds that the services of counsel for any dissenter were of substantial benefit to other dissenters similarly situated, and that the fees for those services should not be assessed against the subject corporation, the court may award to those counsel reasonable fees to be paid out of the amounts awarded to the dissenters who were benefited.

4. In a proceeding commenced pursuant to NRS 92A.460, the court may assess the costs against the subject corporation, except that the court may assess costs against all or some of the dissenters who are parties to the proceeding, in amounts the court finds equitable, to the extent the court finds that such parties did not act in good faith in instituting the proceeding.

5. This section does not preclude any party in a proceeding commenced pursuant to NRS 92A.460 or 92A.490 from applying the provisions of N.R.C.P. 68 or NRS 17.115.

(Added to NRS by 1995, 2092)

Annex G

FORM OF AMENDMENT TO
CIMAREX ENERGY CO.
2002 STOCK INCENTIVE PLAN

Cimarex Energy Co., a Delaware corporation (the "Company"), established the Cimarex Energy Co. 2002 Stock Incentive Plan (the "Plan"), effective as of October 1, 2002, and amended the Plan, effective as of March 3, 2003. The Company wishes to amend the Plan as provided below.

Recitals

A. The Plan provides for the grant of equity-based compensation awards, including stock options, restricted stock, and stock units. The Company has granted stock options, restricted, stock, and stock units that are subject to vesting and that, as of the date of this Amendment, have not vested and have not become payable.

B. Section 10.4 of the Plan provides that outstanding awards under the Plan will become fully vested and payable or freely transferable upon the occurrence of a "Change in Control Event" as defined in Section 2.5 of the Plan. The award agreements, including stock options, restricted stock and stock units have incorporated by reference the definition of "Change in Control Event" set forth in Section 2.5 of the Plan.

C. The Company has entered into an Agreement and Plan of Merger (the "Merger Agreement") among the Company, a wholly-owned subsidiary of the Company, and Magnum Hunter Resources, Inc. ("MHR") pursuant to which MHR will become a wholly-owned subsidiary of the Company (the "Transaction"). Pursuant to the Merger Agreement and following the closing of the Transaction, the present stockholders of the Company will own approximately 55% of the Company and it is expected that the current management of the Company will continue to manage the Company.

D. In as much as the current stockholders of the Company will continue to own approximately 55% of the Company and it is expected that the current management of the Company will continue to manage the Company, the Company does not believe that (1) the Transaction will result in a change in the actual operational control of the Company and (2) it was ever intended that a transaction like the Transaction would result in accelerated vesting of stock options granted under the Plan, the accelerated vesting and payout of stock units granted under the Plan, or the accelerated vesting and free transferability of restricted stock granted under the Plan.

E. Section 10.1 provides that the Company's Board of Directors can amend the Plan at any time. Section 10.5 provides that the Company may amend outstanding awards under the Plan; provided that if the amendment is adverse to the holder of the award, the amendment will not be effective without the holder's consent.

F. Some of the holders of the outstanding options, units and restricted stock have waived any rights they may have to accelerated vesting of their options, accelerated vesting and payment of their units, or accelerated vesting and free transferability of their restricted stock if the Transaction closes and have consented to the amendment of the definition of "Change in Control Event" to provide that the Transaction will not be deemed to be a Change in Control Event.

G. As a part of the consideration for the waivers and consents given by the holders of options, units and restricted stock, the Company has agreed to amend the option agreements, unit agreements and restricted stock agreements to provide for full vesting of the options, full vesting and payment of units and full vesting and free transferability of restricted stock if the holder dies or terminates employment on account of "disability" as defined in the Plan. A recent change in the law has changed the definition of "disability" that applies for these purposes. The Company wishes to amend the

definition of "disability" to comply with the change in the law and some of the holders of option, units and restricted stock have consented to the amendment.

H. The Company's Board of Directors has determined that it is in the best interests of the Company to increase the number of shares authorized for issuance under the Plan.

Amendment

1. Section 1.3 shall be amended in its entirety as follows:

SECTION 1.3 ***Shares Subject to the Plan.*** Subject to the limitations set forth in the Plan, the number of shares of common stock reserved for Awards under the Plan is increased from seven million (7,000,000) to twelve million seven hundred thousand (12,700,000).

2. Section 2.1 shall be amended by the addition of a new subsection (v) at the end to provide as follows:

(v) Notwithstanding the foregoing, the closing of the transaction contemplated by the Agreement and Plan of Merger among the Company, a wholly-owned subsidiary of the Company, and Magnum Hunter Resources, Inc. (the "Transaction") shall not be deemed to the be a "Change in Control Event" for purposes of Section 10.4 of this Plan.

3. Section 4.1 shall be amended in its entirety to provide as follows:

SECTION 4.1 ***Committee to Grant Awards.*** The Committee may, from time to time, grant Awards to one or more Participants, provided, however, that:

(i) Subject to Article IX, the aggregate number of shares of Common Stock made subject to the Award of Options to any Participant in any calendar year may not exceed one million (1,000,000).

(ii) Subject to Article IX, in no event shall more than one million (1,000,000) (14%) of the seven million (7,000,000) shares initially subject to the Plan be awarded to Participants as Restricted Stock Awards. Up to one-half of the five million seven hundred thousand (5,700,000) shares added to the Plan upon approval of the stockholders at the meeting held on , 2005, may be awarded to Participants as Restricted Stock Awards. The limits referred to in this Section 4.1(ii) shall be referred to as the Restricted Stock Award Limit.

(iii) Any shares of Common Stock related to Awards that terminate by expiration, forfeiture, cancellation or otherwise without the issuance of shares of Common Stock or are exchanged in the Committee's discretion for Awards not involving Common Stock, and any shares of Common Stock withheld for the payment of taxes pursuant to Section 9.3 or received by the Company as payment of the exercise price of an Option shall be available again for grant under the Plan; provided, however, that no more than twelve million seven hundred thousand (12,700,000) shares of Common Stock may be issued under Incentive Stock Options. Notwithstanding the foregoing, with respect to the five million seven hundred thousand (5,700,000) shares (the "2005 Additional Share Reserve") added upon approval of the stockholders at the meeting held on , 2005, a grant of one share as a Restricted Stock Award or a Stock Unit shall reduce the 2005 Additional Share Reserve by two shares and a grant of one share pursuant to an Option shall reduce the 2005 Additional Share Reserve by one share.

(iv) Common Stock delivered by the Company in payment of any Award under the Plan may be authorized and unissued Common Stock or Common Stock held in the treasury of the Company.

(v) The Committee shall, in its sole discretion, determine the manner in which fractional shares arising under the Plan shall be treated.

(vi) Separate certificates representing Common Stock delivered to a Participant upon the exercise of any Option will be issued to such Participant.

4. Section 10.2 shall be amended by the deletion of the parenthetical in the first sentence that reads "(as defined in Section 22(e) of the Code)" and by the addition of the following at the end:

The Grantee shall be disabled if the Grantee

(i) is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or can be expected to last for a continuous period of not less than 12 months, or

(ii) is, by reason of any medically determinable physical or mental impairment which can be expected to result in death or can be expected to last for a continuous period of not less than 12 months, receiving income replacement benefits for a period of not less than 3 months under an accident and health plan covering employees of the Company.

5. The Amendments in section 2 and section 4 shall be effective only if the Transaction closes.

6. The Amendments in section 2 and section 4 shall apply only to Participants who have consented to the amendments to the Plan by executing and not revoking a written waiver and amendment or other agreement with the Company.

7. The Amendments in section 1 and section 3 shall become effective upon approval by the Company's stockholders at the meeting scheduled for , 2005.

IN WITNESS WHEREOF, this Amendment has been signed this day of , 2005 to be effective as provided above.

CIMAREX ENERGY CO.

By: _____

Name: F. H. Merelli
Title: Chief Executive Officer and President

PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

ITEM 20. INDEMNIFICATION OF DIRECTORS AND OFFICERS

Section 145 of the Delaware General Corporation Law (the "DGCL") provides that a corporation may indemnify directors and officers as well as other employees and individuals against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement in connection with specified actions, suits or proceedings, whether civil, criminal, administrative or investigative (other than an action by or in the right of the corporation a "derivative action"), if they acted in good faith and in a manner they reasonably believed to be in or not opposed to the best interests of the corporation and, with respect to any criminal action or proceedings, had no reasonable cause to believe their conduct was unlawful.

A similar standard is applicable in the case of derivative actions, except that indemnification only extends to expenses (including attorneys' fees) actually and reasonably incurred in connection with the defense or settlement of such action and the statute requires court approval before there can be any indemnification where the person seeking indemnification has been found liable to the corporation. The statute provides that it is not exclusive of other indemnification that may be granted by a corporation's charter, by-laws, disinterested director vote, stockholder vote, agreement or otherwise.

Article V of the Registrant's Amended and Restated Certificate of Incorporation eliminates director liability for monetary damages arising from any breach of the director's duty of care.

Article VIII of the Registrant's By-laws generally provides that, subject to certain limitations, each person who was or is made a party or is threatened to be made a party to or is involved in any threatened, pending or completed legal action, suit or proceeding, whether civil, criminal, administrative or investigative by reason of the fact that he is or was a director, officer or employee of the Registrant or is or was a director, officer or employee of the Registrant or a direct or indirect wholly owned subsidiary of the Registrant or is or was serving at the request of the Registrant as a director, officer, employee or agent of any such subsidiary or another company, savings and loan association, partnership, joint venture, trust, employee benefit plan or other enterprise, shall be indemnified and held harmless by the corporation, to the full extent authorized by the DGCL, against all expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection therewith, provided that such person acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the Registrant (and with respect to a criminal action, had no reason to believe his conduct was unlawful); except that with respect to actions brought by or in the right of the Registrant, no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudicated to be liable to the Registrant, unless and only to the extent that the applicable court determines, upon application, that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses. Such indemnification shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of his or her heirs, executors and administrators. Article VIII provides that the Registrant may pay the expenses incurred in defending any such proceeding in advance of its final disposition upon delivery to the Registrant of an undertaking, by or on behalf of such director, officer, employee or agent to repay such amounts so advanced if it shall ultimately be determined that such person is not entitled to be indemnified under Article VIII.

Both the DGCL and Article VIII of the Registrant's By-laws specifically state that their indemnification provisions shall not be deemed exclusive of any other indemnity rights a director may have.

Section 145 of the DGCL permits a corporation to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such. Under an insurance policy maintained by the Registrant, the Registrant is insured for certain amounts that it may be obligated to pay directors and officers by way of indemnity and each such director and officer is insured against certain losses that he may incur by reason of his being a director or officer and for which he is not indemnified by the Registrant.

ITEM 21. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES

(a)

Exhibits.

The following exhibits are included as exhibits to this Registration Statement:

Exhibit Number	Description
2.1	Agreement and Plan of Merger, dated as of February 23, 2002, among Helmerich & Payne, Inc., Cimarex Energy Co., Mountain Acquisition Co. and Key Production Company, Inc. (filed as Exhibit 2.1 to the Registrant's Registration Statement on Form S-4 dated May 9, 2002 (Registration No. 333-87948) and incorporated herein by reference).
2.2	Agreement and Plan of Merger, dated as of January 25, 2005, among Cimarex Energy Co., Cimarex Nevada Acquisition Sub and Magnum Hunter Resources, Inc. (attached as Annex A to the joint proxy statement/prospectus which forms a part of this registration statement and incorporated herein by reference).
2.3	Amendment No. 1 to Agreement and Plan of Merger, dated as of February 18, 2005, among Cimarex Energy Co., Cimarex Nevada Acquisition Sub and Magnum Hunter Resources, Inc. (attached as Annex A to the joint proxy statement/prospectus which forms a part of this registration statement and incorporated herein by reference).
2.4	Amendment No. 2 to Agreement and Plan of Merger, dated as of April 20, 2005, among Cimarex Energy Co., Cimarex Nevada Acquisition Sub and Magnum Hunter Resources, Inc. (attached as Annex A to the joint proxy statement/prospectus which forms a part of this registration statement and incorporated herein by reference).
3.1	Amended and Restated Certificate of Incorporation of Cimarex Energy Co. filed as Annex E to the Registrant's Registration Statement on Form S-4, dated May 9, 2002 (Registration No. 333-87948), and incorporated herein by reference.
3.2	By-laws of Cimarex Energy Co. filed as Annex F to the Registrant's Registration Statement on Form S-4, dated May 9, 2002 (Registration No. 333-387948) and incorporated herein by reference.
4.1	Specimen Certificate of Cimarex Energy Co. common stock (filed as Exhibit 4.1 to Amendment No. 1 to the Registrant's Registration Statement on Form S-4 dated July 2, 2002 (Registration No. 333-87948) and incorporated herein by reference).
4.2	Rights Agreement, dated as of February 23, 2002, by and between Cimarex Energy Co. and UMB Bank, N.A. (filed as Exhibit 4.2 to the Registrant's Registration Statement on Form S-4 dated May 9, 2002 (Registration No. 333-87948) and incorporated herein by reference).
4.3	Indenture, dated March 15, 2002, between Magnum Hunter Resources, Inc., the subsidiary guarantors named therein and Bankers Trust Company, as Trustee (incorporated by reference to Magnum Hunter's Form 10-K for the year ended December 31, 2001).
4.4	Form of 9.6% Senior Notes due 2012 (included in Exhibit 4.3).

Explanation of Responses:

4.5	Indenture dated December 15, 2003 between Magnum Hunter Resources, Inc., the subsidiary guarantors named therein and Deutsche Bank Trust Company Americas, as Trustee (incorporated by reference to Magnum Hunter's Form 10-K for the year ended December 31, 2003).
4.6	Form of Floating Rate Convertible Senior Notes due 2023 (included in Exhibit 4.5).
5.1	Opinion of Holme Roberts & Owen LLP.*
8.1	Tax opinion of Holme Roberts & Owen LLP.*
8.2	Tax opinion of Thompson & Knight L.L.P.*
10.1	Credit Agreement, dated October 2, 2002, among Cimarex Energy Co., the lenders party thereto, Bank One, NA, as Administrative Agent, Royal Bank of Canada, as Co-Documentation Agent, Wachovia Bank, National Association, as Co-Documentation Agent, and Banc One Capital Markets, Inc., as Lead Arranger and Sole Book Runner (incorporated by reference to Exhibit 10.1 to the Registrant's Form 10-Q for the quarter ended September 30, 2002, file no. 001-31446).
10.2	First Amendment to Credit Agreement, dated as of April 21, 2003, among Cimarex Energy Co., BankOne, NA, as Administrative Agent, and the Lenders under the Credit Agreement (incorporated by reference to Exhibit 10.1 to the Registrant's Form 10-Q for the quarter ended June 30, 2003, file no. 001-31446).
10.3	Second Amendment to Credit Agreement, dated as of October 1, 2004 among Cimarex Energy Co., BankOne, NA, as Administrative Agent, and the Lenders under the Credit Agreement (incorporated by reference to Exhibit 10.1 to the Registrant's Form 10-Q for the quarter ended September 30, 2004, file no. 001-31446).
10.4	Distribution Agreement, dated as of February 23, 2002, by and between Helmerich & Payne, Inc. and Cimarex Energy Co. (filed as Exhibit 10.1 to the Registrant's Registration Statement on Form S-4 dated May 9, 2002 (Registration No. 333-87948) and incorporated herein by reference).
10.5	Tax Sharing Agreement, dated as of February 23, 2002, by and between Helmerich & Payne, Inc. and Cimarex Energy Co. (filed as Exhibit 10.2 to the Registrant's Registration Statement on Form S-4 dated May 9, 2002 (Registration No. 333-87948) and incorporated herein by reference).
10.6	Employee Benefits Agreement, dated as of February 23, 2002, by and between Helmerich & Payne, Inc. and Cimarex Energy Co. (filed as Exhibit 10.3 to the Registrant's Registration Statement on Form S-4 dated May 9, 2002 (Registration No. 333-87948) and incorporated herein by reference).
10.7	First Amendment to Employee Benefits Agreement, dated August 2, 2002, by and among Helmerich & Payne, Inc., Cimarex Energy Co. and Key Production Company, Inc. (filed as Exhibit 10.3.1 to Amendment No. 2 to the Registrant's Registration Statement on Form S-4 dated August 2, 2002 (Registration No. 333-87948) and incorporated herein by reference).
10.8	Employment Agreement dated September 1, 1992 between Key Production Company, Inc. and F.H. Merelli (filed as Exhibit 10.5 to the Registrant's Registration Statement on Form S-4 dated May 9, 2002 (Registration No. 333-87948) and incorporated herein by reference).+

10.9	Employment Agreement, dated September 7, 1999, by and between Paul Korus and Key Production Company, Inc. (filed as Exhibit 10.6 to the Registrant's Registration Statement on Form S-4 dated May 9, 2002 (Registration No. 333-87948) and incorporated herein by reference).+
10.10	Employment Agreement, dated October 25, 1993, by and between Thomas E. Jorden and Key Production Company, Inc. (filed as Exhibit 10.7 to the Registrant's Registration Statement on Form S-4 dated May 9, 2002 (Registration No. 333-87948) and incorporated herein by reference).+
10.11	Employment Agreement, dated February 2, 1994, by and between Stephen P. Bell and Key Production Company, Inc. (filed as Exhibit 10.8 to the Registrant's Registration Statement on Form S-4 dated May 9, 2002 (Registration No. 333-87948) and incorporated herein by reference).+
10.12	Employment Agreement, dated March 11, 1994, by and between Joseph R. Albi and Key Production Company, Inc. (filed as Exhibit 10.9 to the Registrant's Registration Statement on Form S-4 dated May 9, 2002 (Registration No. 333-87948) and incorporated herein by reference).+
10.13	Cimarex Energy Co. Change in Control Severance Plan dated effective April 1, 2005.**+
10.14	Amended and Restated 2002 Stock Incentive Plan of Cimarex Energy Co. (incorporated by reference to Exhibit 10.14 to the Registrant's From 10-K for the fiscal year ended December 31, 2002, file no. 001-31446).+
10.15	Cimarex Energy Co. Supplemental Savings Plan (amended and restated, effective March 3, 2003). (incorporated by reference to Exhibit 10.15 to the Registrant's Form 10-K for the fiscal year ended December 31, 2002, file no. 001-31446).+
10.16	Employment Agreement, dated March 11, 2002, by and between Richard Dinkins and Cimarex Energy Co.**+
10.17	Voting Agreement, dated as of January 25, 2005, among Cimarex Energy Co., Gary C. Evans and Jacquelyn Evelyn Enterprises, Inc. (incorporated by reference to Exhibit 99.1 to the Registrant's Current Report on Form 8-K dated January 28, 2005, file no. 001-31446).
10.18	Agreement of Limited Partnership of Mallard Hunter, L.P., dated May 23, 2000 (incorporated by reference to Magnum Hunter's Form 10-Q/A for the quarter ended June 30, 2000).
21.1	Subsidiaries of the Registrant (incorporated by reference to Exhibit 21.1 to the Registrant's Form 10-K/A for the fiscal year ended December 31, 2003, file no. 001-31446).
23.1	Consent of KPMG LLP.*
23.2	Consent of Deloitte & Touche LLP.*
23.3	Consent of Holme Roberts & Owen LLP (included in Exhibit 5.1).*
23.4	Consent of Thompson & Knight L.L.P. (included in Exhibit 8.2).*
23.5	Consent of Ryder Scott Company, LP.*
23.6	Consent of DeGolyer and MacNaughton.*
23.7	Consent of Cawley, Gillespie & Associates, Inc.*
24.1	Power of Attorney (included in the signature pages).**

99.1 Form of proxy card for Cimarex Energy Co. annual meeting.**

99.2 Form of proxy card for Magnum Hunter Resources, Inc. special meeting.**

99.3 Consent of Lehman Brothers Inc.*

99.4 Consent of Deutsche Bank Securities Inc.*

99.5 Consent of Merrill Lynch, Pierce, Fenner & Smith Incorporated.*

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* Filed herewith.

** Previously filed.

+ Management contracts or compensatory plans or arrangements.

(b) Financial Statement Schedules.

Schedules are omitted because they are not required or are not applicable, or the required information is shown in the financial statements or notes thereto.

ITEM 22. UNDERTAKINGS

The undersigned Registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) To include any prospectus required by section 10(a)(3) of the Securities Act of 1933;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20% change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement;

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

(2) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(4)

That, prior to any public reoffering of the securities registered hereunder through use of a prospectus which is a part of this registration statement, by any person or party who is deemed to be an underwriter within the meaning of Rule 145(c), the issuer undertakes that such reoffering prospectus will contain the information called for by the applicable registration

form with respect to reofferings by persons who may be deemed underwriters, in addition to the information called for by the other Items of the applicable form.

(5)

That every prospectus (i) that is filed pursuant to paragraph (1) immediately preceding, or (ii) that purports to meet the requirements of section 10(a)(3) of the Act and is used in connection with an offering of securities subject to Rule 415, will be filed as a part of an amendment to the registration statement and will not be used until such amendment is effective and that, for purposes of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(6)

Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

(7)

To respond to requests for information that is incorporated by reference into the prospectus pursuant to Items 4, 10(b), 11 or 13 of this Form, within one business day of receipt of such request, and to send the incorporated documents by first class mail or other equally prompt means. This includes information contained in documents filed subsequent to the effective date of the registration statement through the date of responding to the request.

(8)

To supply by means of a post-effective amendment all information concerning a transaction, and the company being acquired involved therein, that was not the subject of and included in the registration statement when it became effective.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Denver, State of Colorado, on April 25, 2005.

CIMAREX ENERGY CO.

By: /s/ F.H. MERELLI

F.H. Merelli
Chairman, President and
Chief Executive Officer

Pursuant to the requirements of this Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
/s/ F.H. MERELLI F.H. Merelli	Director, Chairman, President and Chief Executive Officer (Principal Executive Officer)	April 25, 2005
/s/ PAUL KORUS Paul Korus	Vice President, Chief Financial Officer, Corporate Secretary and Treasurer (Principal Financial Officer)	April 25, 2005
* James H. Shonsey	Controller, Chief Accounting Officer (Principal Accounting Officer)	April 25, 2005
* Glenn A. Cox	Director	April 25, 2005
Cortlandt S. Dietler	Director	
* Hans Helmerich	Director	April 25, 2005
* David A. Hentschel	Director	April 25, 2005

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Paul D. Holleman	Director	April 25, 2005
*		
L.F. Rooney, III	Director	April 25, 2005
*		
Michael J. Sullivan	Director	April 25, 2005
*		
L. Paul Teague	Director	April 25, 2005

*By: /s/ PAUL KORUS

Paul Korus
Attorney-in-Fact