



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

FORM 10-K

(Mark One)

ANNUAL REPORT PURSUANT TO SECTIONS 13 OR 15(d)  
OF THE SECURITIES EXCHANGE ACT OF 1934  
For the fiscal year ended December 31, 2006

OR

TRANSITION REPORT PURSUANT TO SECTIONS 13 OR 15(d)  
OF THE SECURITIES EXCHANGE ACT OF 1934  
For the transition period from to

Commission file no. 0-16741

**COMSTOCK RESOURCES, INC.**

*(Exact name of registrant as specified in its charter)*

**NEVADA**  
*(State or other jurisdiction of  
incorporation or organization)*

**94-1667468**  
*(I.R.S. Employer  
Identification Number)*

**5300 Town and Country Blvd., Suite 500, Frisco, Texas 75034**  
*(Address of principal executive offices including zip code)*

**(972) 668-8800**  
*(Registrant's telephone number and area code)*

Securities registered pursuant to Section 12(b) of the Act:

**Common Stock, \$.50 Par Value**  
**Preferred Stock Purchase Rights**  
*(Title of class)*

**New York Stock Exchange**  
**New York Stock Exchange**  
*(Name of exchange on which registered)*

Securities registered pursuant to Section 12(g) of the Act: **None**

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes  No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes  No

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

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer. See definition of "accelerated filer and large accelerated filer" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer  Accelerated filer  Non-accelerated filer

Indicate by check mark whether the registrant is a shell company (as defined in Exchange Act Rule 12b-2). Yes  No

As of February 28, 2007, there were 44,396,995 shares of common stock outstanding.

The aggregate market value of the Common Stock held by non-affiliates of the registrant, based on the closing price of the Common Stock on the New York Stock Exchange on June 30, 2006 (the last business day of the registrant's most recently completed second fiscal quarter), was \$1.2 billion.

**DOCUMENTS INCORPORATED BY REFERENCE**

Portions of the Proxy Statement for the 2007 Annual Meeting of Stockholders to be held  
May 3, 2007 are incorporated by reference into Part III of this report.

COMSTOCK RESOURCES, INC.  
ANNUAL REPORT ON FORM 10-K  
For the Fiscal Year Ended December 31, 2006

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### CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

The information contained in this report includes “forward-looking statements” within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. These forward-looking statements are identified by their use of terms such as “expect,” “estimate,” “anticipate,” “project,” “plan,” “intend,” “believe” and similar terms. All statements, other than statements of historical facts, included in this report, are forward-looking statements, including statements mentioned under “Risk Factors” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations,” regarding:

- amount and timing of future production of oil and natural gas;
- the availability of exploration and development opportunities;
- amount, nature and timing of capital expenditures;
- the number of anticipated wells to be drilled after the date hereof;
- our financial or operating results;
- our cash flow and anticipated liquidity;
- operating costs including lease operating expenses, administrative costs and other expenses;
- finding and development costs;
- our business strategy; and
- other plans and objectives for future operations.

Any or all of our forward-looking statements in this report may turn out to be incorrect. They can be affected by a number of factors, including, among others:

- the risks described in “Risk Factors” and elsewhere in this report;
- the volatility of prices and supply of, and demand for, oil and natural gas;
- the timing and success of our drilling activities;
- the numerous uncertainties inherent in estimating quantities of oil and natural gas reserves and actual future production rates and associated costs;
- our ability to successfully identify, execute or effectively integrate future acquisitions;
- the usual hazards associated with the oil and natural gas industry, including fires, well blowouts, pipe failure, spills, explosions and other unforeseen hazards;
- our ability to effectively market our oil and natural gas;
- the availability of rigs, equipment, supplies and personnel;
- our ability to discover or acquire additional reserves;
- our ability to satisfy future capital requirements;
- changes in regulatory requirements;
- general economic and competitive conditions;
- our ability to retain key members of our senior management and key employees; and
- hostilities in the Middle East and other sustained military campaigns and acts of terrorism or sabotage that impact the supply of crude oil and natural gas.

## DEFINITIONS

*The following are abbreviations and definitions of terms commonly used in the oil and gas industry and this report. Natural gas equivalents and crude oil equivalents are determined using the ratio of six Mcf to one barrel. All references to “us,” “our,” “we” or “Comstock” mean the registrant, Comstock Resources, Inc. and where applicable, its consolidated subsidiaries.*

“**Bbl**” means a barrel of U.S. 42 gallons of oil.

“**Bcf**” means one billion cubic feet of natural gas.

“**Bcfe**” means one billion cubic feet of natural gas equivalent.

“**Btu**” means British thermal unit, which is the quantity of heat required to raise the temperature of one pound of water from 58.5 to 59.5 degrees Fahrenheit.

“**Completion**” means the installation of permanent equipment for the production of oil or gas.

“**Condensate**” means a hydrocarbon mixture that becomes liquid and separates from natural gas when the gas is produced and is similar to crude oil.

“**Development well**” means a well drilled within the proved area of an oil or gas reservoir to the depth of a stratigraphic horizon known to be productive.

“**Dry hole**” means a well found to be incapable of producing hydrocarbons in sufficient quantities such that proceeds from the sale of such production exceed production expenses and taxes.

“**Exploratory well**” means a well drilled to find and produce oil or natural gas reserves not classified as proved, to find a new productive reservoir in a field previously found to be productive of oil or natural gas in another reservoir or to extend a known reservoir.

“**Gross**” when used with respect to acres or wells, production or reserves refers to the total acres or wells in which we or another specified person has a working interest.

“**MBbls**” means one thousand barrels of oil.

“**MBbls/d**” means one thousand barrels of oil per day.

“**Mcf**” means one thousand cubic feet of natural gas.

“**Mcfe**” means one thousand cubic feet of natural gas equivalent.

“**MMBbls**” means one million barrels of oil.

“**MMcf**” means one million cubic feet of natural gas.

“**MMcf/d**” means one million cubic feet of natural gas per day.

“**MMcfe/d**” means one million cubic feet of natural gas equivalent per day.

“**MMcfe**” means one million cubic feet of natural gas equivalent.

“**Net**” when used with respect to acres or wells, refers to gross acres of wells multiplied, in each case, by the percentage working interest owned by us.

“**Net production**” means production we own less royalties and production due others.

“**Oil**” means crude oil or condensate.

“**Operator**” means the individual or company responsible for the exploration, development, and production of an oil or gas well or lease.

“**PV 10 Value**” means the present value of estimated future revenues to be generated from the production of proved reserves calculated in accordance with the Securities and Exchange Commission

guidelines, net of estimated production and future development costs, using prices and costs as of the date of estimation without future escalation, without giving effect to non-property related expenses such as general and administrative expenses, debt service, future income tax expense and depreciation, depletion and amortization, and discounted using an annual discount rate of 10%. This amount is the same as the standardized measure of discounted future net cash flows related to proved oil and natural gas reserves except that it is determined without deducting future income taxes.

**“Proved developed reserves”** means reserves that can be expected to be recovered through existing wells with existing equipment and operating methods. Additional oil and gas expected to be obtained through the application of fluid injection or other improved recovery techniques for supplementing the natural forces and mechanisms of primary recovery will be included as “proved developed reserves” only after testing by a pilot project or after the operation of an installed program has confirmed through production response that increased recovery will be achieved.

**“Proved developed non-producing”** means reserves (i) expected to be recovered from zones capable of producing but which are shut-in because no market outlet exists at the present time or whose date of connection to a pipeline is uncertain or (ii) currently behind the pipe in existing wells, which are considered proved by virtue of successful testing or production of offsetting wells.

**“Proved developed producing”** means reserves expected to be recovered from currently producing zones under continuation of present operating methods. This category may also include recently completed shut-in gas wells scheduled for connection to a pipeline in the near future.

**“Proved reserves”** means the estimated quantities of crude oil, natural gas, and natural gas liquids which geological and engineering data demonstrate with reasonable certainty to be recoverable in future years from known reservoirs under existing economic and operating conditions, i.e., prices and costs as of the date the estimate is made. Prices include consideration of changes in existing prices provided only by contractual arrangements, but not on escalations based upon future conditions.

**“Proved undeveloped reserves”** means reserves that are expected to be recovered from new wells on undrilled acreage, or from existing wells where a relatively major expenditure is required for recompletion. Reserves on undrilled acreage shall be limited to those drilling units offsetting productive units that are reasonably certain of production when drilled. Proved reserves for other undrilled units can be claimed only where it can be demonstrated with certainty that there is continuity of production from the existing productive formation. Under no circumstances should estimates for proved undeveloped reserves be attributable to any acreage for which an application of fluid injection or other improved recovery technique is contemplated, unless such techniques have been proved effective by actual tests in the area and in the same reservoir.

**“Recompletion”** means the completion for production of an existing well bore in another formation from which the well has been previously completed.

**“Reserve life”** means the calculation derived by dividing year-end reserves by total production in that year.

**“Reserve replacement”** means the calculation derived by dividing additions to reserves from acquisitions, extensions, discoveries and revisions of previous estimates in a year by total production in that year.

**“Royalty”** means an interest in an oil and gas lease that gives the owner of the interest the right to receive a portion of the production from the leased acreage (or of the proceeds of the sale thereof), but generally does not require the owner to pay any portion of the costs of drilling or operating the wells on the leased acreage. Royalties may be either landowner’s royalties, which are reserved by the owner of the leased acreage at the time the lease is granted, or overriding royalties, which are usually reserved by an owner of the leasehold in connection with a transfer to a subsequent owner.

**“3-D seismic”** means an advanced technology method of detecting accumulations of hydrocarbons identified by the collection and measurement of the intensity and timing of sound waves transmitted into the earth as they reflect back to the surface.

**“Working interest”** means an interest in an oil and gas lease that gives the owner of the interest the right to drill for and produce oil and gas on the leased acreage and requires the owner to pay a share of the costs of drilling and production operations. The share of production to which a working interest owner is entitled will always be smaller than the share of costs that the working interest owner is required to bear, with the balance of the production accruing to the owners of royalties. For example, the owner of a 100% working interest in a lease burdened only by a landowner’s royalty of 12.5% would be required to pay 100% of the costs of a well but would be entitled to retain 87.5% of the production.

**“Workover”** means operations on a producing well to restore or increase production.

**PART I**

**ITEMS 1. and 2. BUSINESS AND PROPERTIES**

Comstock Resources, Inc. (“Comstock”) is a Nevada corporation whose common stock is listed and traded on the New York Stock Exchange and is engaged in the acquisition, development, production and exploration of oil and natural gas.

Our oil and gas operations are concentrated onshore in the East Texas/North Louisiana and South Texas regions as well as in Mississippi, and offshore in state and federal waters of the Gulf of Mexico. Our offshore operations are conducted exclusively through Bois d’Arc Energy, Inc. (“Bois d’Arc Energy”), a separate publicly-held company. Combined with the ownership by members of our Board of Directors, we own a controlling interest in the common stock of Bois d’Arc Energy and are consolidating the results of Bois d’Arc Energy effective from January 1, 2006. Our oil and natural gas properties are estimated to have proved reserves of 851 Bcfe with an estimated PV 10 Value of \$2.3 billion as of December 31, 2006 and a standardized measure of discounted future net cash flows of \$1.8 billion. Our consolidated proved oil and natural gas reserve base is 77% natural gas and 23% proved developed on a Bcfe basis as of December 31, 2006.

Our proved reserves at December 31, 2006 and our 2006 average daily production are summarized below:

	Reserves at December 31, 2006				2006 Daily Production			
	Oil (MMBbls)	Gas (Bcf)	Total (Bcfe)	% of Total	Oil (MMbbls/d)	Gas (MMcfd)	Total (MMcfe/d)	% of Total
East Texas/North Louisiana	1.7	247.1	257.6	30%	0.3	48.9	50.8	28%
South Texas	3.4	139.7	159.9	19%	0.6	24.9	28.3	15%
Mississippi	6.7	0.7	40.8	5%	1.5	0.2	9.4	5%
Other Regions	0.2	48.0	49.1	6%	0.1	8.9	9.5	5%
Total Onshore	12.0	435.5	507.4	60%	2.5	82.9	98.0	53%
Offshore (Bois d’Arc Energy)	20.4	221.5	344.0	40%	3.8	63.5	86.2	47%
Total	32.4	657.0	851.4	100%	6.3	146.4	184.2	100%

**Strengths**

*High Quality Properties.* Our onshore operations, which comprise 60% of our total proved reserves, are focused in three primary operating areas, the East Texas/North Louisiana and South Texas regions and in Mississippi. Our onshore properties have an average reserve life of approximately 14.2 years and have extensive development and exploration potential. Our offshore reserves, which represent approximately 40% of our total proved reserves, are located in the outer continental shelf of the Gulf of Mexico and include properties located in Louisiana state and federal waters. These offshore reserves have an average reserve life of 10.9 years.

*Successful Exploration and Development Program.* In 2006 we spent \$453.6 million on exploration and development of our oil and natural gas properties. We drilled 16 exploratory wells in 2006, 13.5 net to us, at a cost of \$136.8 million. Eleven of these 16 wells were successful. We spent \$211.5 million on our 2006 development drilling program, which included drilling 119 development wells, 87.4 net to us, with a 97% success rate. In 2006 we also incurred \$105.3 million on recompletions, workovers, abandonment and production facilities.

*Successful Acquisitions.* We have had significant growth over the years as a result of acquisitions. Since 1991, we have added 912 Bcfe of proved oil and natural gas reserves from 35 acquisitions at an



average cost of \$1.04 per Mcfe. In 2006 we acquired 23 Bcfe of proved oil and natural gas reserves for \$79.8 million. Our application of strict economic and reserve risk criteria have enabled us to successfully evaluate and integrate acquisitions.

*Efficient Operator.* We operate 86% of our proved oil and natural gas reserve base as of December 31, 2006. This allows us to control operating costs, the timing and plans for future development, the level of drilling and lifting costs and the marketing of production. As an operator, we receive reimbursements for overhead from other working interest owners, which reduces our general and administrative expenses.

#### **Business Strategy**

*Acquire High Quality Properties at Attractive Costs.* We have a successful track record of increasing our oil and natural gas reserves through opportunistic acquisitions. Since 1991, we have added 912 Bcfe of proved oil and natural gas reserves from 35 acquisitions at a total cost of \$947.3 million, or \$1.04 per Mcfe. The acquisitions were acquired at an average of 64% of their PV 10 Value in the year the acquisitions were completed. In 2006 we acquired 23 Bcfe of proved oil and natural gas reserves for \$79.8 million or \$3.43 per Mcfe. The PV 10 Value of the acquired reserves in 2006 was \$53.2 million. We apply strict economic and reserve risk criteria in evaluating acquisitions. We target properties in our core operating areas with established production and low operating costs that also have potential opportunities to increase production and reserves through exploration and exploitation activities.

*Exploit Existing Reserves.* We seek to maximize the value of our oil and natural gas properties by increasing production and recoverable reserves through active workover, recompletion and exploitation activities. We utilize advanced industry technology, including 3-D seismic data, improved logging tools, and formation stimulation techniques. During 2006, we spent approximately \$211.5 million to drill 119 development wells, 87.4 net to us, all but four of which were successful. In addition, we spent approximately \$105.4 million for leasehold costs, recompletions, workover activities and facilities. Our onshore business plan in 2007 will focus on developing our East Texas/North Louisiana, South Texas and Mississippi properties. We have budgeted \$250.0 million for development drilling and for recompletion and workover activities in 2007 in all of our onshore regions. We also plan to spend \$88.3 million in 2007 for development drilling, recompletions, workover activities and production facilities on our offshore properties.

*Pursue Exploration Opportunities.* We conduct exploration activities to grow our reserve base and to replace our production each year. Most of our exploration efforts are conducted through Bois d'Arc Energy. Bois d'Arc Energy's 2007 budget includes \$91.7 million to drill 11 offshore exploratory wells. We have also budgeted \$28.0 million for onshore exploration in 2007, primarily in our South Texas and Mississippi regions.

*Maintain Flexible Capital Expenditure Budget.* The timing of most of our capital expenditures is discretionary because we have not made any significant long-term capital expenditure commitments. Consequently, we have a significant degree of flexibility to adjust the level of such expenditures according to market conditions. We anticipate spending approximately \$478.0 million on our development and exploration projects in 2007. We intend to primarily use operating cash flow to fund our development and exploration expenditures in 2007 and to a lesser extent borrowings under our bank credit facilities. We may also make additional property acquisitions in 2007 that would require additional sources of funding. Such sources may include borrowings under our bank credit facility or sales of our equity or debt securities.

**Primary Operating Areas**

The following table summarizes the estimated proved oil and natural gas reserves for our twenty largest onshore field areas and our five largest offshore operating areas as of December 31, 2006:

	<u>Net Oil (MMbbls)</u>	<u>Net Gas (MMcf)</u>	<u>MMcfe</u>	<u>%</u>	<u>PV 10 Value(1)</u>	<u>%</u>
<b>East Texas/North Louisiana</b>						
Beckville	133	80,326	81,122	16%	\$ 127,944	13%
Gilmer	115	30,607	31,299	6%	57,298	6%
Blocker	99	29,898	30,495	6%	44,866	5%
Waskom	968	10,151	15,959	3%	42,773	4%
Logansport	31	13,199	13,385	3%	26,766	3%
Darco	68	19,152	19,558	4%	24,503	3%
Cadeville	72	15,079	15,510	3%	23,048	2%
Douglass	4	14,942	14,968	3%	14,537	1%
Longwood	63	4,897	5,273	1%	10,679	1%
Other	185	28,899	30,007	6%	48,720	5%
	<u>1,738</u>	<u>247,150</u>	<u>257,576</u>	<u>51%</u>	<u>421,134</u>	<u>43%</u>
<b>South Texas</b>						
Double A Wells	2,220	59,651	72,971	14%	179,522	18%
Las Hermanitas	—	25,190	25,190	5%	47,707	5%
Javelina	51	11,074	11,380	2%	28,779	3%
Markham	194	9,647	10,808	2%	27,512	3%
J.C. Martin	—	13,756	13,756	3%	26,641	3%
Sugar Creek	77	7,707	8,169	2%	15,030	2%
East White Point	499	1,797	4,790	1%	14,612	1%
Ball Ranch	40	4,005	4,247	1%	9,929	1%
Other	292	6,871	8,625	1%	21,069	2%
	<u>3,373</u>	<u>139,698</u>	<u>159,936</u>	<u>31%</u>	<u>370,801</u>	<u>38%</u>
<b>Mississippi</b>						
Laurel	6,557	—	39,342	8%	112,439	12%
Other	122	700	1,433	—%	4,077	—%
	<u>6,679</u>	<u>700</u>	<u>40,775</u>	<u>8%</u>	<u>116,516</u>	<u>12%</u>
<b>Other Onshore</b>						
San Juan	36	12,234	12,452	3%	18,031	1%
Southwest Morse	—	5,914	5,914	1%	10,223	1%
Other	158	29,812	30,760	6%	44,576	5%
	<u>194</u>	<u>47,960</u>	<u>49,126</u>	<u>10%</u>	<u>72,830</u>	<u>7%</u>
<b>Total Onshore</b>	<u>11,984</u>	<u>435,508</u>	<u>507,413</u>	<u>100%</u>	<u>981,281</u>	<u>100%</u>
<b>Offshore</b>						
Ship Shoal 111 and the Ship Shoal 113 Unit	8,261	71,854	121,417	35%	438,315	33%
South Pelto 5, South Timbalier 9, 11 and 16	1,406	25,204	33,643	10%	145,955	11%
Ship Shoal 66, 67, 68, 69 and South Pelto 1	3,603	9,818	31,436	9%	124,364	9%
Ship Shoal 97, 98, 99, 106, 107, 109, and 110	500	25,872	28,873	9%	95,415	7%
South Pelto 22	1,336	13,428	21,445	6%	91,283	7%
Other Offshore	5,319	75,287	107,196	31%	421,788	33%
<b>Total Offshore(2)</b>	<u>20,425</u>	<u>221,463</u>	<u>344,010</u>	<u>100%</u>	<u>1,317,120</u>	<u>100%</u>
<b>Total Consolidated</b>	<u>32,409</u>	<u>656,971</u>	<u>851,423</u>		<u>\$ 2,298,401</u>	

(1) The PV10 Value excludes future income taxes related to the future net cash flows. The standardized measure of future net cash flows at December 31, 2006 was \$1.8 billion.

(2) The reserves attributed to the minority interest ownership in Bois d'Arc Energy were 10,320 MMbbls of oil and 111,898 MMcf of natural gas or 173,817 MMcfe of natural gas equivalent with a PV10 value of \$665.5 million and a standardized measure of future net cash flows of \$546.2 million.

## **East Texas/North Louisiana**

Approximately 51% or 257.6 Bcfe of our onshore proved reserves are located in East Texas and North Louisiana where we own interests in 752 producing wells, 392.4 net to us, in 31 field areas. We operate 412 of these wells. The largest of our fields in this region are the Beckville, Gilmer, Blocker, Waskom, Logansport, Darco, Cadeville, Logansport, Douglass and Longwood fields. Production from this region averaged 48.9 MMcf of natural gas per day and 321 barrels of oil per day during 2006. Most of the reserves in this area produce from the Cretaceous aged Travis Peak/Hosston formation and the Jurassic aged Cotton Valley formation. The total thickness of these formations range from 2,000 to 4,000 feet of sand, shale and limestone sequences in the East Texas Basin and the North Louisiana Salt Basin, at depths ranging from 6,000 to 12,000 feet. In 2006, we spent \$145.0 million drilling 88 wells, 69.3 net to us, and \$13.3 million on workovers and recompletions in this region. We plan to spend approximately \$175.0 million in 2007 for development activities in this region.

### ***Beckville***

The Beckville field, located in Panola and Rusk Counties, Texas, is our largest field area in this region with total estimated proved reserves of 81.1 Bcfe which represents approximately 16% of our onshore reserves. We operate 130 wells in this field and own interests in six additional wells for a total of 136 wells, 104.6 net to us. During December 2006, production attributable to our interest from this field averaged 19.9 MMcf of natural gas per day and 45 barrels of oil per day. The Beckville field produces from the Cotton Valley formation at depths ranging from 9,000 to 10,000 feet.

### ***Gilmer***

We own interests in 73 natural gas wells, 27.7 net to us, in the Gilmer field in Upshur County in East Texas. These wells produce primarily from the Cotton Valley Lime formation at a depth of approximately 11,500 to 12,000 feet. Proved reserves attributable to our interests in the Gilmer field are 31.3 Bcfe which represents 6% of our onshore reserve base. During December 2006, production attributable to our interest from this field averaged 5.7 MMcf of natural gas per day and 58 barrels of oil per day.

### ***Blocker***

Our proved reserves of 30.5 Bcfe in the Blocker field located in Harrison County, Texas represent approximately 6% of our onshore reserves. We own interests in 60 wells, 57.8 net to us, and operate 57 of these wells. During December 2006, net daily production attributable to our interest from this field averaged 9.8 MMcf of natural gas and 85 barrels of oil. Most of this production is from the Cotton Valley formation between 8,500 and 10,100 feet.

### ***Waskom***

The Waskom field, located in Harrison and Panola Counties in Texas, represents approximately 3% (16 Bcfe) of our onshore proved reserves as of December 31, 2006. We own interests in 60 wells in this field, 31.6 net to us, and operate 35 wells in this field. During December 2006, net daily production attributable to our interest averaged 1.8 MMcf of natural gas and 16 barrels of oil from this field. The Waskom field produces from the Cotton Valley formation at depths ranging from 9,000 to 10,000 feet.

### ***Logansport***

The Logansport field produces from multiple sands in the Hosston formation at an average depth of 8,000 feet and is located in DeSoto Parish, Louisiana. Our proved reserves of 13.4 Bcfe in the Logansport

field represent approximately 3% of our onshore reserves. We own interests in 94 wells, 46.4 net to us, and operate 52 of these wells. During December 2006, net daily production attributable to our interest from this field averaged 3.7 MMcf of natural gas and 22 barrels of oil.

***Darco***

The Darco field is located in Harrison County, Texas and produces from the Cotton Valley formation at depths from approximately 9,800 to 10,200 feet. Our proved reserves of 19.6 Bcfe in the Darco Field represent approximately 4% of our onshore reserves. We own interests in 11 wells, 8.4 net to us, and operate all of these wells. During December 2006, net daily production attributable to our interest from this field averaged 2.3 MMcf of natural gas and 8 barrels of oil.

***Cadeville***

Our proved reserves of 15.5 Bcfe in the Cadeville field located in Ouachita Parrish, Louisiana represent approximately 3% of our onshore reserves. We own interests in 5 wells, 2.0 net to us, and operate 2 of these wells. During December 2006, net daily production attributable to our interest from this field averaged 1.4 MMcf of natural gas and 5 barrels of oil. This production is primarily from the Cotton Valley formation between 9,800 and 10,700 feet.

***Douglass***

The Douglass field is located in Nacogdoches County, Texas and is productive from stratigraphically trapped reservoirs in the Pettet Lime and Travis Peak formations. These reservoirs are found at depths from 9,200 to 10,300 feet. Our proved reserves of 15.0 Bcfe in the Douglass field represent approximately 3% of our onshore reserves. We own interests in 21 wells, 13.4 net to us, and operate 15 of these wells. During December 2006, net daily production attributable to our interest from this field averaged 2.4 MMcf of natural gas.

***Longwood***

The Longwood field, located in Harrison County, Texas primarily produces from stacked sandstone reservoirs of the Travis Peak and Cotton Valley formations at depths ranging from 6,000 to 10,000 feet. We own interests in 27 wells in this field, 21.8 net to us, and operate 23 wells in this field. Our proved reserves of 5.3 Bcfe in the Longwood field represent approximately 1% of our onshore reserves. During December 2006, net daily production attributable to our interest from this field averaged 1.1 MMcf of natural gas and 15 barrels of oil.

**South Texas**

Approximately 32%, or 159.9 Bcfe, of our onshore proved reserves are located in South Texas, where we own interests in 387 producing wells, 124.4 net to us. We own interests in fifteen field areas in the region, the largest of which are the Double A, Las Hermanitas, Javelina, Markham, J.C. Martin, Sugar Creek, East White Point and Ball Ranch fields. Net daily production rates from the area averaged 24.9 MMcf of natural gas and 573 barrels of oil during 2006. We spent \$29.3 million in this region in 2006 to drill ten wells, 4.3 net to us, and for other development activity. In 2007, we plan to spend approximately \$56.0 million for development and exploration activity in this region.

**Double A Wells**

Our properties in the Double A Wells field have proved reserves of 73.0 Bcfe, which represent 14% of our onshore reserves. We own interests in and operate 61 producing wells, 30.7 net to us, in this field in Polk County, Texas. Net daily production from the Double A Wells area averaged 7.3 MMcf of natural gas and 260 barrels of oil during December 2006. These wells typically produce from the Woodbine formation at an average depth of 14,300 feet.

**Las Hermanitas**

We acquired interests in three natural gas wells, 3.0 net to us, in the Las Hermanitas field, located in Duval County, Texas in September 2006. We also drilled three (3.0 net to us) wells in this field in 2006. These wells produce from the Wilcox formation at depths from approximately 11,400 to 11,800 feet. Our proved reserves of 25.2 Bcfe in this field represent approximately 5% of our onshore reserves. During December 2006, net daily production attributable to our interest from this field averaged 3.2 MMcf of natural gas.

**Javelina**

We own interests in five natural gas wells and one oil well, 3.1 net to us, in the Javelina field in Hidalgo County in South Texas. These wells produce primarily from the Vicksburg formation at a depth of approximately 10,900 to 12,500 feet. Proved reserves attributable to our interests in the Javelina field are 11.4 Bcfe which represents 2% of our onshore reserve base. During December 2006, production attributable to our interest from this field averaged 3.2 MMcf of natural gas per day and 28 barrels of oil per day.

**Markham**

The Markham field is located in Matagorda County, Texas. We own interests in and operate 22 producing wells, 22.0 net to us, in the Ohio-Sun Unit. The field's estimated proved reserves of 10.8 Bcfe represent 2% of our onshore reserves. The field's active wells produce from more than twenty reservoirs of Oligocene Frio age at depths ranging from 6,500 to 9,000 feet. During December 2006, net daily production attributable to our interests from this field average 70 barrels of oil and 0.3 MMcf of gas per day.

**J.C. Martin**

The J.C. Martin field is located in the structurally complex and highly prolific Wilcox Lobo trend in Zapata County, Texas on the Mexico border. We own interests in 90 wells in this field, 14.4 net to us, with proved reserves of 13.8 Bcfe or 3% of our onshore reserves. During December 2006, net daily production attributable to our interest from this field averaged 3.5 MMcf of natural gas. This field produces primarily from Eocene Wilcox Lobo sands at depths ranging from 7,000 to 9,000 feet. The Lobo section is characterized by geopressured, multiple pay sands occurring in a highly faulted area.

**Sugar Creek**

Our proved reserves of 8.2 Bcfe in the Sugar Creek field located in Tyler County, Texas represent approximately 2% of our onshore reserves. We own interests in 4 wells, 2.6 net to us, and operate 2 of these wells. During December 2006, net daily production attributable to our interest from this field averaged 0.5 MMcf of natural gas and 7 barrels of oil.

**East White Point**

We own interests in four producing natural gas and three producing oil wells for a total of seven wells, 3.2 net to us, at East White Point in Nueces Bay off of the Texas Gulf Coast. We operate two of these wells. The wells produce from the Miocene and Frio formations from 1,800 to 11,000 feet. We have proved reserves of 4.8 Bcfe at East White Point which represent approximately 1% of our onshore reserves. During December 2006, net daily production attributable to our interest from this field averaged 0.5 MMcf of natural gas and 18 barrels of oil.

**Ball Ranch**

Our proved reserves of 4.2 Bcfe in the Ball Ranch field located in Kenedy County, Texas represent approximately 1% of our onshore reserves. Production is from the Vicksburg formation in sands that range in depth from 13,000 feet to 14,300 feet. We own interests in 21 wells, 4.0 net to us in this field. During December 2006, net daily production attributable to our interest from this field averaged 2.8 MMcf of natural gas and 20 barrels of oil.

**Mississippi**

Approximately 8% or 40.8 Bcfe of our onshore proved reserves are located in Mississippi, where we own interests in three fields, the largest of which is the Laurel field. Our Mississippi properties contain 55 producing wells, 51.2 net to us, which averaged net daily production rates of 1,529 barrels of oil and 0.5 MMcf of natural gas during 2006. We drilled eleven wells, 10.5 net to us, in Mississippi during 2006 and we plan to spend approximately \$45.0 million for development and exploration activity.

**Laurel**

Our properties in Mississippi are mainly located within the Laurel field, located in Jones County, Mississippi near a structurally complex salt dome. We own interests in and operate 53 producing wells, 50.2 net to us, in the Laurel field. This field's estimated proved reserves of 39.3 Bcfe represent 8% of our onshore reserves. The field produces from more than 42 horizons that range in depth from 6,600 feet in the Stanley Sand to 13,100 feet in the Middle Hosston formation. Recovery of low viscosity crude oil from this field is being enhanced through waterflood operations. During December 2006, net daily production attributable to our interests in this field averaged 1,683 barrels of oil per day.

**Other Onshore**

Approximately 10%, or 49.1 Bcfe, of our onshore proved reserves are in various other areas, primarily in the Mid-Continent region and in Kentucky and New Mexico. Within these areas we own interests in 461 producing wells, 176.2 net to us in 21 fields. Fields with the largest proved reserves in these areas include the San Juan Basin properties in New Mexico and our Southwest Morse field in the Texas panhandle. Net daily production from our other onshore fields totaled 9.0 MMcf of natural gas and 100 barrels of oil during 2006. We drilled thirteen wells, 5.5 net to us on these properties in 2006. In 2007, we plan to spend approximately \$2.0 million for development and exploration activity on these properties.

**San Juan**

Our San Juan Basin properties are located in the west-central portion of the basin in San Juan County, New Mexico. These wells produce from multiple sands of the Cretaceous Dakota formation and the prolific Fruitland Coal seams. The Dakota is generally found at about 6,000 feet with the shallower Fruitland seams generally encountered at 2,500 to 3,000 feet. Our proved reserves of 12.5 Bcfe in the San Juan field

represent approximately 3% of our onshore reserves. We own interests in 93 wells, 13.6 net to us. During December 2006, net daily production attributable to our interest from this field averaged 1.3 MMcf of natural gas and 5 barrels of oil.

***Southwest Morse***

Located in Hutchinson County, Texas, the Southwest Morse field is situated on the edge of the greater Hugoton Field producing complex. Production is from the structurally trapped, underpressured Brown Dolomite formation. The Brown Dolomite reservoir is typically encountered at depths of 2,900 to 3,400 feet. Our proved reserves of 5.9 Bcfe in the Southwest Morse field represent approximately 1% of our onshore reserves. We own interests in 40 wells, 39.1 net to us, and operate 39 of these wells. During December 2006, net daily production attributable to our interest from this field averaged 0.7 MMcf of natural gas.

**Offshore Gulf of Mexico**

Prior to July 2004, substantially all of our exploration activities in the Gulf of Mexico were conducted under a joint exploration venture with Bois d'Arc Offshore, Ltd. and its principals, which we collectively refer to as "Bois d'Arc." Under the exploration venture, Bois d'Arc was responsible for generating exploration prospects in the Gulf of Mexico. From 1997 when the exploration venture was commenced until July 16, 2004 when it was terminated, we participated in drilling approximately 40 exploratory wells to test prospects generated under the exploration venture. Of these exploratory wells drilled, 34 or 85% were successful discoveries. In July 2004, we together with Bois d'Arc and certain participants in their exploration activities, which are collectively referred to as the "Bois d'Arc Participants," formed Bois d'Arc Energy, LLC to replace the joint exploration venture. We and each of the Bois d'Arc Participants contributed to Bois d'Arc Energy substantially all of our respective Gulf of Mexico related assets and assigned our related liabilities, including certain debt, in exchange for equity interests in Bois d'Arc Energy.

We initially owned 60% of Bois d'Arc Energy, and we accounted for our share of the Bois d'Arc Energy financial and operating results using proportionate consolidation accounting until Bois d'Arc Energy converted into a corporation and completed its initial public offering in May 2005. Subsequent to the conversion of Bois d'Arc Energy into a corporation and the public offering, we owned 48% of Bois d'Arc Energy and we changed our accounting method for our investment in Bois d'Arc Energy to the equity method through December 31, 2005. Beginning in September 2006, we own a controlling interest in Bois d'Arc Energy and are consolidating the results of Bois d'Arc Energy effective January 1, 2006.

Bois d'Arc Energy has total proved reserves in the outer continental shelf of the Gulf of Mexico of 344 Bcfe, which represents approximately 40% of our total reserves. Bois d'Arc Energy owns interests in 111 gross (76.6 net) and operates 89 of these wells. Production from Bois d'Arc Energy's properties in 2006 averaged 63.5MMcf per day of natural gas and 3,789 barrels per day of oil for a total of 86.2 MMcfe per day. During 2006, Bois d'Arc Energy spent \$129.0 million drilling 11 (9.5 net) exploratory wells and \$23.4 million drilling two (1.7 net) development wells. Bois d'Arc Energy also spent \$71.1 million on production facilities, recompletions, abandonments and workovers, \$18.1 million on acquisition of proved reserves, and \$7.6 million acquiring exploration acreage and seismic data during 2006. In 2007, Bois d'Arc Energy plans to spend \$200.0 million for exploration and development activities.

***Ship Shoal 111 and the Ship Shoal 113 Unit***

The Ship Shoal 113 unit is located in federal waters having water depths from 20 to 50 feet, offshore of Terrebonne Parish, Louisiana and is comprised of 33,125 acres of federal leases covering portions of Ship Shoal blocks 93, 94, 112, 113, 114, 117, 118, 119 and 120. This unit was discovered in the late 1940s and has had cumulative production of 951 Bcfe of natural gas. These properties have 70 productive sands occurring

at depths from 2,500 to 16,000 feet. We acquired a 50% working interest in these properties in December 2002, acquired an additional 30% working interest in October 2003 and the remaining 20% interest during 2006. We acquired the adjacent Ship Shoal block 111 in 2005 together with an existing production platform. Since 2003 we have drilled 17 wells (15.7 net to us) in this area. We operate the four production platforms and the 22 producing wells (20.2 net to us) comprising these properties. Production from these properties net to our interest averaged 23.3 MMcf of natural gas per day and 1,343 barrels of oil per day during December 2006.

***South Pelto 5 and South Timbalier 9, 11, 16***

We own interests in 15 producing wells, 10.6 net to us, in South Pelto block 5 and South Timbalier blocks 9, 11 and 16. These blocks are located in Louisiana state waters and in federal waters, offshore of Terrebonne Parish, Louisiana in water depths from 30 to 50 feet. These wells share common production facilities comprised of a four-pile main production platform and a tripod satellite production platform. We acquired our lease position in South Pelto block 5 and South Timbalier block 11 through a farm-in in 1998. We leased adjacent acreage in South Timbalier blocks 9, 11 and 16 from the State of Louisiana from 1998 through 2002. We have drilled 19 wells, including redrills of existing wells (13.4 net to us), in these blocks. These wells have 18 productive sands occurring at depths from 8,000 to 17,000 feet. Production from these properties net to our interest averaged 7.6 MMcf of natural gas per day and 287 barrels of oil per day during December 2006.

***Ship Shoal 66, 67, 68, 69 and South Pelto 1***

Ship Shoal blocks 66, 67, 68, 69 and South Pelto block 1 are located in Louisiana state waters and in federal waters with depths from 20 to 35 feet, offshore of Terrebonne Parish, Louisiana. These properties produce from ten sands occurring at depths from 9,000 to 13,500 feet. We own interests in eight wells (7.8 net to us) on Louisiana state leases partially covering Ship Shoal blocks 66 and 67 and South Pelto 1, and federal leases covering Ship Shoal blocks 68 and 69. We acquired these properties in December 1997 from Bois d' Arc Resources and other interest owners. We have drilled 8 wells (7.1 net to us) subsequent to the acquisition. These wells are connected to four production platforms and share common oil terminal facilities. Production from these properties net to our interest averaged 255 barrels of oil per day during December 2006.

***Ship Shoal 99, 107, 109 and 110***

Ship Shoal blocks 99, 107, 109 and 110 are located in federal waters with depths from 20 to 25 feet, offshore of Terrebonne Parish, Louisiana. We acquired these leases in federal lease sales in 2000 and 2001 and subsequently drilled 11 successful wells (8.4 net to us). These wells have 15 productive sands occurring at depths from 8,800 to 12,300 feet. Production from these properties net to our interest averaged 7.5 MMcf of natural gas per day, 111 barrels of oil per day during December 2006.

***South Pelto 22***

South Pelto block 22 is located in federal waters with depths from 50 to 60 feet, offshore of Terrebonne Parish, Louisiana. We farmed-in this acreage from another offshore operator in 2003 and have subsequently drilled four wells (2.5 net to us). These wells have 14 productive sands occurring at depths from 13,400 to 17,000 feet. Production from these properties net to our interest averaged 16.5 MMcf of natural gas per day and 436 barrels of oil per day during December 2006.



## Major Property Acquisitions

As a result of our acquisitions, we have added 912 Bcfe of proved oil and natural gas reserves since 1991 including 23.2 Bcfe we acquired in 2006.

Our largest acquisitions are the following:

*Denali Acquisition.* In September 2006 we acquired proved and unproved oil and gas properties in the Las Hermanitas field in South Texas from Denali Oil & Gas Partners LP and other working interest owners for \$67.2 million in cash. The properties acquired have estimated proved reserves of approximately 16.5 Bcfe. The transaction was funded with borrowings under our bank credit facility.

*EnSight Acquisition.* In May 2005, we completed the acquisition of certain oil and natural gas properties and related assets from EnSight Energy Partners, L.P., Laurel Production, LLC, Fairfield Midstream Services, LLC and EnSight Energy Management, LLC (collectively, "EnSight") for \$190.9 million. We also purchased additional interests in those properties from other owners for \$10.9 million in July 2005. The properties acquired had estimated proved reserves of approximately 121.5 billion cubic feet of natural gas equivalent and included 312 active wells, of which 119 are operated by us. Major fields acquired in the acquisition include the Darco, Cadeville, Douglass, and Laurel fields. The acquisition was funded with proceeds from a public stock offering completed in April 2005 and borrowings under our bank credit facility.

*Ovation Energy Acquisition.* In October 2004, we acquired producing oil and gas properties in the East Texas, Arkoma, Anadarko and San Juan basins from Ovation Energy, L.P. for \$62.0 million. The properties acquired had estimated proved reserves of approximately 41.0 billion cubic feet of gas equivalent and include 165 active wells, of which 69 are operated by us. Major fields acquired in the acquisition include Southwest Morse and San Juan fields. The acquisition was funded by borrowings under our bank credit facility.

*DevX Energy Acquisition.* In December 2001, we completed the acquisition of DevX Energy, Inc. ("DevX") by acquiring 100% of the common stock of DevX for \$92.6 million. The total purchase price including debt and other liabilities assumed in the acquisition was \$160.8 million. As a result of the acquisition of DevX, we acquired interests in 600 producing oil and natural gas wells located onshore primarily in East and South Texas, Kentucky, Oklahoma and Kansas. Major fields acquired in the acquisition include the Gilmer field in East Texas and the J.C. Martin and the Ball Ranch fields in South Texas. DevX's properties had 1.2 MMBbls of oil reserves and 156.5 Bcf of natural gas reserves at the time of the acquisition.

*Bois d'Arc Acquisition.* In December 1997, Comstock acquired working interests in certain producing offshore Louisiana oil and gas properties as well as interests in undeveloped offshore oil and natural gas leases for approximately \$200.9 million from Bois d'Arc Resources and certain of its affiliates and working interest partners. We acquired interests in 43 wells, 29.6 net to us, and eight separate production complexes located in the Gulf of Mexico offshore of Plaquemines and Terrebonne Parishes, Louisiana. The acquisition included interests in the Louisiana state and federal offshore areas of Main Pass Block 21, Ship Shoal Blocks 66, 67, 68 and 69 and South Pelto Block 1. The net proved reserves acquired in this acquisition were estimated at 14.3 MMBbls of oil and 29.4 Bcf of natural gas.

*Black Stone Acquisition.* In May 1996, we acquired 100% of the capital stock of Black Stone Oil Company and interests in producing and undeveloped oil and gas properties located in Southeast Texas for \$100.4 million. We acquired interests in 19 wells, 7.7 net to us, that were located in the Double A Wells field

in Polk County, Texas and we became the operator of most of the wells in the field. The net proved reserves acquired in this acquisition were estimated at 5.9 MMBbbls of oil and 100.4 Bcf of natural gas.

*Sonat Acquisition.* In July 1995, we purchased interests in certain producing oil and gas properties located in East Texas and North Louisiana from Sonat Inc. for \$48.1 million. We acquired interests in 319 producing wells, 188.0 net to us. The acquisition included interests in the Beckville, Blocker, Waskom, Logansport and Longwood fields. The net proved reserves acquired in this acquisition were estimated at 0.8 MMBbbls of oil and 104.7 Bcf of natural gas.

**Oil and Natural Gas Reserves**

The following table sets forth our estimated proved oil and natural gas reserves and the PV10 Value as of December 31, 2006:

	Oil (MMbbls)	Gas (MMcf)	Total (MMcfe)	PV10 Value (000's)
Proved Developed:				
Producing	10,591	247,906	311,454	\$ 853,686
Non-producing	12,957	176,339	254,082	900,241
Proved Undeveloped	8,860	232,725	285,888	544,474
Total Proved	<u>32,408</u>	<u>656,970</u>	<u>851,424</u>	<u>2,298,401</u>
Discounted Future Income Taxes				(469,896)
Standardized Measure of Discounted Future Net Cash Flows(1)				<u>\$ 1,828,505</u>

(1) The PV 10 Value represents the discounted future net cash flows attributable to our proved oil and gas reserves before income tax, discounted at 10%. Although it is a non-GAAP measure, we believe that the presentation of the PV 10 Value is relevant and useful to our investors because it presents the discounted future net cash flows attributable to our proved reserves prior to taking into account corporate future income taxes and our current tax structure. We use this measure when assessing the potential return on investment related to our oil and gas properties. The standardized measure of discounted future net cash flows represents the present value of future cash flows attributable to our proved oil and natural gas reserves after income tax, discounted at 10%.

The reserves attributed to the minority interest ownership in Bois d'Arc Energy as of December 31, 2006 were 10,320 MBbbls of oil and 111,898 MMcf of natural gas or 173,817 MMcfe of natural gas equivalent with a PV10 Value of \$665.5 million and a standardized measure of future net cash flows of \$546.2 million.

Proved oil and gas reserves are the estimated quantities of crude oil, natural gas and natural gas liquids which geological and engineering data demonstrate with reasonable certainty to be recoverable in future years from known reservoirs under existing economic and operating conditions (i.e., prices and costs as of the date the estimate is made). Proved developed reserves are reserves that can be expected to be recovered through existing wells with existing equipment and operating methods. Proved undeveloped reserves are reserves that are expected to be recovered from new wells on undrilled acreage, or from existing wells where a relatively major expenditure is required for recompletion.

The PV 10 Value and standardized measure of discounted future net cash flows was determined based on the market prices for oil and natural gas on December 31, 2006. The market price for our oil production on December 31, 2006, after basis adjustments, was \$56.17 per barrel as compared to \$49.17 per barrel on December 31, 2005. The market price received for our natural gas production on December 31, 2006, after basis adjustments, was \$5.70 per Mcf as compared to \$8.27 per Mcf on December 31, 2005.

We did not provide estimates of total proved oil and natural gas reserves during the years ended December 31, 2004, 2005 or 2006 to any federal authority or agency, other than the SEC.

**Drilling Activity Summary**

During the three-year period ended December 31, 2006, we drilled development and exploratory wells as set forth in the table below.

	Onshore						Offshore					
	2004		2005		2006		2004		2005		2006	
	Gross	Net	Gross	Net	Gross	Net	Gross	Net	Gross	Net	Gross	Net
<b>Development Wells:</b>												
Oil	1	0.6	2	1.9	8	7.6	4	3.2	2	1.5	—	—
Gas	44	20.0	70	46.5	105	75.9	5	3.8	8	6.4	2	1.7
Dry	1	0.3	—	—	4	2.2	5	3.1	1	0.6	—	—
	<u>46</u>	<u>20.9</u>	<u>72</u>	<u>48.4</u>	<u>117</u>	<u>85.7</u>	<u>14</u>	<u>10.1</u>	<u>11</u>	<u>8.5</u>	<u>2</u>	<u>1.7</u>
<b>Exploratory Wells:</b>												
Oil	4	1.9	—	—	—	—	1	1.0	3	3.0	—	—
Gas	9	3.6	1	.2	3	2.0	9	7.1	6	5.2	8	7.0
Dry	11	4.5	2	1.2	2	2.0	—	—	2	2.0	3	2.5
	<u>24</u>	<u>10.0</u>	<u>3</u>	<u>1.4</u>	<u>5</u>	<u>4.0</u>	<u>10</u>	<u>8.1</u>	<u>11</u>	<u>10.2</u>	<u>11</u>	<u>9.5</u>
Total	<u>70</u>	<u>30.9</u>	<u>75</u>	<u>49.8</u>	<u>122</u>	<u>89.7</u>	<u>24</u>	<u>18.2</u>	<u>22</u>	<u>18.7</u>	<u>13</u>	<u>11.2</u>

In 2007 to the date of this report, we have drilled twenty-five wells, 18.6 net to us. Twenty-four of the wells were successful and one (0.8 net to us) was a dry hole. As of the date of this report, we have eleven wells, 9.2 net to us, that are in the process of drilling.

**Producing Well Summary**

The following table sets forth the gross and net producing oil and natural gas wells in which we owned an interest at December 31, 2006:

	Oil		Gas	
	Gross	Net	Gross	Net
<b>Onshore:</b>				
Arkansas	—	—	15	8.0
Kansas	—	—	12	4.5
Kentucky	—	—	91	81.5
Louisiana	6	2.4	241	105.1
Mississippi	61	51.9	2	1.1
New Mexico	—	—	93	13.6
Oklahoma	3	0.5	137	19.7
Texas	64	39.9	898	413.5
Wyoming	—	—	32	2.4
Total Onshore	<u>134</u>	<u>94.7</u>	<u>1,521</u>	<u>649.4</u>
<b>Offshore Gulf of Mexico:</b>				
Louisiana	10	7.9	9	7.0
Federal	34	17.9	58	43.8
Total Offshore	<u>44</u>	<u>25.8</u>	<u>67</u>	<u>50.8</u>
Total	<u>178</u>	<u>120.5</u>	<u>1,588</u>	<u>700.2</u>

We operate 805 of the 1,766 producing wells presented in the above table. As of December 31, 2006, we owned interests in 23 wells containing multiple completions, which means that a well is producing out of

more than one completed zone. Wells with more than one completion are reflected as one well in the table above.

**Acreage**

The following table summarizes our developed and undeveloped leasehold acreage at December 31, 2006. We have excluded acreage in which our interest is limited to a royalty or overriding royalty interest.

	Developed		Undeveloped	
	Gross	Net	Gross	Net
<b>Onshore:</b>				
Arkansas	1,280	684	—	—
Kansas	6,400	4,064	—	—
Kentucky	7,271	5,838	1,513	1,513
Louisiana	100,689	64,467	9,329	3,670
Mississippi	4,273	1,747	7,515	4,938
New Mexico	8,400	1,260	84,131	37,017
Oklahoma	38,080	5,707	—	—
Texas	250,147	153,288	42,625	14,568
Wyoming	13,440	927	—	—
<b>Total Onshore</b>	<b>429,980</b>	<b>237,982</b>	<b>145,113</b>	<b>61,706</b>
<b>Offshore Gulf of Mexico:</b>				
Louisiana	5,484	4,929	1,304	1,304
Federal	213,771	156,623	171,208	171,208
<b>Total Offshore</b>	<b>219,255</b>	<b>161,552</b>	<b>172,512</b>	<b>172,512</b>
<b>Total</b>	<b>649,235</b>	<b>399,534</b>	<b>317,625</b>	<b>234,218</b>

Title to our oil and natural gas properties is subject to royalty, overriding royalty, carried and other similar interests and contractual arrangements customary in the oil and gas industry, liens incident to operating agreements and for current taxes not yet due and other minor encumbrances. All of our oil and natural gas properties are pledged as collateral under our bank credit facilities. As is customary in the oil and gas industry, we are generally able to retain our ownership interest in undeveloped acreage by production of existing wells, by drilling activity which establishes commercial reserves sufficient to maintain the lease or by payment of delay rentals.

**Markets and Customers**

The market for oil and natural gas produced by us depends on factors beyond our control, including the extent of domestic production and imports of oil and natural gas, the proximity and capacity of natural gas pipelines and other transportation facilities, demand for oil and natural gas, the marketing of competitive fuels and the effects of state and federal regulation. The oil and gas industry also competes with other industries in supplying the energy and fuel requirements of industrial, commercial and individual consumers.

Our oil production is sold at prices tied to the spot oil markets. Our natural onshore gas production is primarily sold under short-term contracts and priced on first of the month index prices or on daily spot market prices. Approximately 64% of our 2006 natural gas sales were priced utilizing index prices and approximately 36% were priced utilizing daily spot prices. Two subsidiaries of Shell Oil Company accounted for approximately 42% of our total 2006 sales. Sales to National Energy & Trading LP comprised approximately 13% of our total 2006 sales. The loss of any of the foregoing customers would

not have a material adverse effect on us as there is an available market for our crude oil and natural gas production from other purchasers.

### **Competition**

The oil and gas industry is highly competitive. Competitors include major oil companies, other independent energy companies and individual producers and operators, many of which have financial resources, personnel and facilities substantially greater than we do. We face intense competition for the acquisition of oil and natural gas properties.

### **Regulation**

*General.* Various aspects of our oil and natural gas operations are subject to extensive and continually changing regulation, as legislation affecting the oil and natural gas industry is under constant review for amendment or expansion. Numerous departments and agencies, both federal and state, are authorized by statute to issue, and have issued, rules and regulations binding upon the oil and natural gas industry and its individual members. The Federal Energy Regulatory Commission, or "FERC," regulates the transportation and sale for resale of natural gas in interstate commerce pursuant to the Natural Gas Act of 1938, or "NGA," and the Natural Gas Policy Act of 1978, or "NGPA." In 1989, however, Congress enacted the Natural Gas Wellhead Decontrol Act, which removed all remaining price and nonprice controls affecting all "first sales" of natural gas, effective January 1, 1993, subject to the terms of any private contracts that may be in effect. While sales by producers of natural gas and all sales of crude oil, condensate and natural gas liquids can currently be made at uncontrolled market prices, in the future Congress could reenact price controls or enact other legislation with detrimental impact on many aspects of our business. Under the provisions of the Energy Policy Act of 2005 (the "2005 Act"), the NGA has been amended to prohibit any form of market manipulation with the purchase or sale of natural gas, and the FERC has issued new regulations that are intended to increase natural gas pricing transparency. The 2005 Act has also significantly increased the penalties for violations of the NGA.

*Regulation and transportation of natural gas.* Our sales of natural gas are affected by the availability, terms and cost of transportation. The price and terms for access to pipeline transportation are subject to extensive regulation. In recent years, the FERC has undertaken various initiatives to increase competition within the natural gas industry. As a result of initiatives like FERC Order No. 636, issued in April 1992, the interstate natural gas transportation and marketing system has been substantially restructured to remove various barriers and practices that historically limited non-pipeline natural gas sellers, including producers, from effectively competing with interstate pipelines for sales to local distribution companies and large industrial and commercial customers. The most significant provisions of Order No. 636 require that interstate pipelines provide firm and interruptible transportation service on an open access basis that is equal for all natural gas supplies. In many instances, the results of Order No. 636 and related initiatives have been to substantially reduce or eliminate the traditional role of interstate pipelines as wholesalers of natural gas in favor of providing storage and transportation services.

In 2000, the FERC issued Order No. 637 and subsequent orders, which imposed additional reforms designed to enhance competition in natural gas markets. Among other things, Order No. 637 revised the FERC's pricing policy by waiving price ceilings for short-term released capacity for an experimental period, and effected changes in the FERC regulations relating to scheduling procedures, capacity segmentation, penalties, rights of first refusal and information reporting. While most major aspects of Order No. 637 have been upheld on judicial review, certain issues such as capacity segmentation and right of first refusal are pending further consideration by the FERC. We cannot predict what action the FERC will take on these matters in the future or whether the FERC's actions will survive further judicial review.

Intrastate natural gas regulation is subject to regulation by state regulatory agencies. The Texas Railroad Commission has been changing its regulations governing transportation and gathering services provided by intrastate pipelines and gatherers. While the changes by these state regulators affect us only indirectly, they are intended to further enhance competition in natural gas markets. We cannot predict what further action the FERC or state regulators will take on these matters; however, we do not believe that we will be affected differently than other natural gas producers with which we compete by any action taken.

The Outer Continental Shelf Lands Act, or "OCSLA," which the FERC implements as to transportation and pipeline issues, requires that all pipelines operating on or across the outer continental shelf, or "OCS," provide open access, non-discriminatory transportation service. One of FERC's principal goals in carrying out OCSLA's mandate is to increase transparency in the market to provide producers and shippers on the OCS with greater assurance of open access service on pipelines located on the OCS and to help ensure non-discriminatory rates and conditions of service on such pipelines.

Although the FERC has historically imposed light-handed regulation on offshore facilities that meet its traditional test of gathering status, it has the authority under the OCSLA to exercise jurisdiction over gathering facilities, if necessary, to permit non-discriminatory access to service. In an effort to heighten its oversight of the OCS, the FERC recently attempted to promulgate reporting requirements for all OCS "service providers," including gatherers, but the regulations were struck down as *ultra vires* by a federal district court, which decision was affirmed by the U.S. Court of Appeals in October 2003. The FERC withdrew those regulations in March 2004. Subsequently, in April 2004, the Minerals Management Service, or "MMS," initiated an inquiry into whether it should amend its regulations to assure that pipelines provide open and non-discriminatory access over OCS pipeline facilities. For those facilities transporting natural gas across the OCS that are not considered to be gathering facilities, the rates, terms and conditions applicable to this transportation are generally regulated by the FERC under the NGA and NGPA, as well as the OCSLA.

Additional proposals and proceedings that might affect the natural gas industry are pending before Congress, the FERC, state commissions and the courts. The natural gas industry historically has been very heavily regulated; therefore, there is no assurance that the less stringent regulatory approach recently pursued by the FERC, Congress and state regulatory authorities will continue.

*Federal leases.* Substantially all of our offshore operations are located on federal oil and natural gas leases that are administered by the MMS pursuant to the OCSLA. These leases are issued through competitive bidding and contain relatively standardized terms. These leases require compliance with detailed Department of Interior and MMS regulations and orders that are subject to interpretation and change.

For offshore operations, lessees must obtain MMS approval for exploration, development and production plans prior to the commencement of such operations. In addition to permits required from other agencies such as the Coast Guard, the Army Corps of Engineers and the Environmental Protection Agency, lessees must obtain a permit from the MMS prior to the commencement of drilling. The MMS has promulgated regulations requiring offshore production facilities located on the OCS to meet stringent engineering and construction specifications. The MMS also has regulations restricting the flaring or venting of natural gas, and has proposed to amend such regulations to prohibit the flaring of liquid hydrocarbons and oil without prior authorization. Similarly, the MMS has promulgated other regulations governing the plug and abandonment of wells located offshore and the installation and removal of all production facilities.

To cover the various obligations of lessees on the OCS, the MMS generally requires that lessees have substantial net worth or post bonds or other acceptable assurances that such obligations will be satisfied. The cost of these bonds or assurances can be substantial, and there is no assurance that they can be obtained in all

cases. We are currently exempt from supplemental bonding requirements by the MMS. Under some circumstances, the MMS may require any of our operations on federal leases to be suspended or terminated. Any such suspension or termination could materially adversely affect our financial condition and results of operations.

The MMS also administers the collection of royalties under the terms of the OCSLA and the oil and natural gas leases issued thereunder. The amount of royalties due is based upon the terms of the oil and natural gas leases as well as the regulations promulgated by the MMS. The MMS regulations governing the calculation of royalties and the valuation of crude oil produced from federal leases currently rely on arm's-length sales prices and spot market prices as indicators of value. Although the method of calculating royalties on production from federal leases has been the subject of much public discussion in recent years, the basis for calculating royalty payments established or to be established by the MMS is generally applicable to all federal lessees. Accordingly, we believe that the impact of royalty regulation on our operations should generally be the same as the impact on our competitors.

*Oil and Natural Gas Liquids Transportation Rates.* Our sales of crude oil, condensate and natural gas liquids are not currently regulated and are made at market prices. In a number of instances, however, the ability to transport and sell such products is dependent on pipelines whose rates, terms and conditions of service are subject to FERC jurisdiction under the Interstate Commerce Act. In other instances, the ability to transport and sell such products is dependent on pipelines whose rates, terms and conditions of service are subject to regulation by state regulatory bodies under state statutes. The price received from the sale of these products may be affected by the cost of transporting the products to market.

The regulation of pipelines that transport crude oil, condensate and natural gas liquids is generally more light-handed than the FERC's regulation of natural gas pipelines under the NGA. Regulated pipelines that transport crude oil, condensate and natural gas liquids are subject to common carrier obligations that generally ensure non-discriminatory access. With respect to interstate pipeline transportation subject to regulation of the FERC under the Interstate Commerce Act, rates generally must be cost-based, although market-based rates or negotiated settlement rates are permitted in certain circumstances. Pursuant to FERC Order No. 561, issued in October 1993, the FERC implemented regulations generally grandfathering all previously unchallenged interstate pipeline rates and made these rates subject to an indexing methodology. Under this indexing methodology, pipeline rates are subject to changes in the Producer Price Index for Finished Goods, minus one percent. A pipeline can seek to increase its rates above index levels provided that the pipeline can establish that there is a substantial divergence between the actual costs experienced by the pipeline and the rate resulting from application of the index. A pipeline can seek to charge a market-based rate if it establishes that it lacks significant market power. In addition, a pipeline can establish rates pursuant to settlement if agreed upon by all current shippers. A pipeline can seek to establish initial rates for new services through a cost-of-service proceeding, a market-based rate proceeding, or through an agreement between the pipeline and at least one shipper not affiliated with the pipeline. As provided for in Order No. 561, in July 2000, the FERC issued a Notice of Inquiry seeking comment on whether to retain or to change the existing oil rate-indexing method. In December 2000, the FERC issued an order concluding that the rate index reasonably estimated the actual cost changes in the pipeline industry and should be continued for another five-year period, subject to review in July 2005. In February 2003, on remand of its December 2000 order from the D.C. Circuit, the FERC increased its index slightly. A challenge to FERC's remand order was denied by the D.C. Circuit in April 2004.

With respect to intrastate crude oil, condensate and natural gas liquids pipelines subject to the jurisdiction of state agencies, such state regulation is generally less rigorous than the regulation of interstate pipelines. State agencies have generally not investigated or challenged existing or proposed rates in the absence of shipper complaints or protests. Complaints or protests have been infrequent and are usually resolved informally.

We do not believe that the regulatory decisions or activities relating to interstate or intrastate crude oil, condensate or natural gas liquids pipelines will affect us in a way that materially differs from the way it affects other crude oil, condensate and natural gas liquids producers or marketers.

*Environmental regulations.* We are subject to stringent federal, state and local laws. These laws, among other things, govern the issuance of permits to conduct exploration, drilling and production operations, the amounts and types of materials that may be released into the environment, the discharge and disposition of waste materials, the remediation of contaminated sites and the reclamation and abandonment of wells, sites and facilities. Numerous governmental departments issue rules and regulations to implement and enforce such laws, which are often difficult and costly to comply with and which carry substantial civil and even criminal penalties for failure to comply. Some laws, rules and regulations relating to protection of the environment may, in certain circumstances, impose strict liability for environmental contamination, rendering a person liable for environmental damages and cleanup cost without regard to negligence or fault on the part of such person. Other laws, rules and regulations may restrict the rate of oil and natural gas production below the rate that would otherwise exist or even prohibit exploration and production activities in sensitive areas. In addition, state laws often require various forms of remedial action to prevent pollution, such as closure of inactive pits and plugging of abandoned wells. The regulatory burden on the oil and natural gas industry increases our cost of doing business and consequently affects our profitability. These costs are considered a normal, recurring cost of our on-going operations. Our domestic competitors are generally subject to the same laws and regulations.

We believe that we are in substantial compliance with current applicable environmental laws and regulations and that continued compliance with existing requirements will not have a material adverse impact on our operations. However, environmental laws and regulations have been subject to frequent changes over the years, and the imposition of more stringent requirements could have a material adverse effect upon our capital expenditures, earnings or competitive position, including the suspension or cessation of operations in affected areas. As such, there can be no assurance that material cost and liabilities will not be incurred in the future.

The Comprehensive Environmental Response, Compensation and Liability Act, or "CERCLA," imposes liability, without regard to fault, on certain classes of persons that are considered to be responsible for the release of a "hazardous substance" into the environment. These persons include the current or former owner or operator of the disposal site or sites where the release occurred and companies that disposed or arranged for the disposal of hazardous substances. Under CERCLA, such persons may be subject to joint and several liability for the cost of investigating and cleaning up hazardous substances that have been released into the environment, for damages to natural resources and for the cost of certain health studies. In addition, companies that incur liability frequently also confront third party claims because it is not uncommon for neighboring landowners and other third parties to file claims for personal injury and property damage allegedly caused by hazardous substances or other pollutants released into the environment from a polluted site.

The Federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, or "RCRA," regulates the generation, transportation, storage, treatment and disposal of hazardous wastes and can require cleanup of hazardous waste disposal sites. RCRA currently excludes drilling fluids, produced waters and other wastes associated with the exploration, development or production of oil and natural gas from regulation as "hazardous waste." Disposal of such non-hazardous oil and natural gas exploration, development and production wastes usually are regulated by state law. Other wastes handled at exploration and production sites or used in the course of providing well services may not fall within this exclusion. Moreover, stricter standards for waste handling and disposal may be imposed on the oil and natural gas industry in the future. From time to time, legislation is proposed in Congress that would revoke or alter the current exclusion of exploration, development and production wastes from RCRA's definition of



“hazardous wastes,” thereby potentially subjecting such wastes to more stringent handling, disposal and cleanup requirements. If such legislation were enacted, it could have a significant impact on our operating cost, as well as the oil and natural gas industry in general. The impact of future revisions to environmental laws and regulations cannot be predicted.

Our operations are also subject to the Clean Air Act, or “CAA,” and comparable state and local requirements. Amendments to the CAA were adopted in 1990 and contain provisions that may result in the gradual imposition of certain pollution control requirements with respect to air emissions from our operations. We may be required to incur certain capital expenditures in the future for air pollution control equipment in connection with obtaining and maintaining operating permits and approvals for air emissions. However, we believe our operations will not be materially adversely affected by any such requirements, and the requirements are not expected to be any more burdensome to us than to other similarly situated companies involved in oil and natural gas exploration and production activities.

The Federal Water Pollution Control Act of 1972, as amended, or the “Clean Water Act,” imposes restrictions and controls on the discharge of produced waters and other wastes into navigable waters. Permits must be obtained to discharge pollutants into state and federal waters and to conduct construction activities in waters and wetlands. Certain state regulations and the general permits issued under the Federal National Pollutant Discharge Elimination System program prohibit the discharge of produced waters and sand, drilling fluids, drill cuttings and certain other substances related to the oil and natural gas industry into certain coastal and offshore waters, unless otherwise authorized. Further, the EPA has adopted regulations requiring certain oil and natural gas exploration and production facilities to obtain permits for storm water discharges. Costs may be associated with the treatment of wastewater or developing and implementing storm water pollution prevention plans. The Clean Water Act and comparable state statutes provide for civil, criminal and administrative penalties for unauthorized discharges for oil and other pollutants and impose liability on parties responsible for those discharges for the cost of cleaning up any environmental damage caused by the release and for natural resource damages resulting from the release. We believe that our operations comply in all material respects with the requirements of the Clean Water Act and state statutes enacted to control water pollution.

Federal regulators require certain owners or operators of facilities that store or otherwise handle oil to prepare and implement spill prevention, control, countermeasure and response plans relating to the possible discharge of oil into surface waters. The Oil Pollution Act of 1990 (“OPA”) contains numerous requirements relating to the prevention and response to oil spills in the waters of the United States. The OPA subjects owners of facilities to strict joint and several liability for all containment and cleanup costs and certain other damages relating to a spill. Noncompliance with OPA may result in varying civil and criminal penalties and liabilities.

Executive Order 13158, issued on May 26, 2000, directs federal agencies to safeguard existing Marine Protected Areas, or “MPAs,” in the United States and establish new MPAs. The order requires federal agencies to avoid harm to MPAs to the extent permitted by law and to the maximum extent practicable. It also directs the EPA to propose new regulations under the Clean Water Act to ensure appropriate levels of protection for the marine environment. This order has the potential to adversely affect our operations by restricting areas in which we may carry out future exploration and development projects and/or causing us to incur increased operating expenses.

Certain flora and fauna that have officially been classified as “threatened” or “endangered” are protected by the Endangered Species Act. This law prohibits any activities that could “take” a protected plant or animal or reduce or degrade its habitat area. If endangered species are located in an area we wish to develop, the work could be prohibited or delayed and/or expensive mitigation might be required.

Other statutes that provide protection to animal and plant species and which may apply to our operations include, but are not necessarily limited to, the National Environmental Policy Act, the Coastal Zone Management Act, the Oil Pollution Act, the Emergency Planning and Community Right-to-Know Act, the Marine Mammal Protection Act, the Marine Protection, Research and Sanctuaries Act, the Fish and Wildlife Coordination Act, the Fishery Conservation and Management Act, the Migratory Bird Treaty Act and the National Historic Preservation Act. These laws and regulations may require the acquisition of a permit or other authorization before construction or drilling commences and may limit or prohibit construction, drilling and other activities on certain lands lying within wilderness or wetlands and other protected areas and impose substantial liabilities for pollution resulting from our operations. The permits required for our various operations are subject to revocation, modification and renewal by issuing authorities.

We maintain insurance against "sudden and accidental" occurrences, which may cover some, but not all, of the risks described above. Most significantly, the insurance we maintain will not cover the risks described above which occur over a sustained period of time. Further, there can be no assurance that such insurance will continue to be available to cover all such cost or that such insurance will be available at a cost that would justify its purchase. The occurrence of a significant event not fully insured or indemnified against could have a material adverse effect on our financial condition and results of operations.

*Regulation of oil and natural gas exploration and production.* Our exploration and production operations are subject to various types of regulation at the federal, state and local levels. Such regulations include requiring permits and drilling bonds for the drilling of wells, regulating the location of wells, the method of drilling and casing wells and the surface use and restoration of properties upon which wells are drilled. Many states also have statutes or regulations addressing conservation matters, including provisions for the unitization or pooling of oil and natural gas properties, the establishment of maximum rates of production from oil and natural gas wells and the regulation of spacing, plug and abandonment of such wells. Some state statutes limit the rate at which oil and natural gas can be produced from our properties.

*State Regulation.* Most states regulate the production and sale of oil and natural gas, including requirements for obtaining drilling permits, the method of developing new fields, the spacing and operation of wells and the prevention of waste of oil and gas resources. The rate of production may be regulated and the maximum daily production allowable from both oil and gas wells may be established on a market demand or conservation basis or both.

#### **Office and Operations Facilities**

Our executive offices are located at 5300 Town and Country Blvd., Suite 500 in Frisco, Texas 75034 and our telephone number is (972) 668-8800. We lease office space in Frisco, Texas covering 32,896 square feet at a monthly rate of \$61,680 and in Houston, Texas covering 16,285 square feet at a monthly rate of \$28,600. These leases expire on July 31, 2014 and April 30, 2012, respectively. We also own production offices and pipe yard facilities near Marshall and Livingston, Texas; Logansport, Louisiana; Guston, Kentucky and Laurel, Mississippi.

#### **Employees**

As of December 31, 2006, we had 130 employees and utilized contract employees for certain of our field operations. We consider our employee relations to be satisfactory.

**Directors, Executive Officers and Other Management**

The following table sets forth certain information concerning our executive officers and directors.

<u>Name</u>	<u>Position With Company</u>	<u>Age</u>
M. Jay Allison	President, Chief Executive Officer and Chairman of the Board of Directors	51
Roland O. Burns	Senior Vice President, Chief Financial Officer, Secretary, Treasurer and Director	46
D. Dale Gillette	Vice President of Land and General Counsel	61
Mack D. Good	Chief Operating Officer	56
Stephen E. Neukom	Vice President of Marketing	57
Daniel K. Presley	Vice President of Accounting and Controller	46
Richard D. Singer	Vice President of Financial Reporting	52
David K. Lockett	Director	52
Cecil E. Martin, Jr.	Director	65
David W. Sledge	Director	50
Nancy E. Underwood	Director	55

**Executive Officers**

A brief biography of each person who serves as a director or executive officer follows below.

**M. Jay Allison** has been a director since June 1987, and our President and Chief Executive Officer since 1988. Mr. Allison was elected Chairman of the board of directors in 1997. From 1987 to 1988, Mr. Allison served as our Vice President and Secretary. From 1981 to 1987, he was a practicing oil and gas attorney with the firm of Lynch, Chappell & Alsop in Midland, Texas. He received B.B.A., M.S. and J.D. degrees from Baylor University in 1978, 1980 and 1981, respectively. Mr. Allison also serves as Chairman of the board of directors of Bois d'Arc Energy, Inc. and currently serves as a director of Tidewater Marine, Inc., on the Board of Regents for Baylor University and on the Advisory Board of the Salvation Army in Dallas, Texas.

**Roland O. Burns** has been our Senior Vice President since 1994, Chief Financial Officer and Treasurer since 1990, our Secretary since 1991 and a director since 1999. Mr. Burns also serves as Senior Vice President, Chief Financial Officer, Secretary and a director of Bois d'Arc Energy, Inc. From 1982 to 1990, Mr. Burns was employed by the public accounting firm, Arthur Andersen LLP. During his tenure with Arthur Andersen LLP, Mr. Burns worked primarily in the firm's oil and gas audit practice. Mr. Burns received B.A. and M.A. degrees from the University of Mississippi in 1982 and is a Certified Public Accountant.

**D. Dale Gillette** joined us as Vice President of Land and General Counsel in September 2006. Prior to joining us, Mr. Gillette practiced law extensively in the energy sector for 32 years, most recently as a partner with Gardere Wynne Sewell LLP, and before that with Locke Liddell & Sapp LLP. During that time he represented independent exploration and production companies and large financial institutions in numerous oil and gas transactions. Mr. Gillette has also served as corporate counsel in the legal department of Mesa Petroleum Co. and in the legal department of Enserch Corp. Mr. Gillette holds B.A. and J.D. degrees from the University of Texas and is a member of the State Bar of Texas.

**Mack D. Good** was appointed our Chief Operating Officer in 2004. From 1999 to 2004, he served as Vice President of Operations. From August 1997 until February 1999, Mr. Good served as our district engineer for the East Texas/North Louisiana region. From 1983 until July 1997, Mr. Good was with Enserch Exploration, Inc. serving in various operations management and engineering positions. Mr. Good received a B.S. of Biology/Chemistry from Oklahoma State University in 1975 and a B.S. of Petroleum Engineering from the University of Tulsa in 1983. He is a Registered Professional Engineer in the State of Texas.

**Stephen E. Neukom** has been our Vice President of Marketing since December 1997 and has served as our manager of crude oil and natural gas marketing since December 1996. From October 1994 to 1996, Mr. Neukom served as vice president of Comstock Natural Gas, Inc., our former wholly owned gas marketing subsidiary. Prior to joining us, Mr. Neukom was senior vice president of Victoria Gas Corporation from 1987 to 1994. Mr. Neukom received a B.B.A. degree from the University of Texas in 1972.

**Daniel K. Presley** has been our Vice President of Accounting since December 1997 and has been with us since December 1989, serving as controller since 1991. Prior to joining us, Mr. Presley had six years of experience with several independent oil and gas companies including AmBrit Energy, Inc. Prior thereto, Mr. Presley spent two and one-half years with B.D.O. Seidman, a public accounting firm. Mr. Presley received a B.B.A. from Texas A & M University in 1983.

**Richard D. Singer** joined us in June 2005 as Vice President of Financial Reporting. Mr. Singer has over 30 years of experience in financial accounting and reporting. Prior to joining us, Mr. Singer most recently served as an assistant controller for Holly Corporation from March 2004 to May 2005 and as assistant controller for Santa Fe International Corporation from July 1988 to December 2002. Mr. Singer received a B.S. degree from the Pennsylvania State University in 1976 and is a Certified Public Accountant.

#### **Outside Directors**

**David K. Lockett** has served as a director since July 2001. Mr. Lockett has been a Vice President of Dell Inc. and has managed Dell's Small and Medium Business Group since 1996. Mr. Lockett has been employed by Dell Inc. for the last 15 years and has spent the past 25 years in the technology industry. Mr. Lockett also serves as a director of Bois d'Arc Energy, Inc. Mr. Lockett received a B.B.A. degree from Texas A&M University in 1976.

**Cecil E. Martin, Jr.** has served as a director since October 1989. Mr. Martin is an independent commercial real estate investor who has primarily been managing his personal real estate investments since 1991. From 1973 to 1991, he also served as chairman of a public accounting firm in Richmond, Virginia. Mr. Martin also serves as a director of Bois d'Arc Energy, Inc. and on the board of directors of Crosstex Energy, Inc. and Crosstex Energy, L.P. Mr. Martin holds a B.B.A. degree from Old Dominion University and is a Certified Public Accountant.

**David W. Sledge** has served as a director since May 1996. Mr. Sledge is currently President and Chief Officer of Sledge Drilling Corporation. He served as an area operations manager for Patterson-UTI Energy, Inc. from May 2004 until January 2006. From October 1996 until May 2004, Mr. Sledge managed his personal investments in oil and gas exploration activities. Mr. Sledge is a past director of the International Association of Drilling Contractors and is a past chairman of the Permian Basin chapter of this association. Mr. Sledge also serves as a director of Bois d'Arc Energy, Inc. He received a B.B.A. degree from Baylor University in 1979.

**Nancy E. Underwood** has served as a director since 2004. Ms. Underwood is owner and President of Underwood Financial Ltd., a position she has held since 1986. Ms. Underwood holds B.S. and J.D. degrees from Emory University and practiced law at an Atlanta, Georgia based law firm before joining River Hill

Development Corporation in 1981. Ms. Underwood is involved civically in the Dallas community and currently serves on the board of the Presbyterian Hospital of Dallas Foundation.

#### Available Information

Our executive offices are located at 5300 Town and Country Blvd., Suite 500, Frisco, Texas 75034. Our telephone number is (972) 668-8800. We file annual, quarterly and current reports, proxy statements and other documents with the SEC under the Securities Exchange Act of 1934. The public may read and copy any materials that we file with the SEC at the SEC's Public Reference Room at 450 Fifth Street, N.W., Washington, D.C. 20549. The public may obtain information on the operation of the Public Reference Room by calling the SEC at 1-800-SEC-0330. In addition, the SEC maintains a website that contains reports, proxy and information statements, and other information that is electronically filed with the SEC. The public can obtain any documents that we file with the SEC at [www.sec.gov](http://www.sec.gov). We also make available free of charge on our website ([www.comstockresources.com](http://www.comstockresources.com)) our Annual Report on Form 10-K, Quarterly Reports on Form 10-Q, current reports on Form 8-K and, if applicable, amendments to those reports filed or furnished pursuant to Section 13(a) of the Exchange Act as soon as reasonably practicable after we file such material with, or furnish it to, the SEC.

#### ITEM 1A. RISK FACTORS

You should carefully consider the following risk factors as well as the other information contained or incorporated by reference in this report, as these are important factors, among others, that could cause our actual results to differ from our expected or historical results. It is not possible to predict or identify all such factors. Consequently, you should not consider any such list to be a complete statement of all of our potential risks or uncertainties.

***A substantial or extended decline in oil and natural gas prices may adversely affect our business, financial condition, cash flow, liquidity or results of operations and our ability to meet our capital expenditure obligations and financial commitments and to implement our business strategy.***

Our business is heavily dependent upon the prices of, and demand for, oil and natural gas. Historically, the prices for oil and natural gas have been volatile and are likely to remain volatile in the future. The prices we receive for our oil and natural gas production and the level of such production will be subject to wide fluctuations and depend on numerous factors beyond our control, including the following:

- the domestic and foreign supply of oil and natural gas;
- weather conditions;
- the price and quantity of imports of crude oil and natural gas;
- political conditions and events in other oil-producing and natural gas-producing countries, including embargoes, continued hostilities in the Middle East and other sustained military campaigns, and acts of terrorism or sabotage;
- the actions of the Organization of Petroleum Exporting Countries, or OPEC;
- domestic government regulation, legislation and policies;
- the level of global oil and natural gas inventories;
- technological advances affecting energy consumption;
- the price and availability of alternative fuels; and
- overall economic conditions.

Any continued and extended decline in the price of crude oil or natural gas will adversely affect:

- our revenues, profitability and cash flow from operations;

- the value of our proved oil and natural gas reserves;
- the economic viability of certain of our drilling prospects;
- our borrowing capacity; and
- our ability to obtain additional capital.

We have entered into certain natural gas price hedging arrangements on certain of our anticipated sales. In the future we may enter into additional hedging arrangements in order to reduce our exposure to price risks. Such arrangements would limit our ability to benefit from increases in oil and natural gas prices.

***The unavailability or high cost of drilling rigs, equipment, supplies or qualified personnel and oilfield services could adversely affect our ability to execute our exploration and development plans on a timely basis and within our budget.***

With the increasing oil and natural gas prices, our industry has experienced a shortage of drilling rigs, equipment, supplies and qualified personnel. Costs and delivery times of rigs, equipment and supplies are substantially greater than they were several years ago. In addition, demand for, and wage rates of, qualified drilling rig crews rise with increases in the number of active rigs in service. Shortages of drilling rigs, equipment or supplies or qualified personnel in the areas in which we operate could delay or restrict our exploration and development operations, which in turn could adversely affect our financial condition and results of operations because of our concentration in those areas.

***We plan to pursue acquisitions as part of our growth strategy and there are risks in connection with acquisitions.***

Our growth has been attributable in part to acquisitions of producing properties and companies. We expect to continue to evaluate and, where appropriate, pursue acquisition opportunities on terms we consider favorable. However, we cannot assure you that suitable acquisition candidates will be identified in the future, or that we will be able to finance such acquisitions on favorable terms. In addition, we compete against other companies for acquisitions, and we cannot assure you that we will successfully acquire any material property interests. Further, we cannot assure you that future acquisitions by us will be integrated successfully into our operations or will increase our profits.

The successful acquisition of producing properties requires an assessment of numerous factors beyond our control, including, without limitation:

- recoverable reserves;
- exploration potential;
- future oil and natural gas prices;
- operating costs; and
- potential environmental and other liabilities.

In connection with such an assessment, we perform a review of the subject properties that we believe to be generally consistent with industry practices. The resulting assessments are inexact and their accuracy uncertain, and such a review may not reveal all existing or potential problems, nor will it necessarily permit us to become sufficiently familiar with the properties to fully assess their merits and deficiencies. Inspections may not always be performed on every well, and structural and environmental problems are not necessarily observable even when an inspection is made.

Additionally, significant acquisitions can change the nature of our operations and business depending upon the character of the acquired properties, which may be substantially different in operating and geologic characteristics or geographic location than our existing properties. While our current operations are focused

in the East Texas/North Louisiana, Southeast Texas, South Texas, Mississippi, the Mid-Continent and other regions, as well as the Gulf of Mexico through our ownership interest in Bois d'Arc Energy we may pursue acquisitions or properties located in other geographic areas.

***Our future production and revenues depend on our ability to replace our reserves.***

Our future production and revenues depend upon our ability to find, develop or acquire additional oil and natural gas reserves that are economically recoverable. Our proved reserves will generally decline as reserves are depleted, except to the extent that we conduct successful exploration or development activities or acquire properties containing proved reserves, or both. To increase reserves and production, we must continue our acquisition and drilling activities. We cannot assure you, however, that our acquisition and drilling activities will result in significant additional reserves or that we will have continuing success drilling productive wells at low finding and development costs. Furthermore, while our revenues may increase if prevailing oil and natural gas prices increase significantly, our finding costs for additional reserves could also increase.

***Prospects that we decide to drill may not yield oil or natural gas in commercially viable quantities or quantities sufficient to meet our targeted rate of return.***

A prospect is a property in which we own an interest or have operating rights and has what our geoscientists believe, based on available seismic and geological information, to be an indication of potential oil or natural gas. Our prospects are in various stages of evaluation, ranging from a prospect that is ready to be drilled to a prospect that will require substantial additional evaluation and interpretation. There is no way to predict in advance of drilling and testing whether any particular prospect will yield oil or natural gas in sufficient quantities to recover drilling or completion costs or to be economically viable. The use of seismic data and other technologies and the study of producing fields in the same area will not enable us to know conclusively prior to drilling whether oil or natural gas will be present or, if present, whether oil or natural gas will be present in commercial quantities. The analysis that we perform using data from other wells, more fully explored prospects and/or producing fields may not be useful in predicting the characteristics and potential reserves associated with our drilling prospects. If we drill additional unsuccessful wells, our drilling success rate may decline and we may not achieve our targeted rate of return.

***We are vulnerable to operational, regulatory and other risks associated with the Gulf of Mexico, including the effects of adverse weather conditions such as hurricanes, because we currently explore and produce exclusively in that area.***

Our offshore operations and revenues are significantly impacted by conditions in the Gulf of Mexico. Risks associated with the Gulf of Mexico include:

- adverse weather conditions, including hurricanes and tropical storms;
- delays or decreases in production, the availability of equipment, facilities or services;
- delays or decreases in the availability of capacity to transport, gather or process production; and
- changes in the regulatory environment.

Offshore operations are also subject to a variety of operating risks peculiar to the marine environment, such as capsizing, collisions and damage or loss from hurricanes or other adverse weather conditions. These conditions can cause substantial damage to our facilities and interrupt our production. As a result, we could incur substantial liabilities that could reduce or eliminate the funds available for exploration and development or result in loss of equipment and property. For example, our offshore operations were substantially impacted in 2004, 2005 and 2006 by hurricane and tropical storm activity. In both 2004 and 2005, we had

production shut-in for six different hurricanes or tropical storms. In 2004, 2005 and 2006 we also had production shut-in awaiting repairs to third party pipelines that were damaged by the hurricanes.

***We plan to conduct exploration, development and production operations on the deep shelf and in the deepwater of the Gulf of Mexico, which presents greater operating and financial risks than conventional shelf operations.***

The deep shelf of the Gulf of Mexico is an area that has had limited historical drilling activity. This is due, in part, to its geological complexity and depth. Deep shelf development can be more expensive than conventional shelf projects as deep shelf development requires more actual drilling days and higher drilling and services costs due to extreme pressure and temperatures associated with greater drilling depths. Moreover, drilling expense and the risk of mechanical failure are significantly higher because of the additional depth and adverse conditions such as high temperature and pressure. Also, seismic interpretation of deeper, geopressured formations is more difficult than at shallower, normally pressured conventional well depths. Our overall exploration success rate has been 73%. Of the 25 deep shelf wells that we have drilled, 15 successfully found hydrocarbons at geologic and drilling depths below 15,000 feet, for a success rate of 54%. This success rate is lower than our overall success rate, reflecting the fact that deep shelf drilling is inherently more risky than conventional shelf drilling. Deepwater development costs can also be significantly higher than shelf development costs because deepwater drilling requires bigger installation equipment; sophisticated sea floor production handling equipment; expensive, state-of-the-art platforms and/or investment in infrastructure. Accordingly, we cannot assure you that our oil and natural gas exploration activities, in the deep shelf, the deepwater and elsewhere, will be commercially successful.

***Our debt service requirements could adversely affect our operations and limit our growth.***

We had \$455.0 million in debt as of December 31, 2006, and our ratio of total debt to total capitalization was approximately 40%.

Our outstanding debt will have important consequences, including, without limitation:

- a portion of our cash flow from operations will be required to make debt service payments;
- our ability to borrow additional amounts for working capital, capital expenditures (including acquisitions) or other purposes will be limited; and
- our debt could limit our ability to capitalize on significant business opportunities, our flexibility in planning for or reacting to changes in market conditions and our ability to withstand competitive pressures and economic downturns.

In addition, future acquisition or development activities may require us to alter our capitalization significantly. These changes in capitalization may significantly increase our debt. Moreover, our ability to meet our debt service obligations and to reduce our total debt will be dependent upon our future performance, which will be subject to general economic conditions and financial, business and other factors affecting our operations, many of which are beyond our control. If we are unable to generate sufficient cash flow from operations in the future to service our indebtedness and to meet other commitments, we will be required to adopt one or more alternatives, such as refinancing or restructuring our indebtedness, selling material assets or seeking to raise additional debt or equity capital. We cannot assure you that any of these actions could be effected on a timely basis or on satisfactory terms or that these actions would enable us to continue to satisfy our capital requirements.



Our bank credit facility contains a number of significant covenants. These covenants will limit our ability to, among other things:

- borrow additional money;
- merge, consolidate or dispose of assets;
- make certain types of investments;
- enter into transactions with our affiliates; and
- pay dividends.

Our failure to comply with any of these covenants would cause a default under our bank credit facility and the indenture governing our 6<sup>7</sup>/<sub>8</sub>% senior notes due 2012. A default, if not waived, could result in acceleration of our indebtedness, in which case the debt would become immediately due and payable. If this occurs, we may not be able to repay our debt or borrow sufficient funds to refinance it. Even if new financing is available, it may not be on terms that are acceptable to us. Complying with these covenants may cause us to take actions that we otherwise would not take or not take actions that we otherwise would take.

***Our business involves many uncertainties and operating risks that can prevent us from realizing profits and can cause substantial losses.***

Our future success will depend on the success of our exploration and development activities. Exploration activities involve numerous risks, including the risk that no commercially productive natural gas or oil reserves will be discovered. In addition, these activities may be unsuccessful for many reasons, including weather, cost overruns, equipment shortages and mechanical difficulties. Moreover, the successful drilling of a natural gas or oil well does not ensure we will realize a profit on our investment. A variety of factors, both geological and market-related, can cause a well to become uneconomical or only marginally economical. In addition to their costs, unsuccessful wells can hurt our efforts to replace production and reserves.

Our business involves a variety of operating risks, including:

- unusual or unexpected geological formations;
- fires;
- explosions;
- blow-outs and surface cratering;
- uncontrollable flows of natural gas, oil and formation water;
- natural disasters, such as hurricanes, tropical storms and other adverse weather conditions;
- pipe, cement, sub-sea pipeline or onshore pipeline failures;
- casing collapses;
- mechanical difficulties, such as lost or stuck oil field drilling and service tools;
- abnormally pressured formations; and
- environmental hazards, such as natural gas leaks, oil spills, pipeline ruptures and discharges of toxic gases.

If we experience any of these problems, well bores, gathering systems and processing facilities could be affected, which could adversely affect our ability to conduct operations.

We could also incur substantial losses as a result of:

- injury or loss of life;
- severe damage to and destruction of property, natural resources and equipment;
- pollution and other environmental damage;

- clean-up responsibilities;
- regulatory investigation and penalties;
- suspension of our operations; and
- repairs to resume operations.

***We operate in a highly competitive industry, and our failure to remain competitive with our competitors, many of which have greater resources than we do, could adversely affect our results of operations.***

The oil and natural gas industry is highly competitive in the search for and development and acquisition of reserves. Our competitors for the acquisition, development and exploration of oil and natural gas properties and capital to finance such activities, include companies that have greater financial and personnel resources than we do. These resources could allow those competitors to price their products and services more aggressively than we can, which could hurt our profitability. Moreover, our ability to acquire additional properties and to discover reserves in the future will be dependent upon our ability to evaluate and select suitable properties and to close transactions in a highly competitive environment.

***Our competitors may use superior technology that we may be unable to afford or which would require costly investment by us in order to compete.***

If our competitors use or develop new technologies, we may be placed at a competitive disadvantage, and competitive pressures may force us to implement new technologies at a substantial cost. In addition, our competitors may have greater financial, technical and personnel resources that allow them to enjoy technological advances and may in the future allow them to implement new technologies before we can. We cannot be certain that we will be able to implement technologies on a timely basis or at a cost that is acceptable to us. One or more of the technologies that we currently use or that we may implement in the future may become obsolete. All of these factors may inhibit our ability to acquire additional prospects and compete successfully in the future.

***Substantial exploration and development activities could require significant outside capital, which could dilute the value of our common shares and restrict our activities. Also, we may not be able to obtain needed capital or financing on satisfactory terms, which could lead to a limitation of our future business opportunities and a decline in our oil and natural gas reserves.***

We expect to expend substantial capital in the acquisition of, exploration for and development of oil and natural gas reserves. In order to finance these activities, we may need to alter or increase our capitalization substantially through the issuance of debt or equity securities, the sale of non-strategic assets or other means. The issuance of additional equity securities could have a dilutive effect on the value of our common shares. The issuance of additional debt would require that a portion of our cash flow from operations be used for the payment of interest on our debt, thereby reducing our ability to use our cash flow to fund working capital, capital expenditures, acquisitions, dividends and general corporate requirements, which could place us at a competitive disadvantage relative to other competitors. Additionally, if our revenues decrease as a result of lower oil or natural gas prices, operating difficulties or declines in reserves, our ability to obtain the capital necessary to undertake or complete future exploration and development programs and to pursue other opportunities may be limited, which could result in a curtailment of our operations relating to exploration and development of our prospects, which in turn could result in a decline in our oil and natural gas reserves.

***If oil and natural gas prices decrease, we may be required to write-down the carrying values and/or the estimates of total reserves of our oil and natural gas properties, which would constitute a non-cash charge to earnings and adversely affect our results of operations.***

Accounting rules applicable to us require that we review periodically the carrying value of our oil and natural gas properties for possible impairment. Based on specific market factors and circumstances at the time of prospective impairment reviews and the continuing evaluation of development plans, production data, economics and other factors, we may be required to write down the carrying value of our oil and natural gas properties. A write-down constitutes a non-cash charge to earnings. We may incur non-cash charges in the future, which could have a material adverse effect on our results of operations in the period taken. We may also reduce our estimates of the reserves that may be economically recovered, which could have the effect of reducing the total value of our reserves. Such a reduction in carrying value could impact our borrowing ability and may result in accelerating the repayment date of any outstanding debt.

***Our reserve estimates depend on many assumptions that may turn out to be inaccurate. Any material inaccuracies in our reserve estimates or underlying assumptions will materially affect the quantities and present value of our reserves.***

Reserve engineering is a subjective process of estimating the recovery from underground accumulations of oil and natural gas that cannot be precisely measured. The accuracy of any reserve estimate depends on the quality of available data, production history and engineering and geological interpretation and judgment. Because all reserve estimates are to some degree imprecise, the quantities of oil and natural gas that are ultimately recovered, production and operating costs, the amount and timing of future development expenditures and future oil and natural gas prices may all differ materially from those assumed in these estimates. The information regarding present value of the future net cash flows attributable to our proved oil and natural gas reserves is only estimated and should not be construed as the current market value of the oil and natural gas reserves attributable to our properties. Thus, such information includes revisions of certain reserve estimates attributable to proved properties included in the preceding year's estimates. Such revisions reflect additional information from subsequent activities, production history of the properties involved and any adjustments in the projected economic life of such properties resulting from changes in product prices. Any future downward revisions could adversely affect our financial condition, our borrowing ability, our future prospects and the value of our common stock.

As of December 31, 2006, 34% of our total proved reserves are undeveloped and 30% are developed non-producing. These reserves may not ultimately be developed or produced. Furthermore, not all of our undeveloped or developed non-producing reserves may be ultimately produced at the time periods we have planned, at the costs we have budgeted, or at all. As a result, we may not find commercially viable quantities of oil and natural gas, which in turn may result in a material adverse effect on our results of operations.

***If we are unsuccessful at marketing our oil and gas at commercially acceptable prices, our profitability will decline.***

Our ability to market oil and gas at commercially acceptable prices depends on, among other factors, the following:

- the availability and capacity of gathering systems and pipelines;
- federal and state regulation of production and transportation;
- changes in supply and demand; and
- general economic conditions.

Our inability to respond appropriately to changes in these factors could negatively effect our profitability.

***Market conditions or operational impediments may hinder our access to oil and natural gas markets or delay our production.***

Market conditions or the unavailability of satisfactory oil and natural gas transportation arrangements may hinder our access to oil and natural gas markets or delay our production. The availability of a ready market for our oil and natural gas production depends on a number of factors, including the demand for and supply of oil and natural gas and the proximity of reserves to pipelines and terminal facilities. Our ability to market our production depends in a substantial part on the availability and capacity of gathering systems, pipelines and processing facilities, in some cases owned and operated by third parties. Our failure to obtain such services on acceptable terms could materially harm our business. We may be required to shut in wells for a lack of a market or because of the inadequacy or unavailability of pipelines or gathering system capacity. If that were to occur, then we would be unable to realize revenue from those wells until arrangements were made to deliver our production to market.

***We depend on our key personnel and the loss of any of these individuals could have a material adverse effect on our operations.***

We believe that the success of our business strategy and our ability to operate profitably depend on the continued employment of M. Jay Allison, our President and Chief Executive Officer, and a limited number of other senior management personnel. Loss of the services of Mr. Allison or any of those other individuals could have a material adverse effect on our operations.

***Our insurance coverage may not be sufficient or may not be available to cover some liabilities or losses that we may incur.***

If we suffer a significant accident or other loss, our insurance coverage will be net of our deductibles and may not be sufficient to pay the full current market value or current replacement value of our lost investment, which could result in a material adverse impact on our operations and financial condition. Our insurance does not protect us against all operational risks. We do not carry business interruption insurance. For some risks, we may not obtain insurance if we believe the cost of available insurance is excessive relative to the risks presented. Because third party drilling contractors are used to drill our wells, we may not realize the full benefit of workers' compensation laws in dealing with their employees. In addition, some risks, including pollution and environmental risks, generally are not fully insurable.

***We are subject to extensive governmental laws and regulations that may adversely affect the cost, manner or feasibility of doing business.***

Our operations and facilities are subject to extensive federal, state and local laws and regulations relating to the exploration for, and the development, production and transportation of, oil and natural gas, and operating safety. Future laws or regulations, any adverse changes in the interpretation of existing laws and regulations or our failure to comply with existing legal requirements may harm our business, results of operations and financial condition. We may be required to make large and unanticipated capital expenditures to comply with governmental laws and regulations, such as:

- lease permit restrictions;
- drilling bonds and other financial responsibility requirements, such as plug and abandonment bonds;
- spacing of wells;
- unitization and pooling of properties;

- safety precautions;
- regulatory requirements; and
- taxation.

Under these laws and regulations, we could be liable for:

- personal injuries;
- property and natural resource damages;
- well reclamation costs; and
- governmental sanctions, such as fines and penalties.

Our operations could be significantly delayed or curtailed and our cost of operations could significantly increase as a result of regulatory requirements or restrictions. We are unable to predict the ultimate cost of compliance with these requirements or their effect on our operations.

***Compliance with MMS regulations could significantly delay or curtail our operations or require us to make material expenditures, all of which could have a material adverse effect on our financial condition or results of operations.***

Substantially all of Bois d'Arc Energy's offshore operations are located on federal oil and natural gas leases that are administered by the MMS. As an offshore operator, Bois d'Arc Energy must obtain MMS approval for our exploration, development and production plans prior to commencing such operations. The MMS has promulgated regulations that, among other things, require Bois d'Arc Energy to meet stringent engineering and construction specifications, restrict the flaring or venting of natural gas, govern the plug and abandonment of wells located offshore and the installation and removal of all production facilities, and govern the calculation of royalties and the valuation of crude oil produced from federal leases.

***Our operations may incur substantial liabilities to comply with environmental laws and regulations.***

Our oil and natural gas operations are subject to stringent federal, state and local laws and regulations relating to the release or disposal of materials into the environment and otherwise relating to environmental protection. These laws and regulations:

- require the acquisition of a permit before drilling commences;
- restrict the types, quantities and concentration of substances that can be released into the environment in connection with drilling and production activities;
- limit or prohibit drilling activities on certain lands lying within wilderness, wetlands and other protected areas; and
- impose substantial liabilities for pollution resulting from our operations.

Failure to comply with these laws and regulations may result in:

- the assessment of administrative, civil and criminal penalties;
- the incurrence of investigatory or remedial obligations; and
- the imposition of injunctive relief.

Changes in environmental laws and regulations occur frequently, and any changes that result in more stringent or costly waste handling, storage, transport, disposal or cleanup requirements could require us to make significant expenditures to reach and maintain compliance and may otherwise have a material adverse effect on our industry in general and on our own results of operations, competitive position or financial

condition. Under these environmental laws and regulations, we could be held strictly liable for the removal or remediation of previously released materials or property contamination regardless of whether we were responsible for the release or contamination or if our operations met previous standards in the industry at the time they were performed.

***Provisions of our articles of incorporation, bylaws and Nevada law will make it more difficult to effect a change in control of us, which could adversely affect the price of our common stock.***

Nevada corporate law and our articles of incorporation and bylaws contain provisions that could delay, defer or prevent a change in control of us. These provisions include:

- allowing for authorized but unissued shares of common and preferred stock;
- a classified board of directors;
- requiring special stockholder meetings to be called only by our chairman of the board, our chief executive officer, a majority of the board or the holders of at least 10% of our outstanding stock entitled to vote at a special meeting;
- requiring removal of directors by a supermajority stockholder vote;
- prohibiting cumulative voting in the election of directors; and
- Nevada control share laws that may limit voting rights in shares representing a controlling interest in us.

We have in place a stockholders' rights plan. The provisions of the stockholders' rights plan and the above provisions could make an acquisition of us by means of a tender offer or proxy contest or removal of our incumbent directors more difficult. As a result, these provisions could make it more difficult for a third party to acquire us, even if doing so would benefit our stockholders, which may limit the price that investors are willing to pay in the future for shares of our common stock.

**ITEM 1B. UNRESOLVED STAFF COMMENTS**

None.

**ITEM 3. LEGAL PROCEEDINGS**

We are not a party to any legal proceedings which management believes will have a material adverse effect on our consolidated results of operations or financial condition.

**ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS**

No matters were submitted to a vote of our security holders during the fourth quarter of 2006.

PART II

**ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES**

Our common stock is listed for trading on the New York Stock Exchange under the symbol "CRK." The following table sets forth, on a per share basis for the periods indicated, the high and low sales prices by calendar quarter for the periods indicated as reported by the New York Stock Exchange.

		High	Low
2005 —	First Quarter	\$ 30.23	\$ 19.90
	Second Quarter	29.64	20.33
	Third Quarter	33.60	25.23
	Fourth Quarter	33.98	27.10
2006 —	First Quarter	\$ 34.25	\$ 25.43
	Second Quarter	33.53	24.79
	Third Quarter	30.99	24.84
	Fourth Quarter	33.80	23.97

As of February 28, 2007, we had 44,396,995 shares of common stock outstanding, which were held by 340 holders of record and approximately 20,700 beneficial owners who maintain their shares in "street name" accounts.

We have never paid cash dividends on our common stock. We presently intend to retain any earnings for the operation and expansion of our business and we do not anticipate paying cash dividends in the foreseeable future. Any future determination as to the payment of dividends will depend upon the results of our operations, capital requirements, our financial condition and such other factors as our board of directors may deem relevant. In addition, we are limited under our bank credit facility and by the terms of the indenture for our senior notes from paying or declaring cash dividends in excess of \$40.0 million.

During the fourth quarter of 2006, we did not repurchase any of our equity securities.

The following table summarizes certain information regarding our equity compensation plans as of December 31, 2006:

	Number of Securities to be Issued upon Exercise of Outstanding Options, Warrants and Rights	Weighted Average Exercise Price of Outstanding Options, Warrants and Rights	Number of Securities Authorized for Future Issuance under Equity Compensation Plans (Excluding Outstanding Options, Warrants and Rights)
Equity compensation plans approved by stockholders	1,468,970	\$ 11.59	328,351 <sup>(1)</sup>

(1) Plus 1% of the outstanding shares of common stock each year beginning on each subsequent January 1.

We do not have any equity compensation plans that were not approved by stockholders.

**ITEM 6. SELECTED FINANCIAL DATA**

The historical financial data presented in the table below as of and for each of the years in the five-year period ended December 31, 2006 are derived from our consolidated financial statements. The financial results are not necessarily indicative of our future operations or future financial results. The data presented below should be read in conjunction with our consolidated financial statements and the notes thereto and "Management's Discussion and Analysis of Financial Condition and Results of Operations." Effective January 1, 2006, we began including Bois d'Arc Energy in our financial statements as a consolidated subsidiary. Our financial statements for data and periods prior to January 1, 2006 have not been adjusted. For comparative purposes, financial information for 2005 are also presented pro forma to reflect Bois d'Arc Energy as a consolidated subsidiary.

**Statement of Operations Data:**

	Year Ended December 31,					
	2002	2003	2004	2005	2006	2005 Pro Forma
	(In thousands, except per share data)					
Oil and gas sales	\$ 142,085	\$ 235,102	\$ 261,647	\$ 303,336	\$ 511,928	\$ 449,242
Operating expenses:						
Oil and gas operating(1)	33,499	45,746	52,068	50,966	107,303	81,356
Exploration	5,479	4,410	15,610	19,725	20,132	33,693
Depreciation, depletion and amortization	53,155	61,169	63,879	63,338	153,922	95,977
Impairment	—	4,255	1,648	3,400	10,444	3,990
General and administrative, net	5,113	7,006	14,569	16,533	31,769	24,017
Total operating expenses	97,246	122,586	147,774	153,962	323,570	239,033
Income from operations	44,839	112,516	113,873	149,374	188,358	210,209
Other income (expenses):						
Interest income	62	73	1,207	1,604	1,012	610
Other income	8,027	223	166	209	781	209
Interest expense	(31,252)	(29,860)	(21,182)	(20,272)	(27,429)	(21,365)
Loss of disposal of assets	—	—	—	—	—	(89)
Formation costs of Bois d'Arc Energy	—	—	(1,101)	—	—	—
Gain on sale of stock by Bois d'Arc Energy	—	—	—	28,797	—	28,797
Gain (loss) from derivatives	(2,326)	(3)	(155)	(13,556)	10,716	(13,556)
Loss on early extinguishment of debt	—	—	(19,599)	—	—	—
Total other income (expense)	(25,489)	(29,567)	(40,664)	(3,218)	(14,920)	(5,394)
Income from continuing operations before income taxes, equity in loss of Bois d'Arc Energy, and minority interest in earnings of Bois d'Arc Energy	19,350	82,949	73,209	146,156	173,438	204,815
Income tax expense	(6,773)	(29,682)	(26,342)	(35,815)	(74,339)	(161,623)
Equity in loss of Bois d'Arc Energy	—	—	—	(49,862)	—	—
Minority interest in earnings of Bois d'Arc Energy	—	—	—	—	(28,434)	17,287
Net income from continuing operations	12,577	53,267	46,867	60,479	70,665	60,479
Discontinued operations including gain (loss) on disposal, net of income taxes	(1,072)	—	—	—	—	—
Cumulative effect of change in accounting principle	—	675	—	—	—	—
Net income	11,505	53,942	46,867	60,479	70,665	60,479
Preferred stock dividends	(1,604)	(573)	—	—	—	—
Net income attributable to common stock	\$ 9,901	\$ 53,369	\$ 46,867	\$ 60,479	\$ 70,665	\$ 60,479
Basic net income per share:						
From continuing operations	\$ 0.38	\$ 1.65	\$ 1.37	\$ 1.54	\$ 1.67	\$ 1.54
Discontinued operations	(0.04)	—	—	—	—	—
Cumulative effect of change in accounting principle	—	0.02	—	—	—	—
	\$ 0.34	\$ 1.67	\$ 1.37	\$ 1.54	\$ 1.67	\$ 1.54
Diluted net income per share:						
From continuing operations	\$ 0.37	\$ 1.51	\$ 1.29	\$ 1.47	\$ 1.61	\$ 1.47
Discontinued operations	(0.03)	—	—	—	—	—
Cumulative effect of change in accounting principle	—	0.02	—	—	—	—
	\$ 0.34	\$ 1.53	\$ 1.29	\$ 1.47	\$ 1.61	\$ 1.47
Weighted average shares outstanding:						
Basic	28,764	31,964	34,187	39,216	42,220	39,216
Diluted	33,901	35,275	36,252	41,154	43,556	41,154

(1) Includes lease operating costs and production and ad valorem taxes.



**Balance Sheet Data:**

	Year Ended December 31,					
	2002	2003	2004	2005	2006	2005 Pro Forma
	(In thousands)					
Cash and cash equivalents	\$ 1,682	\$ 5,343	\$ 2,703	\$ 89	\$ 10,715	\$ 12,132
Property and equipment, net	664,208	698,686	827,761	706,928	1,773,626	1,368,859
Investment in Bois d' Arc Energy	—	—	—	252,134	—	—
Total assets	711,053	746,356	941,476	1,016,663	1,878,125	1,477,307
Total debt	366,272	306,623	403,150	243,000	458,250	312,000
Redeemable convertible preferred stock	17,573	—	—	—	—	—
Stockholders' equity	208,427	289,656	355,853	582,859	682,563	582,859
Cash flows provided by operating activities	84,437	153,785	171,351	217,954	364,605	322,744
Cash flows used for investing activities	(79,903)	(92,930)	(258,061)	(207,086)	(529,751)	(512,692)
Cash flows provided by (used for) financing activities	(8,974)	(57,194)	84,070	(13,482)	163,729	198,408

**ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS**

The following discussion and analysis should be read in conjunction with our selected historical consolidated financial data and our accompanying consolidated financial statements and the notes to those financial statements included elsewhere in this report. The following discussion includes forward-looking statements that reflect our plans, estimates and beliefs. Our actual results could differ materially from those discussed in these forward-looking statements. Factors that could cause or contribute to such differences include, but are not limited to, those discussed below and elsewhere in this report, particularly in "Risk Factors" and "Cautionary Note Regarding Forward-Looking Statements."

**Overview**

We are an independent energy company engaged in the acquisition, discovery and production of oil and natural gas in the United States. We own interests in 1,766 (820.7 net to us) producing oil and natural gas wells and we operate 805 of these wells. We own a controlling interest in Bois d' Arc Energy, an independent exploration company that owns interests in offshore producing oil and natural gas wells in the Gulf of Mexico. The results of Bois d' Arc Energy have been included in our consolidated financial statements as of January 1, 2006. In managing our business, we are concerned primarily with maximizing return on our stockholders' equity. To accomplish this goal, we focus on profitably increasing our oil and natural gas reserves and production.

Our future growth will be driven primarily by acquisition, development and exploration activities. Under our current drilling budget, we plan to spend approximately \$478.0 million in 2007 for development and exploration activities. We plan to drill approximately 160 development wells, 113 net to us, and 25 exploratory wells, 15.9 net to us in 2007. However, the number of wells that we drill in 2007 will be subject to the availability of drilling rigs that we can hire. In addition, we could reduce the wells that we drill if oil and natural gas prices were to decline significantly. We do not budget for acquisitions as the timing and size of acquisitions are not predictable. We use the successful efforts method of accounting which allows only for the capitalization of costs associated with developing proven oil and natural gas properties as well as exploration costs associated with successful exploration activities. Accordingly, our exploration costs

consist of costs we incur to acquire and reprocess 3-D seismic data, impairments of our unevaluated leasehold where we were not successful in discovering reserves and the costs of unsuccessful exploratory wells that we drill.

We generally sell our oil and natural gas at current market prices at the point our wells connect to third party purchaser pipelines. We market our products several different ways depending upon a number of factors, including the availability of purchasers for the product, the availability and cost of pipelines near our wells, market prices, pipeline constraints and operational flexibility. Accordingly, our revenues are heavily dependent upon the prices of, and demand for, oil and natural gas. Oil and natural gas prices have historically been volatile and are likely to remain volatile in the future.

Our operating costs are generally comprised of several components, including costs of field personnel, repair and maintenance costs, production supplies, fuel used in operations, transportation costs, workover expenses and state production and ad valorem taxes.

Like all oil and natural gas exploration and production companies, we face the challenge of replacing our reserves. Although in the past we have offset the effect of declining production rates from existing properties through successful acquisition and drilling efforts, there can be no assurance that we will be able to offset production declines or maintain production at rates through future acquisitions or drilling activity. Our future growth will depend on our ability to continue to add new reserves in excess of production.

Our operations and facilities are subject to extensive federal, state and local laws and regulations relating to the exploration for, and the development, production and transportation of, oil and natural gas, and operating safety. Future laws or regulations, any adverse changes in the interpretation of existing laws and regulations or our failure to comply with existing legal requirements may harm our business, results of operations and financial condition. Applicable environmental regulations require us to remove our equipment after production has ceased, to plug and abandon our wells and to remediate any environmental damage our operations may have caused. The present value of the estimated future costs to plug and abandon our oil and gas wells and to dismantle and remove our production facilities is included in our reserve for future abandonment costs, which was \$57.1 million as of December 31, 2006.

#### **Investment in Bois d'Arc Energy**

Bois d'Arc Energy was organized in July 2004 as a limited liability company through the contribution of substantially all of our offshore properties together with the properties of Bois d'Arc Resources, Ltd. and its partners. We initially owned 60% of Bois d'Arc Energy, and we accounted for our share of Bois d'Arc Energy's financial and operating results using proportionate consolidation accounting until Bois d'Arc Energy was converted into a corporation and completed its initial public offering in May 2005. The results for offshore operations in 2004 represent our direct ownership interests in offshore properties that were ultimately contributed to Bois d'Arc Energy upon its formation and our proportionate consolidation of the results of Bois d'Arc Energy from its inception through December 31, 2004. Subsequent to the conversion into a corporation and as a result of the public offering, we owned 48% of the outstanding shares of Bois d'Arc Energy. Since proportionate consolidation is not a generally accepted accounting principle applicable to an investment in a corporation, we changed our accounting method for our investment in Bois d'Arc Energy to the equity method concurrent with Bois d'Arc Energy's conversion to a corporation. The offshore results for 2005 include our proportionate interest in the operations of Bois d'Arc Energy based upon our ownership interest throughout the period presented. The equity method adjustments reflect the reductions to our share of Bois d'Arc Energy's operating results that are necessary to apply the equity method of accounting for all periods subsequent to the conversion of Bois d'Arc Energy to a corporation.

During 2006 we acquired additional shares of common stock of Bois d'Arc Energy, which increased our direct ownership interest in Bois d'Arc Energy. As a result, we have voting control of Bois d'Arc Energy through our direct share ownership combined with the share ownership of members of our Board of Directors. The results of Bois d'Arc Energy are included in our financial statements as a consolidated subsidiary, and as permitted by generally accepted accounting principles, consolidated revenues, expenses and cash flows for 2006 reflect Bois d'Arc Energy as a consolidated subsidiary as of January 1, 2006. Financial statements for dates and periods prior to January 1, 2006, have not been adjusted. The inclusion of Bois d'Arc Energy as a consolidated subsidiary in our financial statements had no impact on our net income, and although the adjustment to reflect Bois d'Arc Energy as a consolidated subsidiary had no impact on our net income, comparisons of the separate components of our results of operations are significantly impacted by this change. In order to provide more meaningful information regarding comparisons of our results for the year ended December 31, 2006, our discussion of our operating results and capital expenditures is presented based upon a comparison of actual 2006 results to pro forma results for 2005 adjusted to include Bois d'Arc Energy as a consolidated subsidiary.

The onshore data in the tables below contains the results of operations for our direct ownership in our onshore oil and gas properties. The offshore data contains the results of operations of Bois d'Arc Energy after its formation in July 2004 and our Gulf of Mexico production that we contributed to Bois d'Arc Energy prior to Bois d'Arc Energy's formation. The 2006 data and the pro forma 2005 data reflect 100% of the operations of Bois d'Arc Energy. The 2004 and 2005 results reflect only our proportionate share of Bois d'Arc Energy's operations.

**Results of Operations**

**Year Ended December 31, 2006 Compared to Pro Forma Year Ended December 31, 2005**

Our operating data for 2006 and 2005 on a pro forma basis is summarized below:

	<u>Onshore</u>	<u>Offshore</u>	<u>Total</u>
<b>Year Ended December 31, 2006</b>			
<b>Net Production Data:</b>			
Oil (MBbls)	921	1,383	2,304
Natural gas (MMcf)	30,271	23,183	53,454
Natural gas equivalent (MMcfe)	35,797	31,481	67,278
<b>Average Sales Price:</b>			
Oil (\$/Bbl)	\$ 55.32	\$ 64.66	\$ 60.93
Natural gas (\$/Mcf)	\$ 6.81	\$ 7.13	\$ 6.95
Average equivalent price (\$/Mcf)	\$ 7.19	\$ 8.09	\$ 7.61
<b>Expenses (\$ per Mcfe):</b>			
Oil and gas operating <sup>(1)</sup>	\$ 1.51	\$ 1.70	\$ 1.59
Depreciation, depletion and amortization <sup>(2)</sup>	\$ 2.10	\$ 2.45	\$ 2.28
<b>Pro Forma Year Ended December 31, 2005</b>			
<b>Net Production Data:</b>			
Oil (MBbls)	735	1,155	1,890
Natural gas (MMcf)	28,742	14,896	43,638
Natural gas equivalent (MMcfe)	33,151	21,825	54,976
<b>Average Sales Price:</b>			
Oil (\$/Bbl)	\$ 49.34	\$ 52.88	\$ 51.50
Natural gas (\$/Mcf)	\$ 7.95	\$ 8.28	\$ 8.06
Average equivalent price (\$/Mcf)	\$ 7.99	\$ 8.45	\$ 8.17
<b>Expenses (\$ per Mcfe):</b>			
Oil and gas operating <sup>(1)</sup>	\$ 1.34	\$ 1.70	\$ 1.48
Depreciation, depletion and amortization <sup>(2)</sup>	\$ 1.60	\$ 1.95	\$ 1.74

(1) Includes lease operating costs and production and ad valorem taxes.

(2) Represents depreciation, depletion and amortization of oil and gas properties only.

*Oil and gas sales.* Our oil and gas sales increased \$62.7 million (14%) in 2006 to \$511.9 million from pro forma consolidated sales of \$449.2 million in 2005. This increase primarily reflects a 22% increase in production which was partially offset by lower natural gas prices in 2006. Our average natural gas price decreased by 14% in 2006 as compared to our average gas price in 2005. Prices for crude oil increased by 18% in 2006 as compared to our prices for crude oil in 2005. Our natural gas production increased by 22% in 2006 over 2005. Higher offshore natural gas production was primarily due to production from new wells drilled and the restoration of certain of our offshore production with the return to service of pipelines and facilities in 2006 after being shut in due to hurricanes in 2005. Our onshore natural gas production increased by 5%, reflecting our active development drilling program and production attributable to the properties we acquired in 2005. Oil production increased 22% in 2006 over 2005. Higher oil production onshore in 2006 resulted mainly from additional production from the properties we acquired in 2005. The increase in offshore oil production resulted from the restoration of pipelines and facilities offshore and production from new wells that we drilled.

*Oil and gas operating expenses.* Our oil and gas operating expenses, including production taxes, increased \$25.9 million (32%) to \$107.3 million in 2006 from pro forma consolidated operating expenses of \$81.4 million in 2005. Oil and gas operating expenses per equivalent Mcf produced increased \$0.11 to \$1.59 in 2006 as compared with \$1.48 in 2005. Onshore operating expenses in 2006 increased due to costs associated with the properties we acquired in 2005 or drilled in 2006. The increase in offshore operating expenses resulted primarily from increased cost of services and materials for fuel, services and supplies, and higher insurance costs.

*Exploration expense.* In 2006, we incurred \$20.1 million in exploration expense as compared to pro forma consolidated exploration expense of \$33.7 million in 2005. Exploration expense in 2006 primarily relates to dry hole expense for three offshore exploratory wells, two onshore exploratory wells, the acquisition and reprocessing of offshore 3-D seismic data, and impairment of unproved properties. Pro forma exploration expense in 2005 includes \$16.7 million for the Big Sandy dry hole onshore, and the cost of one offshore exploratory dry hole and offshore seismic costs.

*DD&A.* Depreciation, depletion and amortization ("DD&A") increased \$57.9 million (60%) to \$153.9 million in 2006 from pro forma consolidated DDA expense of \$96.0 million in 2005. Our DD&A rate per Mcfe produced averaged \$2.28 in 2006 as compared to \$1.74 for 2005. DD&A expense in 2006 for onshore operations increased \$22.1 million or (42%) from 2005 due to higher production and an increase in the onshore amortization rate caused by higher capitalized costs of the development wells we drilled. Offshore DD&A expenses for 2006 increased from 2005 due to increased production and a higher the amortization rate. The offshore amortization rate results from higher capitalized costs associated with the wells we drilled and the installation of new production facilities.

*Impairment.* We recorded impairments to our oil and gas properties of \$10.4 million in 2006 as compared to pro forma consolidated impairment expense of \$4.0 million in 2005. Impairment of onshore properties of \$8.8 million increased in 2006 over 2005 primarily due to impairment in 2006 of a property that was held for resale. Subsequently the plan to sell the property was cancelled. The impairment reflected this property's estimated fair market value at the time the plan to sell the property changed. Offshore impairments of \$1.6 million were related to several minor valued fields.

*General and administrative expenses.* General and administrative expenses, which are reported net of overhead reimbursements, of \$31.8 million for 2006 were 32% higher than pro forma consolidated general and administrative expenses of \$24.0 million for 2005. The increase primarily reflects higher personnel costs in 2006 due to increased staffing necessary to support the higher activity levels in our exploration and development programs, an increase of \$3.4 million in stock-based compensation in 2006 as

compared to 2005, and the increased costs of compliance related to Bois d'Arc Energy which became a public company in May 2005.

*Interest expense.* Interest expense increased \$6.0 million (28%) to \$27.4 million in 2006 from pro forma consolidated interest expense of \$21.4 million in 2005. The increase was primarily the result of higher borrowings and higher interest rates in 2006. Average borrowings under our bank credit facilities increased to \$188.6 million in 2006 as compared to \$166.4 million for 2005. The average interest rate on the outstanding borrowings under our credit facilities increased to 6.5% in 2006 as compared to 4.6% in 2005.

*Derivative Gains and Losses.* We did not designate our derivatives we utilize as part of our price risk management program as cash flow hedges and accordingly, we recognize gains or losses for the changes in the fair value of these liabilities during each period. The fair value of our liability for these derivatives decreased during 2006 resulting in a net unrealized gain of \$11.2 million. During 2005, the fair value of these liabilities increased due to the increase in natural gas prices and we accordingly recognized an unrealized loss of \$11.1 million during 2005. We realized losses to settle derivative positions of \$0.7 million and \$2.5 million during 2006 and 2005, respectively.

*Minority Interest.* Minority interest in earnings of Bois d'Arc Energy of \$28.4 million for 2006 increased \$45.7 million from the pro forma minority interest in losses of \$17.3 million for 2005 primarily due to Bois d'Arc Energy's higher net income in 2006. This increase is mainly due to the absence of Bois d'Arc Energy's one time tax provision of \$108.2 million associated with recognizing cumulative deferred tax liabilities when it converted from a limited liability company to a corporation.

*Income taxes.* Income tax expense decreased in 2006 to \$74.3 million from pro forma income tax expense of \$161.6 million in 2005. The pro forma tax expense in 2005 included a \$108.2 million provision for deferred taxes related to Bois d'Arc Energy's conversion from a nontaxable entity to a corporation during 2005. Income tax expense in 2006 also increased from pro forma 2005 tax expense due to our higher income before income taxes and deferred taxes provided on the undistributed earnings of Bois d'Arc Energy.

*Net income.* We reported net income of \$70.7 million in 2006, as compared to net income of \$60.5 million in 2005. Net income per share for 2006 was \$1.61 on 43.6 million weighted average diluted shares outstanding as compared to \$1.47 for 2005 on 41.2 million weighted average diluted shares outstanding.

**Year Ended December 31, 2005 Compared to Year Ended December 31, 2004**

Our operating data for 2005 and 2004 is summarized below:

	<u>Onshore</u>	<u>Offshore</u>	<u>Adjustments To Equity Method(1)</u>	<u>Total</u>
<b>Year Ended December 31, 2005</b>				
<b>Net Production Data:</b>				
Oil (MBbls)	735	615	(313)	1,037
Natural gas (MMcf)	28,742	7,849	(4,342)	32,249
Natural gas equivalent (MMcfe)	33,151	11,537	(6,219)	38,469
<b>Average Sales Price:</b>				
Oil (\$/Bbl)	\$ 49.34	\$ 52.42		\$ 49.01
Natural gas (\$/Mcf)	\$ 7.95	\$ 8.15		\$ 7.83
Average equivalent price (\$/Mcf)	\$ 7.99	\$ 8.34		\$ 7.89
<b>Expenses (\$ per Mcfe):</b>				
Oil and gas operating(2)	\$ 1.34	\$ 1.66		\$ 1.32
Depreciation, depletion and amortization(3)	\$ 1.60	\$ 1.95		\$ 1.64
<b>Year Ended December 31, 2004</b>				
<b>Net Production Data:</b>				
Oil (MBbls)	430	1,104		1,534
Natural gas (MMcf)	26,388	7,131		33,519
Natural gas equivalent (MMcfe)	28,967	13,755		42,722
<b>Average Sales Price:</b>				
Oil (\$/Bbl)	\$ 39.96	\$ 39.81		\$ 39.86
Natural gas (\$/Mcf)	\$ 5.88	\$ 6.36		\$ 5.98
Average equivalent price (\$/Mcf)	\$ 5.95	\$ 6.49		\$ 6.12
<b>Expenses (\$ per Mcfe):</b>				
Oil and gas operating(2)	\$ 1.09	\$ 1.48		\$ 1.22
Depreciation, depletion and amortization(3)	\$ 1.25	\$ 1.94		\$ 1.46

(1) Adjustments to eliminate our proportionate share of Bois d'Arc Energy's operations subsequent to adoption of the equity method of accounting effective May 10, 2005.

(2) Includes lease operating costs and production and ad valorem taxes.

(3) Represents depreciation, depletion and amortization of oil and gas properties only.

**Oil and gas sales.** Our oil and gas sales increased \$41.7 million (16%) in 2005 to \$303.3 million from \$261.6 million in 2004. Oil and gas sales from our onshore operations increased to \$264.8 million, an increase of \$92.4 million or 54%, from \$172.4 million in 2004. This increase is attributable to the higher oil and gas prices we realized and increased production from our onshore properties. Our average onshore natural gas price increased by 35% and our average onshore crude oil price increased by 23% in 2005 as compared to prices in 2004. Our onshore production increased by 14% in 2005 over 2004 primarily due to new production from our successful drilling activity and the additional production attributable to the properties we acquired from EnSight in May 2005. Sales from our offshore operations of \$96.2 million in 2005 were 8% higher than offshore revenues in 2004 of \$89.3 million as higher oil and gas prices realized were offset by lower production. Our average offshore natural gas price increased by 28% and our average crude oil price increased by 32% in 2005 as compared to prices in 2004. Offshore production in 2005 decreased by 16% from production in 2004. The lower offshore production was primarily attributable to the hurricane activity in the Gulf of Mexico that occurred during the third and fourth quarters of 2005 and partially to our lower ownership interest in Bois d'Arc Energy subsequent to the completion of its initial public offering on May 11, 2005.

**Oil and gas operating expenses.** Our oil and gas operating expenses, including production taxes, decreased \$1.1 million (2%) to \$51.0 million in 2005 from \$52.1 million in 2004. Oil and gas operating expenses per equivalent Mcf produced increased \$0.10 to \$1.32 in 2005 as compared with \$1.22 in 2004. Onshore operating expenses for 2005 of \$44.3 million increased by \$12.6 million compared to 2004 due to the

acquisition of the EnSight properties, the start up of new wells and higher production taxes due to increased oil and gas prices. Offshore oil and gas operating costs for 2005 of \$19.1 million decreased \$1.2 million (6%) due to our lower ownership interest in certain high lifting cost fields that were contributed to Bois d'Arc Energy.

*Exploration expense.* In 2005, we incurred \$19.7 million in exploration expense as compared to \$15.6 million in 2004. Exploration expense in 2005 primarily relates to the exploratory dry hole drilled to test the "Big Sandy" prospect and the acquisition of 3-D seismic data.

*DD&A.* Depreciation, depletion and amortization ("DD&A") decreased \$0.6 million (1%) to \$63.3 million in 2005 from \$63.9 million in 2004. DD&A associated with our onshore properties increased by \$16.7 million to \$52.9 million primarily due to our increased production and an increase in our amortization rate. Our DD&A rate per Mcfe produced for our onshore properties averaged \$1.60 in 2005 as compared to \$1.25 for 2004. The increase relates to higher costs of properties acquired in late 2004 and in 2005 together with an increase in capitalized costs on our existing properties. DD&A attributable to our offshore properties for 2005 declined primarily due to lower produced volumes. Our DD&A rate per Mcfe produced for offshore properties was essentially unchanged in 2005 from 2004.

*Impairment.* We recorded impairments to our oil and gas properties of \$3.4 million in 2005 and \$1.6 million in 2004. These impairments relate to minor valued fields where an impairment was indicated based on estimated future cash flows attributable to the fields' estimated proved oil and natural gas reserves.

*General and administrative expenses.* General and administrative expenses, which are reported net of overhead reimbursements, of \$16.5 million for 2005 were 13% higher than general and administrative expenses of \$14.6 million for 2004. The increase primarily reflects higher personnel costs in 2005 and additional staffing that was necessitated by the EnSight acquisition.

*Interest income.* Interest income in 2005 was \$1.6 million as compared to \$1.2 million in 2004. Included in interest income was \$1.2 million in 2005 and \$1.1 million in 2004 related to interest received from the other owners of Bois d'Arc Energy.

*Interest expense.* Interest expense decreased \$0.9 million (4%) to \$20.3 million in 2005 from \$21.2 million in 2004. The decrease was primarily the result of lower borrowings in 2005. Average borrowings under our bank credit facility decreased to \$151.9 million in 2005 as compared to \$176.7 million for 2004. The average interest rate on the outstanding borrowings under our credit facility increased to 4.6% in 2005 as compared to 3.2% in 2004.

*Equity in earnings.* Commencing May 10, 2005 we began accounting for our share of the earnings from Bois d'Arc Energy under the equity method on an after-tax basis. Accordingly, our results for 2005 include a loss of \$49.9 million with respect to our ownership interest in Bois d'Arc Energy. This loss includes a one time provision of \$64.6 million associated with recognizing, under the equity method of accounting, our proportionate share of the cumulative deferred tax liabilities recorded by Bois d'Arc Energy when it converted from a limited liability company to a corporation. We also recognized a gain of \$28.8 million on our investment in Bois d'Arc Energy based on our share of the amount that Bois d'Arc Energy's equity increased as a result of the sale of shares in Bois d'Arc Energy's initial public offering.

*Derivative losses.* The fair value of the liability for the derivatives we utilize as part of our natural gas price risk management program increased substantially during 2005 due to the increase in natural gas prices that occurred in 2005. Since we did not designate these derivative positions as hedges, an unrealized loss of \$11.1 million associated with the increase in fair value of these derivative positions was recorded as an expense during 2005. We realized losses of \$2.5 million in 2005 to settle derivative positions.

*Income taxes.* Income tax expense increased in 2005 to \$35.8 million from \$26.3 million in 2004 due to the higher pre-tax income in 2005.

*Net income.* We reported net income of \$60.5 million in 2005, as compared to net income of \$46.9 million in 2004. Net income per share for 2005 was \$1.47 on 41.2 million weighted average diluted shares outstanding as compared to \$1.29 for 2004 on 36.3 million weighted average diluted shares outstanding. Excluding the effect of the one time adjustments for Bois d'Arc Energy's conversion to a corporation and its initial public offering and the unrealized loss on derivatives, our net income for 2005 would have been \$91.0 million or \$2.21 per share. The 2004 results include a charge of \$19.6 million (\$12.5 million after income taxes or \$0.35 per diluted share) relating to the early retirement of our 11<sup>1</sup>/<sub>4</sub>% senior notes.

#### **Liquidity and Capital Resources**

Funding for our activities has historically been provided by our operating cash flow, debt or equity financings or asset dispositions. In 2006, our net cash flow provided by operating activities totaled \$364.6 million. Our other primary source of funds in 2006 was a net increase of \$143.0 million under our bank credit facilities and \$15.9 million from the exercise of stock options and warrants. In 2005, our net cash flow provided by operating activities totaled \$218.0 million and we received proceeds of \$121.2 million from a public offering of our common stock. In 2005 we also increased the debt outstanding under our bank credit facilities by \$179.0 million and we received \$25.6 million from the exercise of stock options and warrants. In 2004 our net cash flow provided by operating activities totaled \$171.4 million and we received proceeds of \$175.0 million from a sale of new eight year 6<sup>7</sup>/<sub>8</sub>% senior notes. In 2004 we also increased the debt outstanding under our bank credit facility by \$142.0 million and received \$9.4 million from the exercise of stock options and warrants.

Our cash flow from operating activities in 2006 increased by \$146.6 million to \$364.6 million as compared to \$218.0 million in 2005 primarily due to higher revenues which were attributable to our increase in our production and the consolidation of Bois d'Arc Energy's cash flows. Cash flows from operating activities in 2005 of \$218.0 million increased by \$46.6 million from the 2004 cash flows from operating activities of \$171.4 million mainly due to higher revenues caused by increased natural gas prices. Our cash flow from operating activities in 2006 also increased from pro forma 2005 cash flow from operating activities of \$322.7 million due to the increased oil and gas production in 2006.

Our primary need for capital, in addition to funding our ongoing operations, relate to the acquisition, development and exploration of our oil and gas properties, and the repayment of our debt. Capital expenditures for exploration, development and exploration activities were \$209.8 million, \$355.4 million and \$533.3 million for the years ended December 31, 2004, 2005 and 2006, respectively.



Our capital expenditure activity for the years ended December 31, 2005 and 2006, including 2005 pro forma data as if we had consolidated Bois d'Arc Energy's capital expenditures for the full year of 2005 is summarized in the following table:

	Year Ended December 31,		
	2005	2006 (In thousands)	Pro Forma 2005(1)
Exploration and development:			
Acquisitions of proved oil and gas properties	\$ 201,788	\$ 79,767	\$ 201,788
Acquisitions of unproved oil and gas properties	2,027	10,010	6,935
Developmental leasehold costs	3,102	2,902	3,102
Workovers and recompletions	21,100	41,646	34,561
Other development	2,580	50,764	109,300
Development drilling	98,710	211,491	77,601
Exploratory drilling	26,106	136,759	78,228
	355,413	533,339	511,515
Other	849	2,924	2,637
<b>Total</b>	<b>\$ 356,262</b>	<b>\$ 536,263</b>	<b>\$ 514,152</b>

(1) Pro forma for consolidating the capital expenditures of Bois d'Arc Energy as of January 1, 2005.

Our capital expenditures in 2006 of \$536.3 million increased by \$22.1 million over pro forma 2005 capital expenditures of \$514.2 million mostly due to higher drilling and construction costs. Capital expenditures in 2005 increased above 2004 capital expenditures of \$209.8 million primarily due to the acquisitions we made in 2005.

The timing of most of our capital expenditures is discretionary because we have no material long-term capital expenditure commitments. Consequently, we have a significant degree of flexibility to adjust the level of our capital expenditures as circumstances warrant. We currently expect to spend approximately \$478.0 million for development and exploration projects in 2007, which will be funded primarily by cash flows from operating activities and to a lesser extent borrowings under our bank credit facilities. Our operating cash flow and therefore, our capital expenditures are highly dependent on oil and natural gas prices, and in particular natural gas prices.

In 2006 we acquired producing oil and gas properties for an aggregate amount of \$79.8 million. We spent \$201.8 million on acquisition activities in 2005. We do not have a specific acquisition budget for 2007 since the timing and size of acquisitions are unpredictable. Smaller acquisitions will generally be funded from operating cash flow. With respect to significant acquisitions, we intend to use borrowings under our bank credit facilities, or other debt or equity financings to the extent available, to finance such acquisitions. The availability and attractiveness of these sources of financing will depend upon a number of factors, some of which will relate to our financial condition and performance and some of which will be beyond our control, such as prevailing interest rates, oil and natural gas prices and other market conditions.

We have \$175.0 million of senior notes outstanding. The senior notes are due March 1, 2012 and bear interest at 6<sup>7</sup>/<sub>8</sub>%, which is payable semiannually on each March 1 and September 1. The senior notes are unsecured obligations and are guaranteed by all of our wholly owned subsidiaries.

We have a \$600.0 million bank credit facility with Bank of Montreal, as the administrative agent. The bank credit facility is a five-year revolving credit commitment that matures on December 15, 2011. Indebtedness under the bank credit facility is secured by substantially all of our and our wholly-owned subsidiaries' assets and is guaranteed by all of our wholly-owned subsidiaries. The bank credit facility is

subject to borrowing base availability, which is redetermined semiannually based on the banks' estimates of the future net cash flows of our oil and natural gas properties. As of December 31, 2006 the borrowing base was \$400.0 million, \$220.0 million of which was available. The borrowing base may be affected by the performance of our properties and changes in oil and natural gas prices. The determination of the borrowing base is at the sole discretion of the administrative agent and the bank group. Borrowings under the bank credit facility bear interest, based on the utilization of the borrowing base, at our option at either LIBOR plus 1.0% to 1.75% or the base rate (which is the higher of the prime rate or the federal funds rate) plus 0% to 0.25%. A commitment fee of 0.25% to 0.375%, based on the utilization of the borrowing base, is payable on the unused portion of the borrowing base. The bank credit facility contains covenants that, among other things, restrict the payment of cash dividends in excess of \$40.0 million, limit the amount of consolidated debt that we may incur and limit our ability to make certain loans and investments. The only financial covenants are the maintenance of a ratio of current assets, including the availability under the bank credit facility, to current liabilities of at least one-to-one and maintenance of a minimum tangible net worth. We were in compliance with these covenants as of December 31, 2006.

Bois d'Arc Energy has a \$200.0 million bank credit facility with The Bank of Nova Scotia and several other banks. Borrowings under the Bois d'Arc Energy credit facility are limited to a borrowing base that is re-determined semi-annually based on the banks' estimates of the future net cash flows of our oil and natural gas properties. The borrowing base was \$200.0 million, \$100.0 million of which was available as of December 31, 2006. The determination of the borrowing base is at the sole discretion of the administrative agent and the bank group. The Bois d'Arc Energy credit facility matures on May 11, 2009. Borrowings under the credit facility bear interest at Bois d'Arc Energy's option at either (1) LIBOR plus a margin that varies from 1.25% to 2.0% depending upon the ratio of the amounts outstanding to the borrowing base or (2) the base rate (which is the higher of the prime rate or the federal funds rate) plus a margin that varies from 0% to 0.75% depending upon the ratio of the amounts outstanding to the borrowing base. A commitment fee ranging from 0.375% to 0.50% (depending upon the ratio of the amounts outstanding to the borrowing base) is payable on the unused borrowing base. Indebtedness under the Bois d'Arc Energy credit facility is secured by substantially all of Bois d'Arc Energy's and its subsidiaries' assets, and all of Bois d'Arc Energy's subsidiaries are guarantors of the indebtedness. The Bois d'Arc Energy credit facility contains covenants that restrict the payment of cash dividends in excess of \$5.0 million, borrowings, sales of assets, loans to others, capital expenditures, investments, merger activity, hedging contracts, liens and certain other transactions without the prior consent of the lenders and requires Bois d'Arc Energy to maintain a ratio of current assets, including the availability under the bank credit facility, to current liabilities of at least one-to-one and a ratio of indebtedness to earnings before interest, taxes, depreciation, depletion, and amortization, exploration and impairment expense of no more than 2.5 to one. Bois d'Arc Energy was in compliance with these covenants as of December 31, 2006.

We believe that our cash flow from operations and available borrowings under our bank credit facilities will be sufficient to fund our operations and future growth as contemplated under our current business plan. However, if our plans or assumptions change or if our assumptions prove to be inaccurate, we may be required to seek additional capital. We cannot provide any assurance that we will be able to obtain such capital, or if such capital is available, that we will be able to obtain it on acceptable terms.

The following table summarizes our aggregate liabilities and commitments by year of maturity:

	2007	2008	2009	2010 (In thousands)	2011	Thereafter	Total
Bank credit facilities	\$ —	\$ —	\$ 100,000	\$ —	\$ 180,000	\$ —	\$ 280,000
6 <sup>7</sup> / <sub>8</sub> % senior notes	—	—	—	—	—	175,000	175,000
Interest on debt	31,211	31,211	26,820	24,361	23,821	2,005	139,429
Operating leases	1,123	1,128	1,142	1,152	1,158	2,055	7,758
Acquisition of seismic data	5,250	8,250	—	—	—	—	13,500
Contracted drilling services	80,257	13,594	—	—	—	—	93,851
	<u>\$ 117,841</u>	<u>\$ 54,183</u>	<u>\$ 127,962</u>	<u>\$ 25,513</u>	<u>\$ 204,979</u>	<u>\$ 179,060</u>	<u>\$ 709,538</u>

Future interest costs are based upon the interest rate on our outstanding senior notes and on the December 31, 2006 rate for our bank credit facilities.

#### **Federal Taxation**

At December 31, 2006, we had federal income tax net operating loss carryforwards of approximately \$42.4 million. We have established a \$23.0 million valuation allowance against part of the net operating loss carryforwards that we acquired in an acquisition due to a “change in control” limitation which will prevent us from fully realizing these carryforwards. The carryforwards expire from 2017 through 2021. The realization of these carryforwards depends on our ability to generate future taxable income in order to utilize these carryforwards.

#### **Critical Accounting Policies**

The preparation of financial statements in conformity with accounting principles generally accepted in the United States requires us to make estimates and use assumptions that can affect the reported amounts of assets, liabilities, revenues or expenses.

*Successful efforts accounting.* We are required to select among alternative acceptable accounting policies. There are two generally acceptable methods for accounting for oil and gas producing activities. The full-cost method allows the capitalization of all costs associated with finding oil and natural gas reserves, including certain general and administrative expenses. The successful efforts method allows only for the capitalization of costs associated with developing proven oil and natural gas properties as well as exploration costs associated with successful exploration projects. Costs related to exploration that are not successful are expensed when it is determined that commercially productive oil and gas reserves were not found. We have elected to use the successful efforts method to account for our oil and gas activities and we do not capitalize any of our general and administrative expenses.

*Oil and natural gas reserve quantities.* The determination of depreciation, depletion and amortization expense as well as impairments that are recognized on our oil and gas properties are highly dependent on the estimates of the proved oil and natural gas reserves attributable to our properties. Reserve engineering is a subjective process of estimating underground accumulations of oil and natural gas that cannot be precisely measured. The accuracy of any reserve estimate depends on the quality of available data, production history and engineering and geological interpretation and judgment. Because all reserve estimates are to some degree imprecise, the quantities of oil and natural gas that are ultimately recovered, production and operating costs, the amount and timing of future development expenditures and future oil and natural gas prices may all differ materially from those assumed in these estimates. The information regarding present value of the future net cash flows attributable to our proved oil and natural gas reserves are estimates only and should not be construed as the current market value of the estimated oil and natural gas reserves attributable to our properties. Thus, such information includes revisions of certain reserve estimates attributable to proved properties included in the preceding year’s estimates. Such revisions reflect additional information from subsequent activities, production history of the properties involved and any adjustments in the projected economic life of such properties resulting from changes in product prices. Any future downward revisions could adversely affect our financial condition, our borrowing ability, our future prospects and the value of our common stock.

*Impairment of oil and gas properties.* The determination of impairment of our oil and gas reserves is based on the oil and gas reserve estimates using projected future oil and natural gas prices that we have determined to be reasonable. The projected prices that we employ represent our long-term oil and natural

gas price forecast and may be higher or lower than the December 31, 2006 market prices for crude oil and natural gas. For the impairment review of our oil and gas properties that we conducted as of December 31, 2006, we used oil and natural gas prices that were based on the current futures market. We used an oil price of \$53.50 for 2007 and escalated prices by 5% each year thereafter to a maximum price of \$66.91 per barrel. For natural gas we used a price of \$7.90 per Mcf for 2007 and escalated prices by 5% each year thereafter to a maximum price of \$12.12 per Mcf. The initial prices we used were tied to the one-year market prices for oil and natural gas. To the extent we had used lower prices in our impairment review, an impairment could have been indicated on certain of our oil and gas properties.

*Asset retirement obligations.* We have significant obligations to remove tangible equipment and facilities and to restore land or seafloor at the end of oil and gas production operations. Our removal and restoration obligations are primarily associated with plugging and abandoning wells and removing and disposing of offshore oil and gas platforms. Estimating the future restoration and removal costs is difficult and requires management to make estimates and judgments because most of the removal obligations are many years in the future. Asset removal technologies and costs are constantly changing, as are regulatory, political, environmental, safety and public relations considerations.

*Stock-based compensation.* We follow the fair value based method prescribed in Statement of Financial Accounting Standards No. 123 (revised 2004), "Share-Based Payment" ("SFAS 123R") in accounting for equity-based compensation. Under the fair value based method, compensation cost is measured at the grant date based on the fair value of the award and is recognized on a straight-line basis over the award vesting period. We adopted SFAS 123R utilizing the modified prospective transition method and accordingly the financial results for periods prior to January 1, 2006 have not been adjusted. Prior to adopting SFAS 123R we followed the fair value based method prescribed in Statement of Financial Accounting Standards No. 123, "Accounting for Stock Based Compensation" for all periods beginning January 1, 2004. Under the fair value based method, compensation cost is measured at the grant date based on the fair value of the award and is recognized over the award vesting period. Because we previously recorded stock-based compensation using the fair value method, adoption of SFAS 123R did not have a significant impact on our net income or earnings per share for the year ended December 31, 2006.

*New accounting standards.* In June 2006, the FASB issued FASB Interpretation No. 48, "Accounting for Uncertainty in Income Taxes," an interpretation of FASB Statement No. 109 ("FIN 48"). FIN 48 prescribes a recognition threshold and measurement attribute for the financial statement recognition and measurement of tax positions taken or expected to be taken in a tax return. FIN 48 also provides guidance on derecognition, classification, interest and penalties, accounting in interim periods, disclosure and transition. FIN 48 is effective for fiscal years beginning after December 15, 2006, and we adopted FIN 48 at the beginning of fiscal 2007. The impact of adoption was not material.

In September 2006, the FASB issued SFAS No. 157, "Fair Value Measurements" (SFAS No. 157). This Statement establishes a framework for fair value measurements in the financial statements by providing a single definition of fair value, provides guidance on the methods used to estimate fair value and increases disclosures about estimates of fair value. SFAS No. 157 is effective for fiscal years beginning after November 15, 2007 and is generally applied prospectively. We are currently evaluating the impact of this statement on our consolidated financial statements.

In September 2006, the FASB issued FSP AUG AIR-1, "Accounting for Planned Major Maintenance Activities" (FSP AUG AIR-1). This FSP addresses the planned major maintenance of assets and prohibits the use of the "accrue-in-advance" method of accounting for these activities. This FSP is effective for the first fiscal year beginning after December 15, 2006. We are currently evaluating the impact of this FSP, but do not expect it to have a material impact on our consolidated financial statements.

## **Related Party Transactions**

In recent years, we have not entered into any material transactions with our officers or directors apart from the compensation they are provided for their services. We also have not entered into any business transactions with our significant stockholders or any other related parties except for the purchase of 2,250,000 shares of Bois d'Arc Energy's common stock for \$35.9 million in August 2006.

## **ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURE ABOUT MARKET RISKS**

### **Oil and Natural Gas Prices**

Our financial condition, results of operations and capital resources are highly dependent upon the prevailing market prices of oil and natural gas. These commodity prices are subject to wide fluctuations and market uncertainties due to a variety of factors that are beyond our control. Factors influencing oil and natural gas prices include the level of global demand for crude oil, the foreign supply of oil and natural gas, the establishment of and compliance with production quotas by oil exporting countries, weather conditions which determine the demand for natural gas, the price and availability of alternative fuels and overall economic conditions. It is impossible to predict future oil and natural gas prices with any degree of certainty. Sustained weakness in oil and natural gas prices may adversely affect our financial condition and results of operations, and may also reduce the amount of oil and natural gas reserves that we can produce economically. Any reduction in our oil and natural gas reserves, including reductions due to price fluctuations, can have an adverse affect on our ability to obtain capital for our exploration and development activities. Similarly, any improvements in oil and natural gas prices can have a favorable impact on our financial condition, results of operations and capital resources. Based on our oil and natural gas production in 2006, a \$1.00 change in the price per barrel of oil would have resulted in a change in our cash flow for such period by approximately \$2.2 million and a \$1.00 change in the price per Mcf of natural gas would have changed our cash flow by approximately \$52.1 million.

We periodically use derivative transactions with respect to a portion of our oil and natural gas production to mitigate our exposure to price changes. While the use of these derivative arrangements limits the downside risk of price declines, such use may also limit any benefits which may be derived from price increases. We use swaps, floors and collars to hedge oil and natural gas prices. Swaps are settled monthly based on differences between the prices specified in the instruments and the settlement prices of futures contracts quoted on the New York Mercantile Exchange. Generally, when the applicable settlement price is less than the price specified in the contract, we receive a settlement from the counterparty based on the difference multiplied by the volume hedged. Similarly, when the applicable settlement price exceeds the price specified in the contract, we pay the counterparty based on the difference. We generally receive a settlement from the counterparty for floors when the applicable settlement price is less than the price specified in the contract, which is based on the difference multiplied by the volumes hedged. For collars, we generally receive a settlement from the counterparty when the settlement price is below the floor and pay a settlement to the counterparty when the settlement price exceeds the cap. No settlement occurs when the settlement price falls between the floor and the cap. We had no derivative financial instrument outstanding as of December 31, 2006. During 2006 we recognized unrealized gains on derivatives of \$11.2 million to reflect the changes in these liabilities and we had realized losses of \$0.7 million to settle derivative positions.

### **Interest Rates**

At December 31, 2006, we had long-term debt of \$455.0 million. Of this amount, \$175.0 million bears interest at a fixed rate of 6<sup>7</sup>/<sub>8</sub>%. The fair market value of the fixed rate debt as of December 31, 2006 was

\$170.4 million based on the market price of 97% of the face amount. At December 31, 2006, we had \$280.0 million outstanding under our bank credit facilities, which were subject to floating market rates of interest. Borrowings under the bank credit facility bear interest at a fluctuating rate that is tied to LIBOR or the corporate base rate, at our option. Any increases in these interest rates can have an adverse impact on our results of operations and cash flow. Based on borrowings outstanding at December 31, 2006, a 100 basis point change in interest rates would change our annual interest expense on our variable rate debt by approximately \$2.8 million. We had no interest rate derivatives outstanding during 2006 or at December 31, 2006.

**ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA**

Our consolidated financial statements are included on pages F-1 to F-36 of this report.

We have prepared these financial statements in conformity with generally accepted accounting principles. We are responsible for the fairness and reliability of the financial statements and other financial data included in this report. In the preparation of the financial statements, it is necessary for us to make informed estimates and judgments based on currently available information on the effects of certain events and transactions.

Our independent public accountants, Ernst & Young LLP, are engaged to audit our financial statements and to express an opinion thereon. Their audit is conducted in accordance with auditing standards generally accepted in the United States to enable them to report whether the financial statements present fairly, in all material respects, our financial position and results of operations in accordance with accounting principles generally accepted in the United States.

The audit committee of our board of directors is composed of three directors who are not our employees. This committee meets periodically with our independent public accountants and management. Our independent public accountants have full and free access to the audit committee to meet, with and without management being present, to discuss the results of their audits and the quality of our financial reporting.

**ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE**

None.

**ITEM 9A. CONTROLS AND PROCEDURES**

*Evaluation of disclosure controls and procedures.* Our Chief Executive Officer and Chief Financial Officer have evaluated, as required by Rule 13a-15(b) under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), our disclosure controls and procedures (as defined in Exchange Act Rule 13a-15(e)) as of the end of the period covered by this Annual Report on Form 10-K. Based on that evaluation, our chief executive officer and chief financial officer concluded that the design and operation of our disclosure controls and procedures are adequate and effective in ensuring that information required to be disclosed by us in the reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the Securities and Exchange Commission’s rules and forms.

*Changes in internal control over financial reporting.* There were no changes in our internal control over financial reporting (as defined in Rule 13a-15(f) under the Exchange Act) that occurred during the fourth quarter of 2006 that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

**Management’s Report on Internal Control Over Financial Reporting**

The management of Comstock Resources, Inc. (the “Company”) is responsible for establishing and maintaining adequate internal control over financial reporting. The Company’s internal control over financial reporting is a process designed under the supervision of the Company’s Chief Executive Officer and Chief Financial Officer to provide reasonable assurance regarding the reliability of financial reporting and the preparation of the Company’s financial statements for external purposes in accordance with generally accepted accounting principles.

As of December 31, 2006, management assessed the effectiveness of the Company’s internal control over financial reporting based on the criteria for effective internal control over financial reporting established in “Internal Control — Integrated Framework,” issued by the Committee of Sponsoring Organizations of the Treadway Commission. Based on the assessment, management determined that the Company maintained effective internal control over financial reporting as of December 31, 2006, based on those criteria.

Ernst & Young LLP, the independent registered public accounting firm that audited the consolidated financial statements of the Company included in this Annual Report on Form 10-K, has issued an attestation report on management’s assessment of the effectiveness of the Company’s internal control over financial reporting as of December 31, 2006. The report, which expresses unqualified opinions on management’s assessment and on the effectiveness of the Company’s internal control over financial reporting as of December 31, 2006 is included below.

**Report of Independent Registered Public Accounting Firm  
on Internal Control over Financial Reporting**

The Board of Directors and Stockholders  
Comstock Resources, Inc.

We have audited management's assessment, included in the accompanying Management's Report on Internal Control Over Financial Reporting, that Comstock Resources, Inc. maintained effective internal control over financial reporting as of December 31, 2006, based on criteria established in Internal Control — Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (the "COSO criteria"). Comstock Resources, Inc.'s management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting. Our responsibility is to express an opinion on management's assessment and an opinion on the effectiveness of the Company's internal control over financial reporting based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, evaluating management's assessment, testing and evaluating the design and operating effectiveness of internal control, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In our opinion, management's assessment that Comstock Resources, Inc. maintained effective internal control over financial reporting as of December 31, 2006, is fairly stated, in all material respects, based on the COSO criteria. Also, in our opinion, Comstock Resources, Inc. maintained, in all material respects, effective internal control over financial reporting as of December 31, 2006, based on the COSO criteria.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated balance sheets of Comstock Resources, Inc. and subsidiaries as of December 31, 2006 and 2005, and the related consolidated statements of operations, stockholders' equity and comprehensive income, and cash flows for the years in the period ended December 31, 2006 of Comstock Resources, Inc. and our report dated February 28, 2007 expressed an unqualified opinion thereon.

/s/ ERNST & YOUNG LLP

Dallas, Texas  
February 28, 2007



**ITEM 9B. OTHER INFORMATION**

None.

**PART III**

**ITEM 10. DIRECTORS AND EXECUTIVE OFFICERS OF THE REGISTRANT**

The information required by this item is incorporated herein by reference to "Business — Directors, Executive Officers and Other Management" in this Form 10-K and to our definitive proxy statement which will be filed with the Securities and Exchange Commission within 120 days after December 31, 2006.

*Code of Ethics.* We have adopted a Code of Business Conduct and Ethics that is applicable to all of our directors, officers and employees as required by New York Stock Exchange rules. We have also adopted a Code of Ethics for Senior Financial Officers that is applicable to our Chief Executive Officer and senior financial officers. Both the Code of Business Conduct and Ethics and Code of Ethics for Senior Financial Officers may be found on our website at [www.comstockresources.com](http://www.comstockresources.com). Both of these documents are also available, without charge, to any stockholder upon request to: Comstock Resources, Inc., Attn: Investor Relations, 5300 Town and Country Blvd., Suite 500, Frisco, Texas 75034, (972) 668-8800. We intend to disclose any amendments or waivers to these codes that apply to our Chief Executive Officer and senior financial officers on our website in accordance with applicable SEC rules. Please see the definitive proxy statement for our 2007 annual meeting, which will be filed with the SEC within 120 days of December 31, 2006, for additional information regarding our corporate governance policies.

**ITEM 11. EXECUTIVE COMPENSATION**

The information required by this item is incorporated herein by reference to our definitive proxy statement which will be filed with the Securities and Exchange Commission within 120 days after December 31, 2006.

**ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS**

The information required by this item is incorporated herein by reference to our definitive proxy statement which will be filed with the Securities and Exchange Commission within 120 days after December 31, 2006.

**ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE**

The information required by this item is incorporated herein by reference to our definitive proxy statement which will be filed with the Securities and Exchange Commission within 120 days after December 31, 2006.

**ITEM 14. PRINCIPAL ACCOUNTANT FEES AND SERVICES**

The information required by this item is incorporated herein by reference to our definitive proxy statement which will be filed with the Securities and Exchange Commission within 120 days after December 31, 2006.

**PART IV**

**ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES**

(a) *Financial Statements:*

1. The following consolidated financial statements and notes are included on Pages F-2 to F-36 of this report.

**COMSTOCK RESOURCES, INC. AND SUBSIDIARIES:**

<a href="#">Report of Independent Registered Public Accounting Firm</a>	F-2
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2. All financial statement schedules are omitted because they are not applicable, or are immaterial or the required information is presented in the consolidated financial statements or the related notes.

(b) *Exhibits:*

The exhibits to this report required to be filed pursuant to Item 15 (c) are listed below.

<b>Exhibit No.</b>	<b>Description</b>
3.1(a)	Restated Articles of Incorporation (incorporated by reference to Exhibit 3.1 to our Annual Report on Form 10-K for the year ended December 31, 1995).
3.1(b)	Certificate of Amendment to the Restated Articles of Incorporation dated July 1, 1997 (incorporated by reference to Exhibit 3.1 to our Quarterly Report on Form 10-Q for the quarter ended June 30, 1997).
3.2	Bylaws (incorporated by reference to Exhibit 3.2 to our Registration Statement on Form S-3, dated October 25, 1996).
4.1	Rights Agreement dated as of December 14, 2000, by and between Comstock and American Stock Transfer and Trust Company, as Rights Agent (incorporated herein by reference to Exhibit 1 to our Registration Statement on Form 8-A dated January 11, 2001).
4.2	Certificate of Designation, Preferences and Rights of Series B Junior Participating Preferred Stock (incorporated by reference to Exhibit 2 to our Registration Statement on Form 8-A dated January 11, 2001).

<u>Exhibit No.</u>	<u>Description</u>
4.3	Indenture dated February 25, 2004 between Comstock, the guarantors and The Bank of New York Trust Company, N.A., Trustee for debt securities issued by Comstock Resources, Inc. (incorporated by reference to Exhibit 4.6 to our Annual Report on Form 10-K for the year ended December 31, 2003).
4.4	First Supplemental Indenture, dated February 25, 2004 between Comstock, the guarantors and The Bank of New York Trust Company, N.A., Trustee for the 6 <sup>7</sup> / <sub>8</sub> % Senior Notes due 2012 (incorporated by reference to Exhibit 4.7 to our Annual Report on Form 10-K for the year ended December 31, 2003).
4.5	Second Supplemental Indenture, dated March 11, 2004 between Comstock, the guarantors and The Bank of New York Trust Company, N.A. for the 6 <sup>7</sup> / <sub>8</sub> % Senior Notes due 2012 (incorporated by reference to Exhibit 4.1 to our Quarterly Report on Form 10-Q for the quarter ended March 31, 2004).
4.6	Third Supplemental Indenture dated July 16, 2004 between Comstock, the guarantors and The Bank of New York Trust Company, N.A., Trustee (incorporated by reference to Exhibit 4.1 to our Quarterly Report on Form 10-Q for the quarter ended March 31, 2004).
4.7	Fourth Supplemental Indenture dated May 20, 2005 between Comstock, the guarantors and The Bank of New York Trust Company, N.A., Trustee (incorporated by reference to Exhibit 4.1 to our Quarterly Report on Form 10-Q for the quarter ended June 30, 2005).
10.1*	Second Amended and Restated Credit Agreement, dated December 15, 2006, among Comstock, as the borrower, the lenders from time to time thereto, Bank of Montreal, as administrative agent and issuing bank, Bank of America, N.A., as syndication agent and Comerica Bank, Fortis Capital Corp., and Union Bank of California, N.A. as co-documentation agents.
10.2#	Employment Agreement dated June 1, 2002, by and between Comstock and M. Jay Allison (incorporated by reference to Exhibit 10.1 to our Quarterly Report on Form 10-Q for the quarter ended June 30, 2002).
10.3#	First Amendment to Employment Agreement dated July 16, 2004, by and between Comstock and M. Jay Allison (incorporated by reference to Exhibit 10.8 to our Quarterly Report on Form 10-Q for the quarter ended June 30, 2004).
10.4#	Employment Agreement dated June 1, 2002, by and between Comstock and Roland O. Burns (incorporated by reference to Exhibit 10.2 to our Quarterly Report on Form 10-Q for the quarter ended June 30, 2002).
10.5#	First Amendment to Employment Agreement dated July 16, 2004, by and between Comstock and Roland O. Burns (incorporated by reference to Exhibit 10.8 to our Quarterly Report on Form 10-Q for the quarter ended June 30, 2004).
10.6#	Comstock Resources, Inc. 1999 Long-term Incentive Plan (As restated on April 1, 2001) (incorporated by reference to Exhibit 10.8 to our Annual Report on Form 10-K for the year ended December 31, 2004).
10.7#	Amendment No. 2 dated April 7, 2004 to the Comstock Resources, Inc. 1999 Long-term Incentive Plan (incorporated by reference to Exhibit 10.1 to our Quarterly Report on Form 10-Q for the quarter ended March 31, 2004).
10.8#	Form of Nonqualified Stock Option Agreement between Comstock and certain officers and directors of Comstock (incorporated by reference to Exhibit 10.2 to our Quarterly Report on Form 10-Q for the year ended June 30, 1999).
10.9#	Form of Restricted Stock Agreement between Comstock and certain officers of Comstock (incorporated by reference to Exhibit 10.3 to our Quarterly Report on Form 10-Q for the quarter ended June 30, 1999).
10.10	Warrant Agreement dated July 31, 2001 by and between Comstock and Gary W. Blackie and Wayne L. Laufer (incorporated by reference to Exhibit 10.1 to our Quarterly Report on Form 10-Q for the quarter ended June 30, 2001).

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<u>Exhibit No.</u>	<u>Description</u>
10.11	Contribution Agreement dated July 16, 2004, among Bois d'Arc Energy, LLC, Bois d'Arc Properties, LP, Bois d'Arc Resources, Ltd., Wayne L. Laufer, Gary W. Balckie, Haro Investments LLC, such other persons listed on the signature pages thereto, Comstock Offshore LLC, and Comstock Resources, Inc. (incorporated by reference to Exhibit 10.2 to our Quarterly Report on Form 10-Q for the quarter ended June 30, 2004).
10.12	Amended and Restated Operating Agreement, dated as of August 23, 2004, to be effective July 16, 2004, of Bois d'Arc Energy, LLC (incorporated by reference to Exhibit 3.2 to the Registration Statement on Form S-1 [File No. 33-119511] filed by Bois d'Arc Energy, LLC on October 4, 2004).
10.13	Services Agreement dated July 16, 2004, between Comstock Resources, Inc. and Bois d'Arc Energy, LLC (incorporated by reference to Exhibit 10.3 to our Quarterly Report on Form 10-Q for the quarter ended June 30, 2004).
10.14	Lease between Stonebriar I Office Partners, Ltd. and Comstock Resources, Inc. dated May 6, 2004 (incorporated by reference to Exhibit 10.24 to our Annual Report on Form 10-K for the year ended December 31, 2004).
10.15	First Amendment to the Lease Agreement dated August 25, 2005, between Stonebriar I Office Partners, Ltd. and Comstock Resources, Inc.(incorporated by reference to Exhibit 10.20 to our Annual Report on Form 10-K for the year ended December 31, 2005).
10.16	Amended and Restated Operating Agreement dated as of August 23, 2004, to be effective July 16, 2004 of Bois d'Arc Energy, LLC (incorporated by reference to Exhibit 3.2 to Bois d'Arc Energy's Registration Statement on Form S-1 (File No. 333-19511)).
10.17	Stock Purchase Agreement dated August 25, 2006, between Bois d'Arc Energy, Inc. and Comstock Resources, Inc. (incorporated by reference to Exhibit 2.1 to our Form 8-K dated August 25, 2006).
21*	Subsidiaries of the Company.
23.1*	Consent of Ernst & Young LLP.
23.2*	Consent of Independent Petroleum Engineers.
31.1*	Chief Executive Officer certification under Section 302 of the Sarbanes-Oxley Act of 2002.
31.2*	Chief Financial Officer certification under Section 302 of the Sarbanes-Oxley Act of 2002.
32.1+	Chief Executive Officer certification under Section 906 of the Sarbanes-Oxley Act of 2002.
32.2+	Chief Financial Officer certification under Section 906 of the Sarbanes-Oxley Act of 2002.

\* Filed herewith.

+ Furnished herewith.

# Management contract or compensatory plan document.

**SIGNATURES**

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

**COMSTOCK RESOURCES, INC.**

By: /s/ M. JAY ALLISON  
M. Jay Allison  
President and Chief Executive Officer  
(Principal Executive Officer)

Date: February 28, 2007

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

<u>/s/ M. JAY ALLISON</u> M. Jay Allison	President, Chief Executive Officer and Chairman of the Board of Directors (Principal Executive Officer)	February 28, 2007
<u>/s/ ROLAND O. BURNS</u> Roland O. Burns	Senior Vice President, Chief Financial Officer, Secretary, Treasurer and Director (Principal Financial and Accounting Officer)	February 28, 2007
<u>/s/ DAVID K. LOCKETT</u> David K. Lockett	Director	February 28, 2007
<u>/s/ CECIL E. MARTIN, JR.</u> Cecil E. Martin, Jr.	Director	February 28, 2007
<u>/s/ DAVID W. SLEDGE</u> David W. Sledge	Director	February 28, 2007
<u>/s/ NANCY E. UNDERWOOD</u> Nancy E. Underwood	Director	February 28, 2007

COMSTOCK RESOURCES, INC.

FINANCIAL STATEMENTS

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**REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

The Board of Directors and Stockholders  
Comstock Resources, Inc.

We have audited the accompanying consolidated balance sheets of Comstock Resources, Inc. and subsidiaries as of December 31, 2006 and 2005, and the related consolidated statements of operations, stockholders' equity and comprehensive income, and cash flows for each of the three years in the period ended December 31, 2006. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of Comstock Resources, Inc. and subsidiaries at December 31, 2006 and 2005, and the consolidated results of their operations and their cash flows for each of the three years in the period ended December 31, 2006, in conformity with accounting principles generally accepted in the United States.

As discussed in Note 1 to the consolidated financial statements, effective January 1, 2006, the Company adopted Statement of Financial Accounting Standards No. 123 (revised 2004), "Share Based Payment" in accounting for equity-based compensation.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the effectiveness of Comstock Resources, Inc.'s internal control over financial reporting as of December 31, 2006, based on criteria established in Internal Control-Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated February 28, 2007 expressed an unqualified opinion thereon.

ERNST & YOUNG LLP

Dallas, Texas  
February 28, 2007

COMSTOCK RESOURCES, INC. AND SUBSIDIARIES

CONSOLIDATED BALANCE SHEETS  
As of December 31, 2005 and 2006

	December 31,	
	2005	2006
	(In thousands)	
<b>ASSETS</b>		
Cash and Cash Equivalents	\$ 89	\$ 10,715
Accounts Receivable:		
Oil and gas sales	37,646	56,328
Joint interest operations	5,553	19,233
Other Current Assets	9,482	12,552
Total current assets	52,770	98,828
Property and Equipment:		
Unevaluated oil and gas properties	10,723	13,645
Oil and gas properties, successful efforts method	1,018,341	2,511,782
Other	3,342	8,483
Accumulated depreciation, depletion and amortization	(325,478)	(760,284)
Net property and equipment	706,928	1,773,626
Investment in Bois d' Arc Energy	252,134	—
Other Assets	4,831	5,671
	<u>\$ 1,016,663</u>	<u>\$ 1,878,125</u>
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
Short-term Debt	\$ —	\$ 3,250
Accounts Payable	48,955	132,504
Accrued Expenses	7,920	16,107
Unrealized Loss on Derivatives	11,242	—
Total current liabilities	68,117	151,861
Long-term Debt	243,000	455,000
Deferred Income Taxes Payable	119,481	311,236
Reserve for Future Abandonment Costs	3,206	57,116
Minority Interest in Bois d' Arc Energy	—	220,349
Commitments and Contingencies		
Stockholders' Equity:		
Common stock — \$0.50 par, 50,000,000 shares authorized, 42,969,262 and 44,395,495 shares issued and outstanding at December 31, 2005 and 2006, respectively	21,485	22,197
Additional paid-in capital	338,996	367,323
Retained earnings	222,378	293,043
Total stockholders' equity	582,859	682,563
	<u>\$ 1,016,663</u>	<u>\$ 1,878,125</u>

The accompanying notes are an integral part of these statements.



COMSTOCK RESOURCES, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF OPERATIONS  
For the Years Ended December 31, 2004, 2005 and 2006

	2004	2005	2006
	(In thousands, except per share amounts)		
Oil and gas sales	\$ 261,647	\$ 303,336	\$ 511,928
Operating expenses:			
Oil and gas operating	52,068	50,966	107,303
Exploration	15,610	19,725	20,132
Depreciation, depletion and amortization	63,879	63,338	153,922
Impairment	1,648	3,400	10,444
General and administrative, net	14,569	16,533	31,769
Total operating expenses	<u>147,774</u>	<u>153,962</u>	<u>323,570</u>
Income from operations	113,873	149,374	188,358
Other income (expenses):			
Interest income	1,207	1,604	1,012
Other income	166	209	781
Interest expense	(21,182)	(20,272)	(27,429)
Formation costs of Bois d' Arc Energy	(1,101)	—	—
Gain on sale of shares by Bois d' Arc Energy	—	28,797	—
Gain (loss) on derivatives	(155)	(13,556)	10,716
Loss on early extinguishment of debt	(19,599)	—	—
Total other income (expenses)	<u>(40,664)</u>	<u>(3,218)</u>	<u>(14,920)</u>
Income before income taxes, minority interest and equity in loss of Bois d' Arc Energy	73,209	146,156	173,438
Provision for income taxes	(26,342)	(35,815)	(74,339)
Equity in loss of Bois d' Arc Energy	—	(49,862)	—
Minority interest in earnings of Bois d' Arc Energy	—	—	(28,434)
Net income	<u>\$ 46,867</u>	<u>\$ 60,479</u>	<u>\$ 70,665</u>
Net income per share:			
Basic	<u>\$ 1.37</u>	<u>\$ 1.54</u>	<u>\$ 1.67</u>
Diluted	<u>\$ 1.29</u>	<u>\$ 1.47</u>	<u>\$ 1.61</u>
Weighted average shares outstanding:			
Basic	<u>34,187</u>	<u>39,216</u>	<u>42,220</u>
Diluted	<u>36,252</u>	<u>41,154</u>	<u>43,556</u>

The accompanying notes are an integral part of these statements.

**COMSTOCK RESOURCES, INC. AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY**  
**AND COMPREHENSIVE INCOME**  
**For the Years Ended December 31, 2004, 2005 and 2006**

	<u>Common Shares</u>	<u>Common Stock Par Value</u>	<u>Additional Paid-In Capital (In thousands)</u>	<u>Retained Earnings</u>	<u>Total</u>
Balance at December 31, 2003	34,309	\$ 17,154	\$ 157,470	\$ 115,032	\$ 289,656
Stock purchase warrants issued for exploration prospects, net of deferred income taxes	—	—	1,512	—	1,512
Exercise of stock options and warrants	1,065	532	8,847	—	9,379
Tax benefit of stock option and warrant exercises	—	—	3,732	—	3,732
Stock-based compensation	275	138	4,569	—	4,707
Net income	—	—	—	46,867	46,867
Balance at December 31, 2004	<u>35,649</u>	<u>17,824</u>	<u>176,130</u>	<u>161,899</u>	<u>355,853</u>
Public offering of common stock	4,545	2,273	118,977	—	121,250
Stock issuance costs	—	—	(175)	—	(175)
Exercise of stock options and warrants	2,433	1,217	24,376	—	25,993
Tax benefit of stock option and warrant exercises	—	—	15,609	—	15,609
Stock-based compensation	342	171	4,079	—	4,250
Net income	—	—	—	60,479	60,479
Balance at December 31, 2005	<u>42,969</u>	<u>21,485</u>	<u>338,996</u>	<u>222,378</u>	<u>582,859</u>
Exercise of stock options and warrants	1,083	541	15,407	—	15,948
Tax benefit of stock option and warrant exercises	—	—	6,218	—	6,218
Stock-based compensation	343	171	6,702	—	6,873
Net income	—	—	—	70,665	70,665
Balance at December 31, 2006	<u>44,395</u>	<u>\$ 22,197</u>	<u>\$ 367,323</u>	<u>\$ 293,043</u>	<u>\$ 682,563</u>

The accompanying notes are an integral part of these statements.

COMSTOCK RESOURCES, INC. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF CASH FLOWS  
For the Years Ended December 31, 2004, 2005 and 2006

	2004	2005	2006
	(In thousands)		
<b>CASH FLOWS FROM OPERATING ACTIVITIES:</b>			
Net income	\$ 46,867	\$ 60,479	\$ 70,665
Adjustments to reconcile net income to net cash provided by operating activities, net of acquisition effects:			
Stock-based compensation	6,208	5,419	13,249
Excess tax benefit from stock based compensation	—	—	(6,218)
Depreciation, depletion and amortization	63,879	63,338	153,922
Debt issuance costs amortization	970	942	1,649
Impairment of oil and gas properties	1,648	3,400	10,444
Deferred income taxes	20,739	31,201	66,550
Equity in loss of Bois d'Arc Energy	—	49,862	—
Minority interest in earnings of Bois d'Arc Energy	—	—	28,434
Gain on sale of shares by Bois d'Arc Energy	—	(28,797)	—
Dry hole costs and leasehold impairments	16,151	16,889	14,351
Loss (gain) on derivatives	155	13,556	(10,716)
Loss on early extinguishment of debt	19,599	—	—
Decrease (increase) in accounts receivable	5,584	(13,030)	(2,917)
Decrease (increase) in other current assets	(1,735)	616	3,526
Increase (decrease) in accounts payable and accrued expenses	(8,714)	14,079	21,666
Net cash provided by operating activities	<u>171,351</u>	<u>217,954</u>	<u>364,605</u>
<b>CASH FLOWS FROM INVESTING ACTIVITIES:</b>			
Capital expenditures and acquisitions	(209,790)	(356,262)	(529,225)
Formation of Bois d'Arc Energy, net of cash acquired	(48,271)	—	—
Advances to Bois d'Arc Energy	—	(6,421)	—
Repayments from Bois d'Arc Energy	—	158,066	—
Payments to settle derivatives	—	(2,469)	(526)
Net cash used for investing activities	<u>(258,061)</u>	<u>(207,086)</u>	<u>(529,751)</u>
<b>CASH FLOWS FROM FINANCING ACTIVITIES:</b>			
Borrowings	272,673	179,000	190,000
Proceeds from senior notes offering	175,000	—	—
Debt issuance costs	(5,963)	—	(1,437)
Principal payments on debt	(367,019)	(339,150)	(47,000)
Proceeds from common stock issuances	9,379	146,843	15,948
Stock issuance costs	—	(175)	—
Excess tax benefit from stock based compensation	—	—	6,218
Net cash provided by (used for) financing activities	<u>84,070</u>	<u>(13,482)</u>	<u>163,729</u>
Net decrease in cash and cash equivalents	(2,640)	(2,614)	(1,417)
Cash and cash equivalents, beginning of year	5,343	2,703	89
Bois d'Arc Energy cash and equivalents as of January 1, 2006	—	—	12,043
Cash and cash equivalents, end of year	<u>\$ 2,703</u>	<u>\$ 89</u>	<u>\$ 10,715</u>

The accompanying notes are an integral part of these statements.

**COMSTOCK RESOURCES, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

**(1) Summary of Significant Accounting Policies**

Accounting policies used by Comstock Resources, Inc. and its consolidated subsidiaries (collectively, the “Company”) reflect oil and natural gas industry practices and conform to accounting principles generally accepted in the United States of America.

***Basis of Presentation and Principles of Consolidation***

The Company is engaged in oil and natural gas exploration, development and production, and the acquisition of producing oil and natural gas properties. The consolidated financial statements include the accounts of Comstock Resources, Inc. and its wholly owned subsidiaries (“Comstock”) and, effective January 1, 2006, Bois d’Arc Energy, Inc. and its wholly owned subsidiaries (“Bois d’Arc Energy”). All significant intercompany accounts and transactions have been eliminated in consolidation. The Company accounts for its undivided interest in properties using the proportionate consolidation method, whereby its share of assets, liabilities, revenues and expenses are included in its financial statements.

***Formation of and Investment in Bois d’Arc Energy***

In July 2004, Bois d’Arc Energy, LLC was formed by Comstock Offshore, LLC (“Comstock Offshore”), an indirect wholly-owned subsidiary of Comstock, and Bois d’Arc Resources, Ltd. (“Bois d’Arc Resources”), Bois d’Arc Offshore, Ltd. and certain participants in their exploration activities (collectively, the “Bois d’Arc Participants”) to replace a joint exploration venture established in 1997 by Comstock Offshore and Bois d’Arc Resources to explore for oil and natural gas in the Gulf of Mexico. Under the joint exploration venture, Bois d’Arc Resources was responsible for generating exploration prospects in the Gulf of Mexico utilizing 3-D seismic data and their extensive geological expertise in the region. Comstock Offshore advanced the funds for the acquisition of 3-D seismic data and leases. Comstock Offshore was reimbursed for all advanced costs and was entitled to a non-promoted working interest in each prospect generated. For each successful discovery well drilled pursuant to the joint exploration venture, Comstock issued to the two principals of Bois d’Arc Resources warrants exercisable for the purchase of shares of Comstock’s common stock.

In July 2004, each of the Bois d’Arc Participants and Comstock Offshore contributed to Bois d’Arc Energy substantially all of their Gulf of Mexico related assets and assigned their related liabilities, including certain debt, in exchange for equity interests in Bois d’Arc Energy. The equity interests issued in exchange for the contributions were determined by using a valuation of the properties contributed by the particular contributor relative to the value of the properties contributed by all contributors. Comstock Offshore contributed its interests in its Gulf of Mexico properties and assigned to Bois d’Arc Energy \$83.2 million of related debt in exchange for an approximately 60% ownership interest in Bois d’Arc Energy. The Bois d’Arc Participants contributed their offshore oil and natural gas properties as well as ownership of Bois d’Arc Offshore, Ltd., the operator of the properties, and assigned to Bois d’Arc Energy \$28.2 million of related liabilities in exchange for an approximately 40% aggregate ownership interest in Bois d’Arc Energy. The Bois d’Arc Participants also received \$27.6 million in cash to equalize the amount that Comstock Offshore’s debt exceeded its proportional share of the liabilities assigned. Bois d’Arc Energy also reimbursed Comstock Offshore \$12.7 million and Bois d’Arc \$0.8 million for advances made under the exploration joint venture for undrilled prospects.

**COMSTOCK RESOURCES, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)**

The following table sets forth the assets contributed and the liabilities assumed on the date of the formation of Bois d'Arc Energy:

	<u>Comstock Offshore</u>	<u>Bois d'Arc Participants (In thousands)</u>	<u>Combined</u>
Cash and cash equivalents	\$ 6	\$ 17,024	\$ 17,030
Other current assets	—	21,992	21,992
Property and equipment, net	362,959	119,738	482,697
Current liabilities and bank loan	—	(66,788)	(66,788)
Payable to Comstock Resources	(83,177)	—	(83,177)
Reserve for future abandonment	(18,458)	(7,985)	(26,443)
Cash distributed	(12,742)	(28,342)	(41,084)
Net contribution	<u>\$ 248,588</u>	<u>\$ 55,639</u>	<u>\$ 304,227</u>

Under the terms of Bois d'Arc Energy's operating agreement, management of Bois d'Arc Energy was shared jointly by Comstock and the principals of Bois d'Arc Resources. Management and operating decisions were made based on unanimous agreement between the parties. Because the Company had the ability to exercise significant influence over Bois d'Arc Energy, but not control it, and because Bois d'Arc Energy was similar to a partnership in that it maintained a specific ownership percentage for each member, the Company accounted for its interest in Bois d'Arc Energy's assets, liabilities and operations under the proportionate consolidation method.

The consolidated financial statements include \$1.1 million of costs incurred during 2004 in connection with the formation of Bois d'Arc Energy, including a termination fee of \$0.7 million for the cancellation of a service agreement for accounting and administrative services provided to Bois d'Arc Offshore, Ltd. The fee was payable in monthly installments over a two year period beginning in October 2004.

In connection with the formation of Bois d'Arc Energy, Comstock provided to Bois d'Arc Energy a revolving line of credit with a maximum outstanding amount of \$200.0 million. Approximately \$59.4 million of the outstanding balance was attributable to the Bois d'Arc Participants and is reflected in the consolidated balance sheet as a receivable from Bois d'Arc Energy. Borrowings under the credit facility bore interest at Bois d'Arc Energy's option at either LIBOR plus 2% or the base rate (which is the higher of the prime rate or the federal funds rate) plus 0.75%. Interest expense of \$2.7 million was charged by the Company to Bois d'Arc Energy under the credit facility during the period from July 16, 2004 to December 31, 2004 and interest expense of \$2.7 million was charged by the Company to Bois d'Arc Energy during the period from January 1, 2005 to May 10, 2005. Approximately \$1.1 million and \$1.2 million of interest was attributable to the Bois d'Arc Participants and is included in interest income in the consolidated statement of operations in 2004 and 2005, respectively.

On May 10, 2005 Bois d'Arc Energy, LLC was converted to a corporation and changed its name to Bois d'Arc Energy, Inc. On May 11, 2005 Bois d'Arc Energy completed an initial public offering of 13.5 million shares of common stock at \$13.00 per share to the public. Bois d'Arc Energy sold 12.0 million shares of common stock and received net proceeds of \$145.1 million and a selling stockholder sold 1.5 million shares. Bois d'Arc Energy used the proceeds from its initial public offering together with borrowings under a new bank credit facility to repay \$158.0 million in outstanding advances from Comstock. As a result of Bois d'Arc Energy's conversion to a corporation and the offering, Comstock's ownership in Bois d'Arc Energy

COMSTOCK RESOURCES, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

decreased to 48% and Comstock discontinued accounting for its interest in Bois d'Arc Energy using the proportionate consolidation method and began using the equity method to account for its investment in Bois d'Arc Energy.

At the time that Bois d'Arc Energy converted to a corporation, it recorded a tax provision of \$108.2 million to record a deferred tax liability. Comstock recognized its proportionate share of this provision for taxes of \$64.6 million in its equity in loss of Bois d'Arc Energy in the consolidated statement of operations. In connection with the initial public offering completed by Bois d'Arc Energy, Comstock recognized a gain of \$28.8 million on its investment in Bois d'Arc Energy based on Comstock's share of the amount that Bois d'Arc Energy's equity was increased as a result of the sale of shares in the offering.

Comstock did not previously own interests in a subsidiary which had sold shares. The Company has no present plans for any future sale of Bois d'Arc Energy common stock and has adopted a policy of recognizing its proportional share of the gain when Bois d'Arc Energy sells shares to third parties.

During 2006, Comstock acquired 2,285,000 additional shares of Bois d'Arc Energy for \$36.4 million which increased its ownership of Bois d'Arc Energy's common stock to 32,220,761 shares or 49.5%. As a result, the Company has voting control of Bois d'Arc Energy through the combined share ownership by Comstock and the members of its Board of Directors. Upon obtaining voting control of Bois d'Arc Energy, Comstock began including Bois d'Arc Energy in its financial statements as a consolidated subsidiary. Consolidated revenues, expenses and cash flows for 2006 reflect Bois d'Arc Energy as a consolidated subsidiary as of January 1, 2006. The Company's financial statements for dates and periods prior to January 1, 2006, have not been adjusted. The inclusion of Bois d'Arc Energy as a consolidated subsidiary in the Company's financial statements had no impact on the Company's net income.

The following table summarizes the pro forma results as if Bois d'Arc Energy was consolidated in 2005:

	Year Ended December 31, 2005		
	As Reported	Consolidating Adjustments (In thousands)	Pro Forma Consolidated
<b>Balance Sheet -</b>			
Current assets	\$ 52,770	\$ 50,048	\$ 102,818
Property and equipment, net	706,928	661,931	1,368,859
Investment in Bois d'Arc Energy	252,134	(252,134)	—
Other assets	4,831	799	5,630
Total assets	\$ 1,016,663	\$ 460,644	\$ 1,477,307
Current liabilities	\$ 68,117	\$ 66,282	\$ 134,399
Long-term debt	243,000	69,000	312,000
Deferred income taxes payable	119,481	123,256	242,737
Reserve for future abandonment costs	3,206	35,034	38,240
Minority interest in Bois d'Arc Energy	—	167,072	167,072
Stockholder's equity	582,859	—	582,859
Total liabilities and stockholder's equity	\$ 1,016,663	\$ 460,644	\$ 1,477,307

**COMSTOCK RESOURCES, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)**

	Year Ended December 31, 2005		
	As Reported	Consolidating Adjustments (In thousands)	Pro Forma Consolidated
<b>Statement of Operations -</b>			
Total oil and gas sales	\$ 303,336	\$ 145,906	\$ 449,242
Income from operations	\$ 149,374	\$ 60,835	\$ 210,209
Income before income taxes, minority interest and equity in earnings of Bois d'Arc Energy	\$ 146,156	\$ 58,659	\$ 204,815
Provision for income taxes	\$ (35,815)	\$ (125,808)	\$ (161,623)
Minority interest in losses of Bois d'Arc Energy	—	\$ 17,287	\$ 17,287
Equity interest in losses of Bois d'Arc Energy	\$ (49,862)	\$ 49,862	\$ —
Net income	\$ 60,479	\$ —	\$ 60,479

In connection with the acquisition of additional common shares of Bois d'Arc Energy, Comstock has allocated the purchase price paid for the shares in excess of its underlying net book value in Bois d'Arc Energy of \$18.9 million together with the related deferred income tax liability of \$10.1 million to oil and gas properties in the accompanying consolidated balance sheet. This additional amount is being amortized over the productive lives of Bois d'Arc Energy's oil and gas properties using the unit-of-production method. The pro forma impact of the acquisition of these shares was not material to the Company's historical results of operations.

**Reclassifications**

Certain reclassifications have been made to prior periods' financial statements to conform to the current presentation.

**Use of Estimates in the Preparation of Financial Statements**

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenues and expenses during the reporting period. Actual amounts could differ from those estimates. Changes in the future estimated oil and natural gas reserves or the estimated future cash flows attributable to the reserves that are utilized for impairment analysis could have a significant impact on the future results of operations.

**Concentration of Credit Risk and Accounts Receivable**

Financial instruments that potentially subject the Company to a concentration of credit risk consist principally of cash and cash equivalents, accounts receivable and derivative financial instruments, the Company places its cash with high credit quality financial institutions and its derivative financial instruments with financial institutions and other firms that management believes have high credit rating. Substantially all of the Company's accounts receivable are due from either purchasers of oil and gas or participants in oil and gas wells for which the Company serves as the operator. Generally, operators of oil and gas wells have the right to offset future revenues against unpaid charges related to operated wells. Oil and gas sales are generally unsecured. The Company has not had any significant credit losses in the past and

**COMSTOCK RESOURCES, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)**

believes its accounts receivable are fully collectable. Accordingly, no allowance for doubtful accounts has been provided.

**Fair Value of Financial Instruments**

The following table presents the carrying amounts and estimated fair value of the Company's financial instruments as of December 31, 2005 and 2006:

	2005		2006	
	Carrying Value	Fair Value	Carrying Value	Fair Value
Long-term debt, including current portion	\$ 243,000	\$ 239,281	\$ 455,000	\$ 450,406

The fair market value of the fixed rate debt was based on the market prices as of December 31, 2005 and 2006. The fair market value of the floating rate debt approximates its carrying value.

Derivatives at December 31, 2005 are presented at their estimated fair value. The Company had no derivatives outstanding as of December 31, 2006. The carrying amounts of cash and cash equivalents, accounts receivable, other current assets, and accounts payable and accrued expenses approximate fair value due to the short maturity of these instruments.

**Other Current Assets**

Other current assets at December 31, 2005 and 2006 consist of the following:

	As of December 31,	
	2005	2006
	(In thousands)	
Prepaid expenses	\$ 3,511	\$ 9,889
Pipe inventory	1,408	1,251
Deferred tax asset	4,439	—
Income taxes receivable	—	1,386
Other	124	26
	<u>\$ 9,482</u>	<u>\$ 12,552</u>

**Property and Equipment**

The Company follows the successful efforts method of accounting for its oil and natural gas properties. Acquisition costs for proved oil and natural gas properties, costs of drilling and equipping productive wells, and costs of unsuccessful development wells are capitalized and amortized on an equivalent unit-of-production basis over the life of the remaining related oil and gas reserves. Equivalent units are determined by converting oil to natural gas at the ratio of six barrels of oil for one thousand cubic feet of natural gas. Cost centers for amortization purposes are determined on a field area basis. Costs incurred to acquire oil and gas leasehold are capitalized. Unproved oil and gas properties are periodically assessed and any impairment in value is charged to exploration expense. The costs of unproved properties which are determined to be productive are transferred to proved oil and gas properties and amortized on an equivalent unit-of-production basis. Exploratory expenses, including geological and geophysical expenses and delay rentals for unevaluated oil and gas properties, are charged to expense as incurred. Exploratory drilling costs are



COMSTOCK RESOURCES, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

initially capitalized as unproved property but charged to expense if and when the well is determined not to have found proved oil and gas reserves. In accordance with Statement of Financial Accounting Standards No. 19, exploratory drilling costs are evaluated within a one-year period after the completion of drilling.

The Company records a liability in the period in which an asset retirement obligation (“ARO”) is incurred, in an amount equal to the discounted estimated fair value of the obligation that is capitalized. Thereafter this liability is accreted up to the final retirement cost. The Company’s ARO’s relate to future plugging and abandonment expenses of its oil and gas properties and related facilities disposal.

The following table summarizes the changes in the Company’s total estimated liability:

	For the Year Ended December 31,		
	2004	2005 (In thousands)	2006
Beginning asset retirement obligations	\$ 19,174	\$ 19,248	\$ 3,206
Bois d’Arc Energy abandonment liability <sup>(1)</sup>	—	(16,915)	35,034
New wells placed on production and changes in estimates	1,870	266	18,134
Acquisition liabilities assumed	88	455	3,346
Liabilities settled	(3,030)	—	(5,145)
Accretion expense	1,146	152	2,541
Ending asset retirement obligations	\$ 19,248	\$ 3,206	\$ 57,116

(1) The Company’s share of the asset retirement obligations of Bois d’Arc Energy was reclassified to the Investment in Bois d’Arc Energy upon the change to the equity accounting method in 2005. Concurrent with including Bois d’Arc Energy as a consolidated subsidiary as of January 1, 2006, the asset retirement obligations of Bois d’Arc Energy are included in the Company’s financial statements.

The Company assesses the need for an impairment of the costs capitalized of its oil and gas properties on a property or cost center basis. If an impairment is indicated based on undiscounted expected future cash flows, then an impairment is recognized to the extent that net capitalized costs exceed discounted expected future cash flows based on escalated prices and including risk adjusted probable reserves, where appropriate. The Company recognized impairment charges related to its oil and gas properties of \$1.6 million, \$3.4 million and \$10.4 million in 2004, 2005, and 2006, respectively. The impairment in 2006 includes \$7.9 million related to a property that was held for resale. Subsequently, the plan to sell the property was cancelled. The impairment reflected the property’s estimated fair market value at the time the plan to sell the property changed.

Other property and equipment consists primarily of gas gathering systems, computer equipment, furniture and fixtures and interests in private aircraft which are depreciated over estimated useful lives ranging from five to 31½ years on a straight-line basis.

**Other Assets**

Other assets primarily consist of deferred costs associated with issuance of the senior notes and the bank credit facilities. These costs are amortized over the eight year life of the senior notes and the life of the bank credit facility on a straight-line basis which approximates the amortization that would be calculated using an effective interest rate method.

**COMSTOCK RESOURCES, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)**

***Stock-based Compensation***

Effective January 1, 2006, the Company follows the fair value based method prescribed in Statement of Financial Accounting Standards No. 123 (revised 2004), "Share-Based Payment" ("SFAS 123R") in accounting for equity-based compensation. The Company adopted SFAS 123R utilizing the modified prospective transition method and accordingly the financial results for periods prior to January 1, 2006 have not been adjusted. Prior to adopting SFAS 123R the Company followed the fair value based method prescribed in Statement of Financial Accounting Standards No. 123, "Accounting for Stock Based Compensation" for all periods beginning January 1, 2004. Because the Company previously recorded stock-based compensation using the fair value method, adoption of SFAS 123R did not have a significant impact on the Company's net income or earnings per share for the year ended December 31, 2006. Under the fair value based method, compensation cost is measured at the grant date based on the fair value of the award and is recognized on a straight-line basis over the award vesting period.

Prior to adopting SFAS 123R, the Company presented all tax benefits of the deductions that resulted from stock-based compensation as cash flows from operating activities. SFAS 123R requires that excess tax benefits on stock-based compensation be recognized as a part of cash flows from financing activities. Comstock's excess income tax benefit realized from tax deductions associated with stock-based compensation totaled \$3.7 million, \$15.6 million and \$6.2 million for the years ended December 31, 2004, 2005 and 2006, respectively. Upon adoption of SFAS 123R effective January 1, 2006, \$6.2 million of tax benefits have been included in cash flows from financing activities.

***Segment Reporting***

The Company presently operates in one business segment, the exploration and production of oil and natural gas.

***Derivative Instruments and Hedging Activities***

The Company follows Statement of Financial Accounting Standards No. 133, "Accounting for Derivative Instruments and Hedging Activities" ("SFAS 133"), which requires that every derivative instrument (including certain derivative instruments embedded in other contracts) be recorded on the balance sheet as either an asset or liability measured at its fair value. SFAS 133 requires that changes in the derivative's fair value be recognized currently in earnings unless specific hedge accounting criteria are met. The Company estimates fair value based on quotes obtained from the counterparties to the derivative contract. The fair value of derivative contracts that expire in less than one year are recognized as current assets or liabilities. Those that expire in more than one year are recognized as long-term assets or liabilities. Derivative financial instruments that are not accounted for as hedges are adjusted to fair value through income. If the derivative is designated as a cash flow hedge, changes in fair value are recognized in other comprehensive income until the hedged item is recognized in earnings. The Company had no derivative financial instruments outstanding at December 31, 2006.

***Major Purchasers***

In 2006, the Company had two purchasers of its oil and natural gas production that accounted for 10% of total oil and gas sales. Such purchasers accounted for 42% and 13% of total 2006 oil and gas sales. In 2005, Comstock had two purchasers that accounted for 15% and 12% of total 2005 oil and gas sales. In 2004, Comstock had two purchasers that accounted for 21% and 16% of total oil and gas sales. The loss of

**COMSTOCK RESOURCES, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)**

any of the foregoing customers would not have a material adverse effect on the Company as there is an available market for its crude oil and natural gas production from other purchasers.

**Revenue Recognition and Gas Balancing**

Comstock utilizes the sales method of accounting for oil and natural gas revenues whereby revenues are recognized based on the amount of oil or natural gas sold to purchasers. The amount of oil or natural gas sold may differ from the amount to which the Company is entitled based on its revenue interests in the properties. The Company did not have any significant imbalance positions at December 31, 2004, 2005 or 2006.

**General and Administrative Expenses**

General and administrative expenses are reported net of reimbursements of overhead costs that are allocated to working interest owners of the oil and gas properties operated by the Company.

**Income Taxes**

The Company accounts for income taxes using the asset and liability method, whereby deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of assets and liabilities and their respective tax basis, as well as the future tax consequences attributable to the future utilization of existing tax net operating loss and other types of carryforwards. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences and carryforwards are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period that includes the enactment date.

**Comprehensive Income**

Comprehensive income is defined as the change in equity of a business enterprise during a period from transactions and other events and circumstances from non-owner sources. There were no differences between comprehensive income and reported income in the periods presented.

**Earnings Per Share**

Basic and diluted earnings per share for 2004, 2005 and 2006 were determined as follows:

	Year Ended December 31,								
	2004			2005			2006		
	Income	Shares	Per Share	Income	Shares	Per Share	Income	Shares	Per Share
	(In thousands except per share data)								
<i>Basic Earnings Per Share:</i>									
Net Income	\$ 46,867	34,187	\$ 1.37	\$ 60,479	39,216	\$ 1.54	\$ 70,665	42,220	\$ 1.67
<i>Diluted Earnings Per Share:</i>									
Net Income	\$ 46,867	34,187	\$ 1.37	\$ 60,479	39,216	\$ 1.54	\$ 70,665	42,220	\$ 1.67
Effect of Dilutive Securities:									
Stock Grants and Stock Options	—	2,065		—	1,938		(488)	1,336	
Net Income	<u>\$ 46,867</u>	<u>36,252</u>	<u>\$ 1.29</u>	<u>\$ 60,479</u>	<u>41,154</u>	<u>\$ 1.47</u>	<u>\$ 70,177</u>	<u>43,556</u>	<u>\$ 1.61</u>

**COMSTOCK RESOURCES, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)**

Stock options and warrants to purchase common stock at exercise prices in excess of the average actual stock price for the period that were anti-dilutive and that were excluded from the determination of diluted earnings per share are as follows:

	<u>2004</u>	<u>2005</u> (In thousands except per share data)	<u>2006</u>
Weighted average anti-dilutive stock options	28	7	117
Weighted average exercise price	\$ 20.03	\$ 32.50	\$ 32.52

**Statements of Cash Flows**

For the purpose of the consolidated statements of cash flows, the Company considers all highly liquid investments purchased with an original maturity of three months or less to be cash equivalents.

The following is a summary of all significant noncash investing and financing activities and cash payments made for interest and income taxes:

	<u>2004</u>	<u>2005</u> (In thousands)	<u>2006</u>
<b>Noncash activities —</b>			
Value of vested stock purchase warrants under exploration venture	\$ 2,326	\$ —	\$ —
<b>Cash payments —</b>			
Interest payments	\$ 20,477	\$ 19,848	\$ 25,620
Income tax payments	7,954	2,578	5,871

**New Accounting Standards**

In June 2006, the FASB issued Interpretation No. 48, "Accounting for Uncertainty in Income Taxes," an interpretation of FASB Statement No. 109 (FIN 48). FIN 48 prescribes a recognition threshold and measurement attribute for the financial statement recognition and measurement of tax positions taken or expected to be taken in a tax return. FIN 48 also provides guidance on derecognition, classification, interest and penalties, accounting in interim periods, disclosure, and transition. FIN 48 is effective for fiscal years beginning after December 15, 2006, and the Company adopted FIN 48 at the beginning of fiscal 2007. The impact of adoption was not material to the Company's consolidated financial statements.

In September 2006, the FASB issued SFAS No. 157, "Fair Value Measurements" (SFAS No. 157). This statement establishes a framework for fair value measurements in the financial statements by providing a single definition of fair value, provides guidance on the methods used to estimate fair value and increases disclosures about estimates of fair value. SFAS No. 157 is effective for fiscal years beginning after November 15, 2007 and is generally applied prospectively. The Company is currently evaluating the impact of this statement on its consolidated financial statements.

In September 2006, the FASB issued FSP AUG AIR-1, "Accounting for Planned Major Maintenance Activities" (FSP AUG AIR-1). This FSP addresses the planned major maintenance of assets and prohibits the use of the "accrue-in-advance" method of accounting for these activities. This FSP is effective for the

**COMSTOCK RESOURCES, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)**

first fiscal year beginning after December 15, 2006. The Company is currently evaluating the impact of this FSP, but does not expect it to have a material impact on its consolidated financial statements.

**(2) Acquisitions**

In September 2006 the Company acquired oil and gas properties in South Texas from Denali Oil & Gas Partners LP and other working interest owners for \$67.2 million in cash. The Company acquired proved oil and gas reserves of 16.5 Bcfe as well as interest in unevaluated oil and gas reserves. The transaction was funded with borrowings under Comstock's bank credit facility. The pro forma impact of this acquisition was not material to the Company's historical results of operations.

On May 12, 2005, the Company completed an acquisition of certain oil and gas properties in East Texas, Louisiana and Mississippi and related assets from EnSight Energy Partners, L.P. ("EnSight") for \$190.9 million. The acquisition was funded with proceeds from a public offering of common stock completed in April 2005 and borrowings under Comstock's bank credit facility.

Set forth in the following table is certain unaudited pro forma financial information for the years ended December 31, 2004 and 2005. This information has been prepared assuming the EnSight acquisition was consummated on January 1, 2004 and is based on estimates and assumptions deemed appropriate by the Company. The pro forma unaudited information is presented for illustrative purposes only. If the transaction had occurred in the past, the Company's operating results might have been different from those presented in the following table. The unaudited pro forma information should not be relied upon as an indication of the operating results that the Company would have achieved if the transaction had occurred on January 1, 2004. The unaudited pro forma information also should not be used as an indication of the future results that the Company will achieve after the acquisition.

	Year Ended December 31,	
	2004	2005
	(In thousands, except per share data)	
Oil and gas sales	\$ 292,051	\$ 312,673
Income from operations	127,190	152,326
Net income	54,394	61,669
Net income per share:		
Basic	\$ 1.40	\$ 1.53
Diluted	\$ 1.33	\$ 1.46
Weighted average common and common stock equivalent shares outstanding:		
Basic	38,732	40,374
Diluted	40,797	42,312

On July 6, 2005, Comstock acquired from certain parties additional working interests in 14 producing wells (5.6 net) in certain of the properties acquired from EnSight for \$10.9 million. The pro forma impact of this acquisition was not material to the Company's historical results of operations.

On October 4, 2004, Comstock acquired producing oil and gas properties in the East Texas, Arkoma, Anadarko and San Juan basins from Ovation Energy, L.P. for \$62.0 million. The acquisition was funded by

**COMSTOCK RESOURCES, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)**

borrowings under the Comstock bank credit facility. The pro forma impact of this acquisition was not material to the Company's historical results of operations.

**(3) Oil and Gas Producing Activities**

Set forth below is certain information regarding the aggregate capitalized costs of oil and gas properties and costs incurred by the Company for its oil and gas property acquisition, development and exploration activities:

*Capitalized Costs*

	As of December 31,	
	2005	2006
	(In thousands)	
Unproved properties	\$ 10,723	\$ 13,645
Proved properties:		
Leasehold costs	661,937	1,060,050
Wells and related equipment and facilities	356,404	1,451,732
Accumulated depreciation depletion and amortization	(324,560)	(757,861)
	<u>\$ 704,504</u>	<u>\$ 1,767,566</u>
Share of equity investee <sup>(1)</sup>	<u>\$ 316,386</u>	

<sup>(1)</sup> Represents 48% of capitalized costs of Bois d'Arc Energy as of December 31, 2005.

*Costs Incurred*

	For the Year Ended December 31,		
	2004	2005	2006
	(In thousands)		
Property acquisitions:			
Unproved properties	\$ 5,082	\$ 2,027	\$ 8,070
Proved properties	62,800	202,055	83,680
Development costs	96,040	126,368	321,164
Exploration costs	46,477	31,456	142,539
	<u>\$ 210,399</u>	<u>\$ 361,906</u>	<u>\$ 555,453</u>
Share of equity investee <sup>(1)</sup>		<u>\$ 71,725</u>	

<sup>(1)</sup> Represents 48% of costs incurred by Bois d'Arc Energy from May 10, 2005 to December 31, 2005.

**COMSTOCK RESOURCES, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)**

**(4) Long-Term Debt**

Long-term debt is comprised of the following:

	As of December 31,	
	2005	2006
	(In thousands)	
Comstock bank credit facility	\$ 68,000	\$ 180,000
Bois d'Arc Energy bank credit facility	—	100,000
6 <sup>7</sup> / <sub>8</sub> % senior notes due 2012	175,000	175,000
	\$ 243,000	\$ 455,000

The following table summarizes Comstock's debt as of December 31, 2006 by year of maturity:

	2007	2008	2009	2010	2011	Thereafter	Total
Comstock bank credit facility	\$ —	\$ —	\$ —	\$ —	\$ 180,000	\$ —	\$ 180,000
Bois d'Arc Energy bank credit facility	—	—	100,000	—	—	—	100,000
6 <sup>7</sup> / <sub>8</sub> % senior notes	—	—	—	—	—	175,000	175,000
	\$ —	\$ —	\$ 100,000	\$ —	\$ 180,000	\$ 175,000	\$ 455,000

In December 2006, Comstock entered into a new \$600.0 million bank credit facility with Bank of Montreal, as the administrative agent. The credit facility is a five year revolving credit commitment that matures on December 15, 2011. Indebtedness under the credit facility is secured by substantially all of Comstock's assets and is guaranteed by all of its wholly-owned subsidiaries. The credit facility is subject to borrowing base availability, which is redetermined semiannually based on the banks' estimates of the Company's future net cash flows of oil and natural gas properties. The borrowing base may be affected by the performance of Comstock's properties and changes in oil and natural gas prices. The determination of the borrowing base is at the sole discretion of the administrative agent and the bank group. As of December 31, 2006, the borrowing base was \$400.0 million, \$220.0 million of which was available. Borrowings under the credit facility bear interest, based on the utilization of the borrowing base, at Comstock's option at either (1) LIBOR plus 1.0% to 1.75% or (2) the base rate (which is the higher of the prime rate or the federal funds rate) plus 0% to 0.25%. A commitment fee of 0.25% to 0.375%, based on the utilization of the borrowing base, is payable on the unused borrowing base. The credit facility contains covenants that, among other things, restrict the payment of cash dividends in excess of \$40.0 million, limit the amount of consolidated debt that Comstock may incur and limit the Company's ability to make certain loans and investments. The only financial covenants are the maintenance of a ratio of current assets, including availability under the bank credit facility, to current liabilities of at least one-to-one and maintenance of a minimum tangible net worth. The Company was in compliance with these covenants as of December 31, 2006. Proceeds from the new credit facility were used to repay outstanding indebtedness under Comstock's prior bank credit facility.

Bois d'Arc Energy has a bank credit facility with The Bank of Nova Scotia and several other banks. Borrowings under the credit facility are limited to a borrowing base which is redetermined semi-annually based on the banks' estimate of the future net cash flows of Bois d'Arc Energy's oil and natural gas properties that was \$200.0 million at December 31, 2006. The borrowing base is re-determined semi-annually based on the banks' estimates of the future net cash flows of Bois d'Arc Energy's oil and natural

**COMSTOCK RESOURCES, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)**

gas properties. The determination of the borrowing base is at the sole discretion of the administrative agent and the bank group. The borrowing base was \$200.0 million as of December 31, 2006. Amounts available under this credit facility as of December 31, 2006 were \$100.0 million. The Bois d' Arc Energy credit facility matures on May 11, 2009. Borrowings under the credit facility bear interest at the Bois d' Arc Energy's option of either (1) LIBOR plus a margin that varies from 1.25% to 2.0% depending upon the ratio of the amounts outstanding to the borrowing base or (2) the base rate (which is the higher of the prime rate or the federal funds rate) plus a margin that varies from 0% to 0.75% depending upon the ratio of the amounts outstanding to the borrowing base. A commitment fee ranging from 0.375% to 0.50% (depending upon the ratio of the amounts outstanding to the borrowing base) is payable on the unused borrowing base. Indebtedness under the credit facility is secured by substantially all of Bois d' Arc Energy and its subsidiaries' assets, and all of the Bois d' Arc Energy's subsidiaries are guarantors of the indebtedness. The Bois d' Arc Energy credit facility contains covenants that restrict the payment of cash dividends in excess of \$5.0 million, borrowings, sales of assets, loans to others, capital expenditures, investments, merger activity, hedging contracts, liens and certain other transactions without the prior consent of the lenders and requires Bois d' Arc Energy to maintain a ratio of current assets, including the availability under the bank credit facility, to current liabilities of at least one-to-one and a ratio of indebtedness to earnings before interest, taxes, depreciation, depletion, and amortization, exploration and impairment expense of no more than 2.5-to-one. Bois d' Arc Energy was in compliance with these covenants as of December 31, 2006.

In 2004, Comstock sold \$175.0 million of senior notes in an underwritten public offering. The senior notes mature on March 1, 2012 and bear interest at 6<sup>7</sup>/<sub>8</sub>% which is payable semiannually on each March 1 and September 1. The notes are unsecured obligations of Comstock and are guaranteed by all of its wholly-owned subsidiaries. The proceeds from the issuance of the notes were used to repurchase \$220.0 million in principal amount of Comstock's 11<sup>1</sup>/<sub>4</sub>% Senior Notes (the "1999 Notes") for \$235.8 million plus accrued interest. The early extinguishment of the 1999 Notes resulted in a pretax loss of \$19.6 million in 2004 which was comprised of the premium paid for repurchase of the 1999 Notes together with the write-off of unamortized debt issuance costs related to the 1999 Notes.

**(5) Commitments and Contingencies**

*Commitments*

The Company rents office space under noncancelable leases. Rent expense for the years ended December 31, 2004, 2005 and 2006 was \$535,000, \$644,000 and \$1,098,000 respectively. Minimum future payments under the leases are as follows:

	(In thousands)	
2007	\$	1,123
2008		1,128
2009		1,142
2010		1,152
Thereafter		3,213
	<u>\$</u>	<u>7,758</u>

The Company has commitments to acquire seismic data totaling \$13.5 million through December 2007. As of December 31, 2006, the Company had commitments for contracted drilling rigs of \$93.9 million through July 2008.



**COMSTOCK RESOURCES, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)**

**Contingencies**

From time to time, the Company is involved in certain litigation that arises in the normal course of its operations. The Company records a loss contingency for these matters when it is probable that a liability has been incurred and the amount of the loss can be reasonably estimated. The Company does not believe the resolution of these matters will have a material effect on the Company's financial position or results of operations.

**(6) Stockholders' Equity**

The authorized capital stock of Comstock consists of 50 million shares of common stock, \$.50 par value per share (the "Common Stock"), and 5 million shares of preferred stock, \$10.00 par value per share. The preferred stock may be issued in one or more series, and the terms and rights of such stock will be determined by the Board of Directors. There were no shares of preferred stock outstanding at December 31, 2005 and 2006.

Comstock's Board of Directors has designated 500,000 shares of the preferred stock as Series B Junior Participating Preferred Stock (the "Series B Junior Preferred Stock") in connection with the adoption of a shareholder rights plan. At December 31, 2005 and 2006, there were no shares of Series B Junior Preferred Stock issued or outstanding. The Series B Junior Preferred Stock is entitled to receive cumulative quarterly dividends per share equal to the greater of \$1.00 or 100 times the aggregate per share amount of all dividends (other than stock dividends) declared on Common Stock since the immediately preceding quarterly dividend payment date or, with respect to the first payment date, since the first issuance of Series B Junior Preferred Stock. Holders of the Series B Junior Preferred Stock are entitled to 100 votes per share (subject to adjustment to prevent dilution) on all matters submitted to a vote of the stockholders. The Series B Junior Preferred Stock is neither redeemable nor convertible. The Series B Junior Preferred Stock ranks prior to the Common Stock but junior to all other classes of preferred stock.

On April 4, 2005, Comstock completed a public offering of 4,545,454 shares of Common Stock at a price of \$27.50 per share to the public. The net proceeds from the offering, after deducting underwriters' discounts, of \$121.2 million were used to partially fund an acquisition of oil and gas properties.

**(7) Incentive Plans**

Comstock and Bois d'Arc Energy maintain separate incentive compensation plans under which they grant common stock and stock options to key employees and directors.

On June 23, 1999, the stockholders of Comstock approved the 1999 Long-term Incentive Plan for management including officers, directors and managerial employees of Comstock which replaced the 1991 Long-term Incentive Plan. The 1999 Long-term Incentive Plan together with the 1991 Long-term Incentive Plan authorize the grant of non-qualified and incentive stock options and the grant of restricted stock to key executives of Comstock. The options under the Comstock incentive plans have contractual lives ranging from five to ten years and become exercisable after lapses in vesting periods ranging from zero to ten years from the grant date. As of December 31, 2006 the incentive plans provide for future awards of stock options or restricted stock grants of up to 328,351 shares of Common Stock plus 1% of the outstanding shares of Common Stock each year beginning on each subsequent January 1. On July 16, 2004, Bois d'Arc Energy's unit holders approved the 2004 Long-term Incentive Plan for management including officers, directors, employees and consultants. The plan was amended and restated on May 11, 2005 to reflect Bois d'Arc

**COMSTOCK RESOURCES, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)**

Energy's conversion to a corporation. This incentive plan authorizes the grant of non-qualified options to purchase shares of common stock and the grant of restricted shares of common stock in Bois d'Arc Energy. The options under the incentive plan have contractual lives of up to ten years and become exercisable after lapses in vesting periods ranging from one to five years from the grant date. The Bois d'Arc Energy incentive plan provides that awards in the aggregate cannot exceed 11% of the total outstanding shares of common stock of Bois d'Arc Energy. As of December 31, 2006, 1,892,550 shares were available for future grants under this plan.

During 2004, 2005 and 2006, the Company recorded \$6.2 million, \$5.4 million and \$13.2 million, respectively, in stock-based compensation expense in general and administrative expenses, including \$1.5 million, \$1.2 million, and \$6.4 million in 2004, 2005 and 2006, respectively, attributable to Bois d'Arc Energy's incentive plan. The excess income tax benefit realized from tax deductions associated with stock-based compensation totaled \$3.7 million, \$15.6 million and \$6.2 million for the years ended December 31, 2004, 2005 and 2006, respectively.

**Comstock stock options.** Comstock amortizes the fair value of stock options granted over the vesting period using the straight-line method. The fair value of each award is estimated as of the date of grant using the Black-Scholes options pricing model. Total compensation expense recognized for all outstanding Comstock stock options for the years ended December 31, 2004, 2005 and 2006 was \$1.9 million, \$0.6 million and \$0.9 million, respectively.

The following table summarizes the assumptions used to value Comstock's stock options for the years ended December 31, 2004, 2005 and 2006:

	2004	2005	2006
Weighted average grant date fair value	\$ 7.75	\$ 15.08	\$ 17.37
Weighted average assumptions used			
Expected volatility	46.9%	36.8%	35.4%
Expected lives	4.1 yrs	8.2 yrs	8.9 yrs.
Risk-free interest rates	3.6%	4.3%	4.9%
Expected dividend yield	—	—	—

The expected volatility for these grants is calculated using an analysis of the historical volatility of Comstock's common stock. The weighted average expected lives of options approximate their contractual lives. Risk-free interest rates are determined using the implied yield currently available for zero-coupon U.S. government issues with a remaining term equal to the expected life of the options.

**COMSTOCK RESOURCES, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)**

The following table summarizes information related to Comstock's stock options outstanding at December 31, 2006:

Exercise Price	Number of Options Outstanding	Weighted Average Remaining Life (in years)	Number of Options Exercisable
\$3.88	545,000	1.5	545,000
\$8.88	176,250	2.5	176,250
\$11.12	3,500	3.4	3,500
\$6.42	170,750	3.5	170,750
\$9.20	177,750	2.0	177,750
\$12.15	20,000	1.4	20,000
\$18.20	40,220	3.0	40,220
\$18.17	50,000	2.4	50,000
\$20.03	15,000	4.0	15,000
\$20.92	40,000	3.4	40,000
\$32.50	86,500	8.9	21,625
\$32.44	40,000	5.4	—
\$33.22	104,000	10.0	—
	<u>1,468,970</u>	3.2	<u>1,260,095</u>
Exercisable	<u>1,260,095</u>	2.3	

The following tables summarize information related to Comstock's stock option activity under its employee incentive plans for the years ended December 31, 2004, 2005 and 2006:

	2004		2005		2006	
	Number of Options	Weighted Average Exercise Price	Number of Options	Weighted Average Exercise Price	Number of Options	Weighted Average Exercise Price
Outstanding at January 1	3,549,250	\$ 8.83	2,734,870	\$ 9.02	1,733,970	\$ 9.83
Granted	78,000	\$ 18.84	141,500	\$ 29.23	144,000	\$ 33.00
Exercised	(892,380)	\$ 9.09	(1,141,400)	\$ 10.29	(394,000)	\$ 10.87
Forfeited	—		(1,000)	\$ 20.03	(15,000)	\$ 32.50
Outstanding at December 31	<u>2,734,870</u>	<u>\$ 9.02</u>	<u>1,733,970</u>	<u>\$ 9.83</u>	<u>1,468,970</u>	<u>\$ 11.59</u>
Vested and Exercisable at December 31	<u>2,293,620</u>	<u>\$ 8.62</u>	<u>1,567,470</u>	<u>\$ 7.92</u>	<u>1,260,095</u>	<u>\$ 8.07</u>

	For the Years Ended December 31,		
	2004	2005	2006
	(In thousands)		
Cash received for options exercised	\$ 8,114	\$ 11,748	\$ 4,283
Actual tax benefit realized	\$ 10,324	\$ 21,972	\$ 7,780

COMSTOCK RESOURCES, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

As of December 31, 2006, total unrecognized compensation cost related to nonvested Comstock stock options of \$3.2 million was expected to be recognized over a weighted average period of 4.0 years. The aggregate intrinsic value of Comstock options outstanding at December 31, 2006 was \$29.0 million based on the closing price for Comstock's common stock on December 29, 2006. The aggregate intrinsic value of vested Comstock options was also \$29.0 million on December 31, 2006. Options granted in 2004, 2005 and 2006 were granted with exercise prices equal to the closing prices of the Company's common stock on the respective dates. The total intrinsic value of Comstock options exercised was \$10.3 million, \$22.0 million and \$7.8 million for the years ended December 31, 2004, 2005 and 2006, respectively.

**Comstock restricted stock.** The fair value of restricted stock grants is amortized over the vesting period using the straight-line method. Total compensation expense recognized by Comstock for restricted stock grants was \$2.8 million, \$3.6 million and \$6.0 million for the years ended December 31, 2004, 2005 and 2006, respectively. The fair value of each restricted share on the date of grant is equal to its fair market price.

A summary of Comstock restricted stock activity for the years ended December 31, 2004, 2005 and 2006 is presented below:

	Number of Restricted Shares	Weighted Average Grant Price
Outstanding at January 1, 2004	588,750	\$ 15.32
Granted	275,000	\$ 20.03
Vested	(56,250)	\$ 8.88
Outstanding at January 1, 2005	807,500	\$ 17.38
Granted	342,000	\$ 32.50
Vested	(56,250)	\$ 6.42
Outstanding at January 1, 2006	1,093,250	\$ 22.67
Granted	387,000	\$ 32.85
Vested	(230,000)	\$ 16.27
Forfeitures	(43,500)	\$ 24.62
Outstanding at December 31, 2006	1,206,750	\$ 27.08

Total unrecognized compensation cost related to non-vested Comstock restricted stock of \$32.7 million as of December 31, 2006 is expected to be recognized over a period of 4.0 years. Unvested restricted stock grants had a weighted average contractual term of 2.4 years and an aggregate intrinsic value of \$37.5 million as of December 31, 2006.

**Bois d'Arc Energy stock options.** Bois d'Arc Energy amortizes the fair value of stock options granted over the vesting period using the straight-line method. The fair value of each award is estimated as of the date of grant using the Black-Scholes options pricing model. Total compensation expense recognized by Bois d'Arc Energy for all outstanding stock options for the period from its inception through December 31, 2004, and for the years ended December 31, 2005 and 2006 was \$1.2 million, \$2.7 million and \$3.4 million, respectively.

COMSTOCK RESOURCES, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

The following table summarizes the assumptions used to value Bois d' Arc Energy stock options for the period from its inception through December, 2004 and for the years ended December 31, 2005 and 2006:

	2004	2005	2006
Weighted average grant date fair value	\$4.55	\$7.63	\$9.63
Weighted average assumptions used			
Expected volatility	29.8%	37.0%	39.5%
Expected lives	7.5 yrs.	8.5 yrs.	9.8 yrs.
Risk-free interest rates	4.0%	4.2%	5.5%
Expected dividend yield	—	—	—

The value of the initial grants of Bois d' Arc Energy options, which have an exercise price of \$6.00, was determined to be \$4.55 using an estimated grant date fair value of \$8.42 per share, an expected weighted average life of 7.5 years, and an expected volatility factor of 29.8%. The volatility factor was determined based on an analysis of similar companies in the industry. The expected volatility for grants after Bois d' Arc Energy's initial public offering in 2005 is calculated using an analysis of historical volatility of Bois d' Arc Energy's common stock. Due to Bois d' Arc Energy's limited option exercise experience, the weighted average expected lives of options approximate their contractual lives. The risk-free interest rates are determined using the implied yield currently available for zero-coupon U.S. government issues with a remaining term equal to the expected life of the options.

The following table summarizes information related to Bois d' Arc Energy stock options outstanding at December 31, 2006:

Exercise Price	Number of Options Outstanding	Weighted Average Remaining Life (in years)	Number of Options Exercisable
\$ 6.00	2,758,000	7.5	1,102,000
\$12.00	15,000	8.4	3,000
\$12.80	25,000	3.4	25,000
\$15.55	200,000	8.6	9,000
\$15.48	50,000	9.3	—
\$16.47	192,500	9.0	—
\$14.23	40,000	9.5	—
\$15.62	40,000	9.6	—
\$16.75	30,000	9.6	—
\$ 7.70	3,350,500	7.7	1,139,000
Exercisable	1,139,000	7.4	—

**COMSTOCK RESOURCES, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)**

The following tables summarize information related to Bois d'Arc Energy option activity for the period from its inception in July 2004 through December 31, 2004 and for the years ended December 31, 2005 and 2006:

	2004		2005		2006	
	Number of Options	Weighted Average Exercise Price	Number of Options	Weighted Average Exercise Price	Number of Options	Weighted Average Exercise Price
Outstanding at January 1	—		2,800,000	\$ 6.00	3,105,000	\$ 6.84
Granted	2,800,000	\$ 6.00	305,000	\$ 14.60	364,000	\$ 16.02
Exercised	—		—		(19,500)	\$ 6.46
Forfeited	—		—		(99,000)	\$ 11.65
Outstanding at December 31	<u>2,800,000</u>	<u>\$ 6.00</u>	<u>3,105,000</u>	<u>\$ 6.84</u>	<u>3,350,500</u>	<u>\$ 7.70</u>
Vested and Exercisable at December 31	<u>—</u>		<u>560,000</u>	<u>\$ 6.00</u>	<u>1,139,000</u>	<u>\$ 6.24</u>

	For the Years Ended December 31,		
	2004	2005	2006
	(In thousands)		
Cash received for options exercised	\$ —	\$ —	\$ 125
Actual tax benefit realized	\$ —	\$ —	\$ 172

As of December 31, 2006, total unrecognized compensation cost related to the Bois d'Arc Energy non-vested options of \$10.7 million was expected to be recognized over a weighted average period of 4.6 years. The aggregate grant date intrinsic value of the initial grants of options to purchase Bois d'Arc Energy class B units in 2004 was \$6.8 million which was determined using a grant date fair value of the class B units of \$8.42 per unit. Bois d'Arc Energy options granted in 2005 and 2006 were granted with exercise prices equal to the closing prices of the Bois d'Arc Energy's common stock on the respective dates of grant and, therefore, had no intrinsic value on such grant dates. The aggregate intrinsic value of Bois d'Arc Energy options outstanding at December 31, 2006 was \$23.9 million based on the closing price for Bois d'Arc Energy's common stock on December 29, 2006. The aggregate intrinsic value of vested Bois d'Arc Energy options was \$9.6 million on December 31, 2006. The total intrinsic value of Bois d'Arc Energy options exercised for the year ended December 31, 2006 was \$172,000. There were no options exercised prior to 2006.

**Bois d'Arc Energy restricted stock.** The fair value of each restricted Bois d'Arc Energy share on the date of grant is equal to its market price. Bois d'Arc Energy amortizes the grant date fair value of the restricted shares over the vesting period using the straight-line method. Total compensation cost recognized for Bois d'Arc Energy restricted stock grants was \$1.3 million, \$2.9 million, and \$3.0 million for the period from its inception through December 31, 2004 and for the years ended December 31, 2005 and 2006, respectively.

COMSTOCK RESOURCES, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

A summary of Bois d'Arc Energy restricted stock activity under the long-term incentive plan for the period from Inception through December 31, 2004 and for the years ended December 31, 2005 and 2006 is presented below:

	Number of Restricted Shares (Units)	Weighted Average Grant Price
Granted in 2004	2,145,000	\$ 6.80
Outstanding at January 1, 2005	2,145,000	\$ 6.80
Granted	10,000	\$ 12.00
Vested	(429,000)	\$ 6.80
Outstanding at January 1, 2006	1,726,000	\$ 6.83
Granted	25,000	\$ 15.48
Vested	(429,000)	\$ 6.80
Forfeitures	(16,000)	\$ 10.05
Outstanding at December 31, 2006	1,306,000	\$ 6.97

Total unrecognized compensation cost related to Bois d'Arc Energy non-vested restricted stock of \$7.7 million as of December 31, 2006, is expected to be recognized over a weighted average period of 4.3 years. Unvested restricted stock grants had a weighted average contractual term of 1.6 years and an aggregate intrinsic value of \$19.1 million as of December 31, 2006.

**(8) Retirement Plans**

Comstock has a 401(k) Profit Sharing Plan which covers all of its employees. At its discretion, Comstock may match a certain percentage of the employees' contributions to the plan. Comstock's matching contributions to the plan were \$130,000, \$142,000 and \$199,000 for the years ended December 31, 2004, 2005 and 2006, respectively.

Bois d'Arc Energy has a 401(k) profit sharing plan which covers all of its employees. At its discretion, Bois d'Arc Energy may match a certain percentage of the employees' contributions to the plan. Bois d'Arc Energy's matching contributions to the plan were \$8,000 for the period from Inception through December 31, 2006 and \$32,000 and \$41,000 in 2005 and 2006, respectively.

**(9) Exploration Venture**

On July 31, 2001, Comstock entered into an exploration agreement with Bois d'Arc Offshore, Ltd. and its principals (collectively, "Bois d'Arc"), which replaced an exploration agreement entered into on December 8, 1997. Comstock did not have any ownership interest in Bois d'Arc. The 2001 exploration agreement established a joint exploration venture between Comstock and Bois d'Arc covering the state coastal waters of Louisiana and Texas and corresponding federal offshore waters in the Gulf of Mexico. The new venture was effective April 1, 2001 and was to continue until December 31, 2006. Under the joint exploration venture, Bois d'Arc was responsible for developing a budget for exploration activities and for generating exploration prospects in the Gulf of Mexico utilizing 3-D seismic data and their extensive geological expertise in the region. Comstock had to approve the budget and advanced funds for the acquisition of 3-D seismic data and leases needed to conduct exploration activities. Comstock Offshore was

COMSTOCK RESOURCES, INC. AND SUBSIDIARIES

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)

reimbursed for all advanced costs and was entitled to a non-promoted working interest in each prospect generated. The agreement required Comstock to fund a minimum of \$5.0 million for the acquisition of seismic data over the term of the agreement or Bois d'Arc had the right to terminate the agreement. Comstock was to recover its advances based on Bois d'Arc's ability to generate drilling prospects on the acreage acquired that could either be sold to third parties or drilled by Comstock and Bois d'Arc. Prior to drilling a prospect under the joint exploration venture, Comstock was reimbursed for the costs that were advanced and had the right to participate in drilling the prospect with up to a 40% working interest. The amounts advanced by Comstock Offshore for leasehold and seismic data acquisitions were recorded as unevaluated properties and as exploration expense as the reimbursements or repayment of such advances by Bois d'Arc were not unconditional. The collection of the advances was subject to a drillable prospect being developed that Comstock Offshore, Bois d'Arc or other third parties would agree to drill. At December 31, 2003 Comstock had \$7.1 million in advances outstanding for acquisition costs of unevaluated properties and \$2.6 million for acquisition costs of seismic data. In connection with the formation of Bois d'Arc Energy these advances were repaid in July 2004.

Under the exploration agreement, the principals of Bois d'Arc had the opportunity to earn warrants to purchase up to 1,620,000 shares of Common Stock. Warrants to purchase 60,000 shares were earned for each prospect that resulted in a successful discovery, which was defined as an exploratory well drilled under the exploration agreement that was not plugged and abandoned and in which Comstock agreed to participate in the completion operation. The exercise price on the warrants earned was determined on a semiannual basis each year that the venture was in effect based on the then-current market price for the Common Stock. The principals of Bois d'Arc had also earned warrants to purchase 600,000 shares of Common Stock at \$14.00 per share under the prior exploration agreement during the period from January 1998 to April 2001. The value of these warrants based on the Black-Scholes option pricing model was \$9.97 per option share. The estimated value of \$6.0 million for the warrants earned under the prior exploration agreement were capitalized to oil and gas properties in 1998 through 2001. The exploration joint venture was terminated on July 15, 2004 in connection with the formation of Bois d'Arc Energy.

The following table summarizes the stock purchase warrants issued under the exploration ventures that were outstanding at December 31, 2006.

Number of Shares Outstanding	Exercise Price	Weighted Average Remaining Life (Years)	Number of Shares Exercisable
58,500	\$ 13.59	2.54	58,500
8,600	\$ 18.70	2.54	8,600
120,000	\$ 19.46	2.54	120,000
187,100		2.54	187,100



**COMSTOCK RESOURCES, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)**

The following table summarizes stock purchase warrant activity during 2004, 2005 and 2006 under the exploration venture:

	Number of Shares	Exercise Price	Weighted Average Exercise Price
Outstanding at December 31, 2003	2,100,000	\$6.48 to \$18.70	\$ 12.09
Granted	240,000	\$19.46	\$ 19.46
Exercised	(172,501)	\$6.48 to \$9.26	\$ 7.34
Outstanding at December 31, 2004	2,167,499	\$6.48 to \$9.26	\$ 13.29
Exercised	(1,291,666)	\$6.48 to \$14.00	\$ 10.72
Outstanding at December 31, 2005	875,833	\$6.48 to \$19.46	\$ 17.08
Exercised	(688,733)	\$13.59 to \$19.46	\$ 16.94
Outstanding and exercisable at December 31, 2006	187,100	\$13.59 to \$19.46	\$ 17.59

The value of the stock purchase warrants granted based on the Black-Scholes option pricing model was \$9.69 per share or an aggregated \$2.3 million in 2004. Such costs were capitalized as a cost of oil and gas properties. Warrants were exercised to purchase 172,501, 1,291,666 and 688,733 in 2004, 2005 and 2006, respectively. Such exercises yielded net proceeds of \$1.3 million, \$13.8 million and \$11.7 million in 2004, 2005 and 2006, respectively.

**(10) Income Taxes**

The tax effects of significant temporary differences representing the net deferred tax liability at December 31, 2005 and 2006 were as follows:

	2005	2006
	(In thousands)	
Net deferred tax assets (liabilities):		
Current:		
Unrecognized loss from derivatives	\$ 3,935	\$ —
Net operating loss carryforward	387	—
State taxes	117	—
	<u>\$ 4,439</u>	<u>\$ —</u>
Non current:		
Property and equipment	\$ (66,802)	\$ (252,164)
Other assets	508	1,695
Investment in Bois d'Arc Energy	(66,825)	(75,808)
Net operating loss carryforwards	14,854	14,854
Valuation allowance on net operating loss carryforwards	(8,043)	(8,043)
Other	6,827	8,230
Net deferred tax liability	<u>\$ (119,481)</u>	<u>\$ (311,236)</u>

**COMSTOCK RESOURCES, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)**

The following is an analysis of the consolidated income tax expense:

	2004	2005 (In thousands)	2006
Current	\$ 5,603	\$ 4,614	\$ 7,789
Deferred	20,739	31,201	66,550
	<u>\$ 26,342</u>	<u>\$ 35,815</u>	<u>\$ 74,339</u>

Deferred income taxes are provided to reflect the future tax consequences or benefits of differences between the tax basis of assets and liabilities and their reported amounts in the financial statements using enacted tax rates. The difference between the Company's customary rate of 35% and the effective tax rate on income before income taxes, minority interest and equity in earnings (loss) of Bois d'Arc Energy, is due to the following:

	2004	2005 (In thousands)	2006
Tax at statutory rate	\$ 25,623	\$ 51,155	\$ 60,703
Tax effect of:			
Provision (benefit) on undistributed earnings (loss) of Bois d'Arc Energy	—	(17,452)	9,307
Nondeductible stock-based compensation	204	1,533	3,224
State taxes, net of federal benefit	497	333	(45)
Deferred state taxes provided due to tax law changes	—	—	1,288
Other	18	246	(138)
Total	<u>\$ 26,342</u>	<u>\$ 35,815</u>	<u>\$ 74,339</u>

	2004	2005	2006
Tax at statutory rate	35.0%	35.0%	35.0%
Tax effect of:			
Provision (benefit) on undistributed earnings (loss) of Bois d'Arc Energy	—	(11.9)	5.4
Nondeductible stock-based compensation	0.3	1.0	1.9
State taxes, net of federal benefit	0.7	0.2	—
Deferred state taxes provided due to tax law changes	—	—	0.7
Other	—	0.2	(0.1)
Total	<u>36.0%</u>	<u>24.5%</u>	<u>42.9%</u>

At December 31, 2006, Comstock had the following carryforwards available to reduce future income taxes:

Types of Carryforward	Years of Expiration Carryforward	Amounts (In thousands)
Net operating loss — U.S. federal	2017-2021	\$ 42,438
Alternative minimum tax credits	Unlimited	6,959

**COMSTOCK RESOURCES, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)**

The utilization of the net operating loss carryforward is limited to approximately \$1.1 million per year pursuant to a prior change of control of an acquired company. Accordingly, a valuation allowance of \$23.0 million, with a tax effect of \$8.0 million, has been established for the estimated net operating loss carryforwards that will not be utilized. Realization of the net operating carryforwards requires Comstock to generate taxable income within the carryforward period.

**(11) Derivatives and Hedging Activities**

Comstock periodically uses swaps, floors and collars to hedge oil and natural gas prices and interest rates. Swaps are settled monthly based on differences between the prices specified in the instruments and the settlement prices of futures contracts. Generally, when the applicable settlement price is less than the price specified in the contract, Comstock receives a settlement from the counter party based on the difference multiplied by the volume or amounts hedged. Similarly, when the applicable settlement price exceeds the price specified in the contract, Comstock pays the counter party based on the difference. Comstock generally receives a settlement from the counter party for floors when the applicable settlement price is less than the price specified in the contract, which is based on the difference multiplied by the volumes hedged. For collars, generally Comstock receives a settlement from the counter party when the settlement price is below the floor and pays a settlement to the counter party when the settlement price exceeds the cap. No settlement occurs when the settlement price falls between the floor and cap. The Company had no derivative financial instruments outstanding as of December 31, 2006.

Comstock has not designated derivative instruments previously outstanding as cash flow hedges and accordingly, unrealized losses on derivatives of \$11.1 million and unrealized gains of \$11.2 million were recorded in 2005 and 2006, respectively, to reflect the change in fair value of these instruments. The Company realized losses of \$2.5 million and \$0.5 million in 2005 and 2006, respectively, to settle positions which expired during the year.

Comstock periodically enters into interest rate swap agreements to hedge the impact of interest rate changes on its floating rate long-term debt. As of December 31, 2005 and 2006, Comstock had no interest rate financial instruments outstanding.

**(12) Supplementary Quarterly Financial Data (Unaudited)**

2005 —

	<u>First</u>	<u>Second</u>	<u>Third</u>	<u>Fourth</u>	<u>Total</u>
	(In thousands, except per share amounts)				
Total oil and gas sales	\$ 69,822	\$ 68,529	\$ 71,619	\$ 93,366	\$ 303,336
Income from operations	\$ 33,009	\$ 20,701	\$ 37,899	\$ 57,765	\$ 149,374
Net income (loss)	\$ 15,888	\$ (10,878)	\$ 14,138	\$ 41,331	\$ 60,479
Net income per share:					
Basic	\$ 0.45	\$ (0.27)	\$ 0.35	\$ 0.99	\$ 1.54
Diluted	\$ 0.43	\$ (0.27)	\$ 0.33	\$ 0.96	\$ 1.47

**COMSTOCK RESOURCES, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)**

2006 —

	First	Second	Third	Fourth	Total
	(In thousands, except per share amounts)				
Total oil and gas sales	\$ 131,724	\$ 124,178	\$ 129,251	\$ 126,775	\$ 511,928
Income from operations	\$ 61,734	\$ 46,363	\$ 44,810	\$ 35,451	\$ 188,358
Net income	\$ 29,634	\$ 15,583	\$ 17,036	\$ 8,412	\$ 70,665
Net income per share:					
Basic	\$ 0.70	\$ 0.37	\$ 0.40	\$ 0.20	\$ 1.67
Diluted	\$ 0.68	\$ 0.35	\$ 0.39	\$ 0.19	\$ 1.61

Amounts reported for the three months ended March 31, 2006 and June 30, 2006 which differ from amounts previously reported due to the consolidation of Bois d'Arc Energy effective January 1, 2006 are as follows:

	As Previously Reported	Consolidating Adjustments (In thousands)	As Consolidated
<b>Three months ended March 31, 2006 —</b>			
Total oil and gas sales	\$ 69,891	\$ 61,833	\$ 131,724
Income from Operations	\$ 34,506	\$ 27,228	\$ 61,734
Net income	\$ 29,634	\$ —	\$ 29,634
Net income per share:			
Basic	\$ 0.70	\$ —	\$ 0.70
Diluted	\$ 0.68	\$ —	\$ 0.68

	As Previously Reported	Consolidating Adjustments (In thousands)	As Consolidated
<b>Three months ended June 30, 2006 —</b>			
Total oil and gas sales	\$ 64,571	\$ 59,607	\$ 124,178
Income from Operations	\$ 22,277	\$ 24,086	\$ 46,363
Net income	\$ 15,583	\$ —	\$ 15,583
Net income per share:			
Basic	\$ 0.37	\$ —	\$ 0.37
Diluted	\$ 0.36	\$ —	\$ 0.35

**COMSTOCK RESOURCES, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)**

**(13) Consolidating Financial Statements**

Comstock Resources, Inc. (the “parent company”) has \$175.0 million of 6<sup>7</sup>/<sub>8</sub>% senior notes outstanding which are guaranteed by all of the parent company’s wholly-owned consolidated subsidiaries. There are no restrictions on the parent company’s ability to obtain funds from any of the guarantor subsidiaries or on a guarantor subsidiary’s ability to obtain funds from the parent company or their direct or indirect subsidiaries. The 6<sup>7</sup>/<sub>8</sub>% senior notes are not guaranteed by Bois d’Arc Energy, Inc. and its subsidiaries (the “Non-Guarantor Subsidiaries”). The following condensed consolidating balance sheet, statements of operations and statement of cash flows are provided for the parent company, all guarantor subsidiaries and all non-guarantor subsidiaries. The information has been presented as if the parent company accounted for its ownership of the guarantor and non-guarantor subsidiaries using the equity method of accounting.

**Balance Sheet:**

	Year Ended December 31, 2006				
	Comstock Resources	Guarantor Subsidiaries	Non-Guarantor Subsidiaries (In thousands)	Eliminating Entries	Consolidated
<b>Assets:</b>					
Cash and cash equivalents	\$ —	\$ 1,228	\$ 9,487	\$ —	\$ 10,715
Accounts receivable	—	37,049	38,512	—	75,561
Other current assets	210	3,547	8,795	—	12,552
Total current assets	210	41,824	56,794	—	98,828
Net property and equipment	30,345	915,486	827,795	—	1,773,626
Investment in subsidiaries	636,303	—	—	(636,303)	—
Intercompany receivables	393,395	—	—	(393,395)	—
Other assets	4,757	2	912	—	5,671
Total assets	<u>\$ 1,065,010</u>	<u>\$ 957,312</u>	<u>\$ 885,501</u>	<u>\$ (1,029,698)</u>	<u>\$ 1,878,125</u>
<b>Liabilities and Stockholders’ Equity:</b>					
Short-term debt	\$ —	\$ —	\$ 3,250	\$ —	\$ 3,250
Accounts payable	9,687	62,041	60,776	—	132,504
Accrued expenses	—	11,265	4,842	—	16,107
Total current liabilities	9,687	73,306	68,868	—	151,861
Long-term debt	355,000	—	100,000	—	455,000
Intercompany payables	—	393,395	—	(393,395)	—
Deferred income taxes payable	17,760	141,517	151,959	—	311,236
Reserve for future abandonment costs	—	9,052	48,064	—	57,116
Minority interest	—	—	—	220,349	220,349
Total liabilities	382,447	617,270	368,891	(173,046)	1,195,562
Stockholders’ equity	682,563	340,042	516,610	(856,652)	682,563
Total liabilities and stockholders’ equity	<u>\$ 1,065,010</u>	<u>\$ 957,312</u>	<u>\$ 885,501</u>	<u>\$ (1,029,698)</u>	<u>\$ 1,878,125</u>

**COMSTOCK RESOURCES, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)**

**Income Statement:**

	Year Ended December 31, 2006				
	Comstock Resources	Guarantor Subsidiaries	Non-Guarantor Subsidiaries (In thousands)	Eliminating Entries	Consolidated
Oil and gas sales	\$ —	\$ 257,218	\$ 254,710	\$ —	\$ 511,928
Operating expenses:					
Oil and gas operating	—	53,903	53,400	—	107,303
Exploration	—	1,424	18,708	—	20,132
Depreciation, depletion and amortization	1,275	75,056	77,591	—	153,922
Impairment	—	8,812	1,632	—	10,444
General and administrative, net	26,802	(6,407)	11,374	—	31,769
Total operating expenses	28,077	132,788	162,705	—	323,570
Income from operations	(28,077)	124,430	92,005	—	188,358
Other income (expenses):					
Interest income	22,709	682	330	(22,709)	1,012
Other income	—	184	597	—	781
Interest expense	(20,980)	(22,462)	(6,696)	22,709	(27,429)
Gain on derivatives	—	10,716	—	—	10,716
Total other income (expenses)	1,729	(10,880)	(5,769)	—	(14,920)
Income (loss) before income taxes and minority interest in earnings of Bois d'Arc Energy	(26,348)	113,550	86,236	—	173,438
Provision for income taxes	(2,304)	(40,823)	(31,212)	—	(74,339)
Minority interest in earnings of Bois d'Arc Energy	—	—	—	(28,434)	(28,434)
Equity in earnings of subsidiaries	99,317	—	—	(99,317)	—
Net income	\$ 70,665	\$ 72,727	\$ 55,024	\$ (127,751)	\$ 70,665

**Statement of Cash Flows:**

	Year Ended December 31, 2006				
	Comstock Resources	Guarantor Subsidiaries	Non-Guarantor Subsidiaries (In thousands)	Eliminating Entries	Consolidated
Net Cash Provided by (Used for) Operating Activities	\$ (4,842)	\$ 191,038	\$ 178,409	\$ —	\$ 364,605
Cash Flows From Investing Activities:					
Capital expenditures and acquisitions	(1,263)	(280,257)	(247,705)	—	(529,225)
Acquisition of Bois d'Arc Energy, Inc. common stock	(35,865)	—	—	35,865	—
Payments to settle derivatives	—	(526)	—	—	(526)
Net Cash Used for Investing Activities	(37,128)	(280,783)	(247,705)	35,865	(529,751)
Cash Flows From Financing Activities:					
Borrowings	119,000	—	71,000	—	190,000
Advances to subsidiaries	(90,912)	90,912	—	—	—
Principal payments on debt	(7,000)	—	(40,000)	—	(47,000)
Proceeds from issuance of common stock	15,948	—	35,990	(35,990)	15,948
Excess tax benefit from stock-based compensation	6,218	—	29	(29)	6,218
Other	(1,284)	(28)	(279)	154	(1,437)
Net Cash Provided by Financing Activities	41,970	90,884	66,740	(35,865)	163,729
Net increase (decrease) in cash and cash equivalents	—	1,139	(2,556)	—	(1,417)
Cash and cash equivalents, beginning of period	—	89	—	—	89
Bois d'Arc Energy cash and cash equivalents as of January 1, 2006	—	—	12,043	—	12,043
Cash and cash equivalents, end of year	\$ —	\$ 1,228	\$ 9,487	\$ —	\$ 10,715

**COMSTOCK RESOURCES, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)**

**(14) Oil and Gas Reserves Information (Unaudited)**

Set forth below is a summary of the changes in Comstock's net quantities of crude oil and natural gas reserves for each of the three years ended December 31, 2006:

	2004		2005		2006	
	Oil (MBbls)	Gas (MMcf)	Oil (MBbls)	Gas (MMcf)	Oil (MBbls)	Gas (MMcf)
<b>Proved Reserves:</b>						
Beginning of year	19,189	501,778	15,881	533,554	12,043	432,416
Revisions of previous estimates	(568)	4,818	(118)	(47,445)	(13)	(59,004)
Extensions and discoveries	1,086	30,979	73	17,966	2,588	111,195
Purchases of minerals in place	74	40,568	8,157	72,597	565	19,832
Formation of Bois d'Arc Energy <sup>(1)</sup>	(2,366)	(11,070)	—	—	—	—
Conversion of Bois d'Arc Energy to Equity Investee	—	—	(10,913)	(112,006)	—	—
Consolidation of Bois d'Arc Energy	—	—	—	—	19,530	205,986
Production	(1,534)	(33,519)	(1,037)	(32,250)	(2,304)	(53,454)
End of year	<u>15,881</u>	<u>533,554</u>	<u>12,043</u>	<u>432,416</u>	<u>32,409</u>	<u>656,971</u>
Share of equity investee <sup>(2)</sup>			<u>9,365</u>	<u>98,770</u>		
Minority interest <sup>(3)</sup>					<u>10,320</u>	<u>111,898</u>
<b>Proved Developed Reserves:</b>						
Beginning of year	13,206	332,668	11,382	353,567	7,229	255,126
End of year	<u>11,382</u>	<u>353,567</u>	<u>7,229</u>	<u>255,126</u>	<u>23,548</u>	<u>424,246</u>
Share of equity investee <sup>(2)</sup>			<u>7,344</u>	<u>84,314</u>		
Minority interest <sup>(3)</sup>					<u>7,900</u>	<u>92,465</u>

- (1) Net change in reserves related to the formation of Bois d'Arc Energy.  
(2) Represents 48% of reserves of Bois d'Arc Energy as of December 31, 2005.  
(3) Represents minority interest in Bois d'Arc Energy.

The following table sets forth the standardized measure of discounted future net cash flows relating to proved reserves at December 31, 2005 and 2006:

	2005	2006
	(In thousands)	
<b>Cash Flows Relating to Proved Reserves:</b>		
Future cash flows	\$ 4,166,682	\$ 5,566,987
Future costs:		
Production	(965,568)	(1,354,529)
Development and abandonment	(228,204)	(573,443)
Future income taxes	(924,030)	(771,402)
Future net cash flows	2,048,880	2,867,613
10% discount factor	(935,084)	(1,039,108)
Standardized measure of discounted future net cash flows	<u>\$ 1,113,796</u>	<u>\$ 1,828,505</u>
Share of equity investee <sup>(1)</sup>	\$ 614,922	
Minority interest <sup>(2)</sup>		<u>\$ 546,199</u>

- (1) Represents 48% of standardized measure of discounted future net cash flows of Bois d'Arc Energy as of December 31, 2005.  
(2) Represents minority interest in Bois d'Arc Energy.

**COMSTOCK RESOURCES, INC. AND SUBSIDIARIES**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)**

The following table sets forth the changes in the standardized measure of discounted future net cash flows relating to proved reserves for the years ended December 31, 2004, 2005 and 2006:

	<u>2004</u>	<u>2005</u> <u>(In thousands)</u>	<u>2006</u>
Standardized Measure, Beginning of Year	\$ 1,197,665	\$ 1,084,122	\$ 1,113,796
Net Change in Sales Price, Net of Production Costs	(128,486)	446,054	(1,343,575)
Development Costs Incurred During the Year Which Were Previously Estimated	68,617	74,825	171,554
Revisions of Quantity Estimates	3,303	(162,627)	(133,395)
Accretion of Discount	170,908	115,192	351,308
Changes in Future Development and Abandonment Costs	(39,611)	(27,137)	(143,791)
Changes in Timing	(164,971)	14,620	(92,906)
Extensions and Discoveries	113,012	69,467	327,893
Purchases of Reserves in Place	62,112	355,272	52,853
Formation of Bois d'Arc Energy <sup>(1)</sup>	(46,612)	—	—
Conversion of Bois d'Arc Energy to Equity Investee	—	(586,014)	—
Consolidation of Bois d'Arc Energy	—	—	1,282,425
Sales, Net of Production Costs	(209,579)	(252,369)	(404,625)
Net Changes in Income Taxes	57,764	(17,609)	646,968
Standardized Measure, End of Year	<u>\$ 1,084,122</u>	<u>\$ 1,113,796</u>	<u>\$ 1,828,505</u>
Share of Equity Investee <sup>(2)</sup>		<u>\$614,922</u>	
Minority Interest <sup>(3)</sup>			<u>\$546,199</u>

(1) Net change in reserves related to the formation of Bois d'Arc Energy.

(2) Represents 48% of standardized measure of discounted future net cash flows of Bois d'Arc Energy as of December 31, 2005.

(3) Represents minority interest in Bois d'Arc Energy.

The estimates of proved oil and gas reserves utilized in the preparation of the financial statements were estimated by independent petroleum consultants of Lee Keeling and Associates in accordance with guidelines established by the Securities and Exchange Commission and the Financial Accounting Standards Board, which require that reserve reports be prepared under existing economic and operating conditions with no provision for price and cost escalation except by contractual agreement. All of Comstock's reserves are located onshore in the continental United States of America. All of Bois d'Arc Energy's reserves are located offshore the continental United States of America.

Future cash flows are calculated by applying year-end prices adjusted for transportation and other charges to the year-end quantities of proved reserves, except in those instances where fixed and determinable price changes are provided by contractual arrangements in existence at year-end.

The Company's average year-end prices used in the reserve estimates were as follows:

	<u>2004</u>	<u>2005</u>	<u>2006</u>
Crude Oil (Per Barrel)	\$ 42.17	\$ 49.17	\$ 50.86
Natural Gas (Per Mcf)	\$ 5.86	\$ 8.27	\$ 5.63



**COMSTOCK RESOURCES, INC. AND SUBSIDIARIES**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS — (Continued)**

Future development and production costs are computed by estimating the expenditures to be incurred in developing and producing proved oil and gas reserves at the end of the year, based on year-end costs and assuming continuation of existing economic conditions. Future income tax expenses are computed by applying the appropriate statutory tax rates to the future pre-tax net cash flows relating to proved reserves, net of the tax basis of the properties involved. The future income tax expenses give effect to permanent differences and tax credits, but do not reflect the impact of future operations.

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**SECOND AMENDED AND RESTATED CREDIT AGREEMENT**

Dated as of December 15, 2006

among

**COMSTOCK RESOURCES, INC.**,  
as the Borrower,

**BANK OF MONTREAL**,  
as Administrative Agent and Issuing Bank,

**BANK OF AMERICA, N.A.**,  
as Syndication Agent

**COMERICA BANK, FORTIS CAPITAL CORP.**,  
and **UNION BANK OF CALIFORNIA, N.A.**,  
as Co-Documentation Agents

The Other Lenders Party Hereto,

**BMO CAPITAL MARKETS, INC.**  
as Arranger

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## SECOND AMENDED AND RESTATED CREDIT AGREEMENT

This SECOND AMENDED AND RESTATED CREDIT AGREEMENT is dated as of December 15, 2006, among COMSTOCK RESOURCES, INC., a Nevada corporation ("Borrower"), each lender from time to time party hereto (collectively, the "Lenders" and each individually, a "Lender"), BANK OF MONTREAL, as Administrative Agent and Issuing Bank, BANK OF AMERICA, N.A., as syndication agent, and COMERICA BANK, FORTIS CAPITAL CORP., and UNION BANK OF CALIFORNIA, N.A., as co-documentation agents.

### PRELIMINARY STATEMENTS

Borrower, Bank of Montreal, as administrative agent and as issuing bank, and certain lenders party thereto (the "Prior Lenders") have heretofore entered into an Amended and Restated Credit Agreement dated as of February 25, 2004, as amended, modified or supplemented (the "Prior Credit Facility").

Borrower desires to amend and restate the Prior Credit Facility in order to restructure, rearrange, renew, extend and continue all indebtedness evidenced by and outstanding under the Prior Credit Facility (the "Prior Indebtedness"), and to modify the commitments from the Lenders pursuant to which Loans will be made by the Lenders to the Borrower from time to time prior to the Maturity Date and Letters of Credit will be issued by the Issuing Bank under the several responsibilities of the Lenders for the account of the Borrower from time to time prior to the Letter of Credit Availability Expiration Date.

Borrower has delivered to Bank of Montreal, as administrative agent, certain collateral documents to secure the repayment of the Prior Indebtedness to the Prior Lenders, which collateral documents are being amended or amended and restated in connection with, and concurrently with, the restructuring, rearrangement, renewal, extension and continuation of the Prior Indebtedness pursuant to this Agreement.

The Administrative Agent, the Lenders and the Issuing Bank are willing, on the terms and subject to the conditions hereinafter set forth (including Article IV), to amend and restate the Prior Credit Facility in order to restructure, rearrange, renew, extend and continue all Prior Indebtedness and to modify the commitments and make such Loans to the Borrower and participate in such Letters of Credit for the account of the Borrower.

It is in the best interest of each of the Guarantors to execute and deliver a Guaranty as each Guarantor will receive substantial benefits as a result of the Borrower entering into the borrowing base, revolving credit facility with the Administrative Agent, the Issuing Bank and the Lenders.

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

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**ARTICLE I.  
DEFINITIONS AND ACCOUNTING TERMS**

**SECTION 1.1 Defined Terms.** As used in this Agreement, the following terms shall have the meanings set forth below:

“2004 Senior Notes” means those certain 67/8% senior unsecured notes due 2012, issued by the Borrower in an aggregate principal amount of \$175,000,000 on the date of issuance thereof under the 2004 Senior Notes Indenture.

“2004 Senior Notes Indenture” means that certain Indenture dated as of February 25, 2004, by and between Borrower and The Bank of New York Trust Company, N.A., as trustee, as supplemented by the First Supplemental Indenture dated as of February 25, 2004, and related documentation entered into in connection therewith pursuant to which the 2004 Senior Notes shall have been issued, as the same may be amended, restated, modified or supplemented from time to time.

“Adjusted LIBO Rate” means, with respect to each particular Borrowing comprised of LIBO Rate Loans and the associated LIBO Rate and Reserve Percentage, the rate per annum calculated by the Administrative Agent (rounded upwards, if necessary, to the next higher 1/100%) determined on a daily basis pursuant to the following formula:

$$\text{Adjusted LIBO Rate} = \frac{\text{LIBO Rate}}{(1.00\% - \text{Reserve Percentage})}$$

“Administrative Agent” means Bank of Montreal in its capacity as administrative agent under any of the Loan Documents, or any successor administrative agent.

“Administrative Agent’s Office” means the Administrative Agent’s address and, as appropriate, account as set forth on Schedule 10.2, or such other address or account as the Administrative Agent may from time to time designate to the Borrower, the Issuing Bank, and the Lenders.

“Affiliate” means, as to any Person, any other Person directly or indirectly controlling, controlled by, or under direct or indirect common control with, such Person. A Person shall be deemed to be “controlled by” any other Person if such other Person possesses, directly or indirectly, the power (a) to vote 10% or more of the securities (on a fully diluted basis) having ordinary voting power for the election of directors or managing general partners; or (b) to direct or cause the direction of the management and policies of such Person whether by contract or otherwise.

“Agent and Arranger Fee Letter” has the meaning set forth in Section 2.10(b).

“Agent-Related Persons” means the Administrative Agent (including any successor administrative agent), together with its Affiliates (including, in the case of BMO in its capacity as the Administrative Agent, the Issuing Bank and the Arranger), and the officers, directors, employees, agents and attorneys-in-fact of such Persons and Affiliates.

“Aggregate Commitments” means, as of any date, the sum of the Commitment Amounts of all the Lenders.

“Agreement” means this Amended and Restated Credit Agreement, as amended, restated, amended and restated, supplemented or otherwise modified from time to time.

“Arranger” means BMO Capital Markets, Inc., in its capacity as sole arranger.

“Attorney Costs” means and includes all reasonable fees and disbursements of any law firm or other external counsel.

“Attributable Indebtedness” means, on any date, (a) in respect of any capital lease of any Person, the capitalized amount thereof that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP, and (b) in respect of any Synthetic Lease Obligation, the capitalized amount of the remaining lease payments under the relevant lease that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP if such lease were accounted for as a capital lease.

“Base Rate” means, on any date and with respect to all Base Rate Loans, a fluctuating rate of interest per annum equal to the higher of (a) the rate of interest most recently announced by Bank of Montreal at its Chicago, Illinois office as its base rate for dollar advances made in the United States or (b) the Federal Funds Rate most recently determined by the Administrative Agent plus 1/2% (0.5%) per annum. The Base Rate is not necessarily intended to be the lowest rate of interest determined by Bank of Montreal or any Lender in connection with extensions of credit. Changes in the rate of interest on that portion of any Loans maintained as Base Rate Loans will take effect simultaneously with each change in the Base Rate. The Administrative Agent will give notice to the Borrower of changes in the Base Rate promptly upon receipt of notice of any such change from Bank of Montreal.

“Base Rate Loan” means a Loan that bears interest based on the Base Rate.

“Base Rate Spread” means, with respect to any Base Rate Loan for any time prior to the Maturity Date, the percentage per annum set forth below under the caption “Base Rate Spread”, determined by reference to the percentage of the Borrowing Base that the sum of all Loans outstanding plus all L/C Obligations represents at that time.

Percentage of Borrowing Base Usage	Base Rate Spread
≥ 90%	0.250%
≥ 75% but < 90%	0.000%
≥ 50% but < 75%	0.000%
< 50%	0.000%

“BMO” means Bank of Montreal and its successors and assigns.

“Board” means the Board of Governors of the Federal Reserve System of the United States of America.

“Bois d’Arc Energy” means Bois d’Arc Energy, Inc., a Nevada corporation, successor by conversion to Bois d’Arc Energy, LLC, a Nevada limited liability company.

“Bois d’Arc Entities” means Bois d’Arc Energy, Bois d’Arc Properties, LP, a Nevada limited partnership, Bois d’Arc Holdings, LLC, a Nevada limited liability company, Bois d’Arc Offshore, Ltd., a Texas limited partnership, Bois d’Arc Oil & Gas Company, LLC, a Texas limited liability company, and any other Subsidiary of Bois d’Arc Energy.

“Borrower” has the meaning set forth in the introductory paragraph hereto.

“Borrowing” means a borrowing consisting of simultaneous Loans of the same Type and having the same Interest Period made by Lenders pursuant to Section 2.1.

“Borrowing Base” means, at the particular time in question, either the amount provided for in Section 2.7 or the amount determined by the Administrative Agent and approved by the Required Borrowing Base Lenders or all of the Lenders, as applicable, in accordance with the provisions of Section 2.8; provided, however, that in no event shall the Borrowing Base ever exceed the Maximum Loan Amount.

“Borrowing Base Deficiency” has the meaning set forth in Section 2.4.2(ii).

“Borrowing Base Deficiency Rate” means an interest rate equal to the Base Rate plus 0.50% per annum; provided, however, that with respect to a LIBO Rate Loan, the Borrowing Base Deficiency Rate shall be an interest rate equal to the LIBO Rate otherwise applicable to such Loan plus 2.0% per annum, in each case to the fullest extent permitted by applicable Laws.

“Business Day” means any day other than a Saturday, Sunday, or other day on which commercial banks are authorized to close under the Laws of, or are in fact closed in, Chicago, Illinois or Houston, Texas and, if such day relates to any LIBO Rate Loan, means any such day on which dealings in Dollar deposits are conducted in London, England.

“Cash Collateralize” means to pledge and deposit with or deliver to the Administrative Agent, for the benefit of the Issuing Bank and the Lenders, as collateral for the L/C Obligations, cash or deposit account balances pursuant to documentation in form and substance satisfactory to the Administrative Agent and the Issuing Bank (which documents are hereby consented to by the Lenders). Derivatives of such term shall have corresponding meaning. The Borrower hereby grants the Administrative Agent, for the benefit of the Issuing Bank and the Lenders, a Lien on all such cash and deposit account balances. Cash collateral shall be maintained in a blocked account at BMO or other institutions satisfactory to BMO.

“Change of Control” means, with respect to any Person, an event or series of events by which:

(a) any “person” or “group” (as such terms are used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, but excluding any employee benefit plan of such Person or its subsidiaries, or any Person acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan), becomes the “beneficial owner” (as defined in Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934, except that a person shall be deemed to have “beneficial ownership” of all securities that such person has the right to acquire, whether such right is exercisable immediately or only after the passage of time), directly or indirectly, of 50% or more of the equity interests of such Person; or

(b) during any period of 12 consecutive months, a majority of the members of the board of directors or other equivalent governing body of such Person cease to be composed of individuals (i) who were members of that board or equivalent governing body on the first day of such period, (ii) whose election or nomination to that board or equivalent governing body was approved by individuals referred to in clause (i) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body or (iii) whose election or nomination to that board or other equivalent governing body was approved by individuals referred to in clauses (i) and (ii) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body.

“Closing Date” means the first date all the conditions precedent in Section 4.1 are satisfied or waived in accordance with Section 4.1 (or, in the case of Section 4.1(b), waived by the Person entitled to receive the applicable payment).

“Code” means the Internal Revenue Code of 1986, as amended from time to time, and the regulations promulgated thereunder.

“COGI” means Comstock Oil & Gas, LP, a Nevada limited partnership, successor-by-conversion to Comstock Oil & Gas, Inc.

“COGI GP” means Comstock Oil & Gas GP, LLC, a Nevada limited liability company.

“COGI LP” means Comstock Oil & Gas Investments, LLC, a Nevada limited partnership.

“COGH” means Comstock Oil & Gas Holdings, Inc., a Nevada corporation.

“COGLA” means Comstock Oil & Gas – Louisiana, LLC, a Nevada limited liability company, successor-by-conversion to Comstock Oil & Gas – Louisiana, Inc., a Nevada corporation.

“COL” means Comstock Offshore, LLC, a Nevada limited liability company.

“Commitment” means, as to each Lender, its obligation to (a) make Loans to the Borrower pursuant to Section 2.1, and (b) purchase participations in L/C Obligations pursuant to

Section 2.3, in an aggregate principal amount at any one time outstanding not to exceed the lesser of (x) such Lender's Commitment Amount and (y) such Lender's Percentage Share of the Borrowing Base.

"Commitment Amount" means, as to each Lender, the amount set forth opposite such Lender's name on Schedule 2.1, as such amount may be increased, reduced or adjusted from time to time in accordance with this Agreement.

"Commitment Fee Rate" means for any time prior to the Maturity Date, the percentage per annum set forth below under the caption "Commitment Fee Rate", determined by reference to the percentage of the Borrowing Base that the sum of all Loans outstanding plus all L/C Obligations represents at that time.

Percentage of Borrowing Base Usage	Commitment Fee Rate
<sup>3</sup> 90%	0.375%
<sup>3</sup> 75% but <90%	0.375%
<sup>3</sup> 50% but <75%	0.375%
<50%	0.250%

"Compliance Certificate" means a certificate substantially in the form of Exhibit C.

"Consolidated Net Income" means, for any period, for Borrower and its Subsidiaries on a consolidated basis, the net income of Borrower and its Subsidiaries from continuing operations after extraordinary items (excluding gains or losses from Dispositions of assets) for that period.

"Consolidated Tangible Net Worth" means, as of any date of determination, for Borrower and its Subsidiaries on a consolidated basis, Shareholders' Equity of Borrower and its Subsidiaries on that date minus the Intangible Assets of Borrower and its Subsidiaries on that date.

"Contractual Obligation" means, as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

"Credit Extension" means each of the following: (a) a Borrowing, and (b) an L/C Credit Extension.

"Current Assets" and "Current Liabilities" shall mean all assets or liabilities of Borrower and its Restricted Subsidiaries on a consolidated basis, respectively, that should be classified as current assets and current liabilities in accordance with GAAP; provided that the calculation of Current Assets shall not include receivables of the Borrower owing by any Affiliate in excess of 120 days or subject to any dispute or offset, advances by the Borrower to any Affiliate or any

asset classified as a Current Asset solely because it is held for sale; and provided further that Current Liabilities shall not include the current maturities of any Indebtedness of the Borrower for borrowed money that by its terms has a final maturity more than one year from the date of any calculation of Current Liabilities.

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

“Default” means any event that, with the giving of any notice, the passage of time, or both, would be an Event of Default.

“Default Rate” means an interest rate equal to (a) the Base Rate plus (b) the Base Rate Spread, if any, applicable to Base Rate Loans plus (c) 2% per annum; provided, however, that with respect to a LIBO Rate Loan, the Default Rate shall be an interest rate equal to the interest rate (including any LIBOR Spread) otherwise applicable to such Loan plus 2% per annum, in each case to the fullest extent permitted by applicable Laws.

“Determination Date” has the meaning set forth in Section 2.8.

“Disqualified Stock” means any capital stock that, by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable), or upon the happening of any event, matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or redeemable at the option of the holder thereof, in whole or in part.

“Disposition” or “Dispose” means the sale, transfer, license or other disposition (including any sale and leaseback transaction) of any property by any Person, including any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith.

“Dollar” and “\$” means lawful money of the United States of America.

“Eligible Assignee” has the meaning specified in Section 10.7.6.

“Engineering Report” means the Initial Engineering Report and each engineering report delivered pursuant to Section 6.2(g).

“Environmental Laws” means all Laws relating to environmental, health, safety and land use matters applicable to any property.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time, and any regulations issued pursuant thereto.

“ERISA Affiliate” means any trade or business (whether or not incorporated) under common control with the Borrower or any Guarantor within the meaning of Section 414(b) or (c) of the Code (and Sections 414(m) and (o) of the Code for purposes of provisions relating to Section 412 of the Code).

“ERISA Event” means (a) a Reportable Event with respect to a Pension Plan; (b) a withdrawal by the Borrower or any ERISA Affiliate from a Pension Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (c) a complete or partial withdrawal by the Borrower or any ERISA Affiliate from a Multiemployer Plan or notification that a Multiemployer Plan is in reorganization; (d) the filing of a notice of intent to terminate, the treatment of a Plan amendment as a termination under Sections 4041 or 4041A of ERISA, or the commencement of proceedings by the PBGC to terminate a Pension Plan or Multiemployer Plan; (e) an event or condition which might reasonably be expected to constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan or Multiemployer Plan; or (f) the imposition of any liability under Title IV of ERISA, other than PBGC premiums due but not delinquent under Section 4007 of ERISA, upon the Borrower or any ERISA Affiliate.

“Evaluation Date” means each of the following:

(a) Each date which either the Borrower or the Required Borrowing Base Lenders, at their respective options, specify as a date as of which the Borrowing Base is to be redetermined (provided that neither the Borrower nor the Required Borrowing Base Lenders shall be entitled to request any such redetermination more than once each between any two consecutive dates described in clause (b) of this definition of “Evaluation Date”); and

(b) May 1 and November 1 of each year occurring prior to the Final Maturity Date, beginning May 1, 2007.

“Event of Default” means any of the events or circumstances specified in Article VIII.

“Federal Funds Rate” means, for any day, the rate per annum (rounded upwards to the nearest 1/100 of 1%) equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank on the Business Day next succeeding such day; provided that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate charged to BMO on such day on such transactions as determined by the Administrative Agent.

“Foreign Lender” has the meaning specified in Section 3.8.

“GAAP” means generally accepted accounting principles and practices that are recognized as such by the Financial Accounting Standards Board (or any generally recognized successor). If at any time any change in GAAP would affect the computation of any financial ratio or requirement set forth in any Loan Document, and the Borrower or the Majority Lenders



or the Administrative Agent shall so request, the Administrative Agent, the Lenders and the Borrower shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP; provided that, until so amended, (a) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (b) the Borrower shall provide to the Administrative Agent and the Lenders financial statements and other documents required under this Agreement or as reasonably requested hereunder setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP.

“Governmental Authority” means any nation or government, any state or other political subdivision thereof, any agency, authority, instrumentality, regulatory body, court, administrative tribunal, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government, and any corporation or other entity owned or controlled, through stock or capital ownership or otherwise, by any of the foregoing.

“Governmental Requirements” means all judgment, orders, writs, injunctions, decrees, awards, laws, ordinances, statutes, regulations, rules, franchises, permits, certificates, licenses, authorizations and the like and any other requirements of any government or any commission, board, court, agency, instrumentality or political subdivision thereof.

“Guarantors” means each of the Subsidiaries listed in Part (b) of Schedule 5.13 and each other Subsidiary of the Borrower that shall have executed and delivered a Guaranty to the Administrative Agent for the benefit of the Lenders; provided that upon the release of any Subsidiary’s Guaranty in accordance with this Agreement, such Subsidiary shall thereafter be excluded from the definition of “Guarantors” (unless and until such Subsidiary shall thereafter deliver another Guaranty).

“Guaranty” means (a) each subsidiary guaranty (including any amended and restated subsidiary guaranty) dated as of the date hereof made by each of the Guarantors in favor of the Administrative Agent on behalf of the Lenders, substantially in the form of Exhibit E and (b) each other guaranty (which shall also be substantially in the form of Exhibit E) in favor of the Administrative Agent on behalf of the Lenders delivered in accordance with this Agreement.

“Guaranty Obligation” means, as to any Person, (a) any obligation, contingent or otherwise, of such Person guarantying or having the economic effect of guarantying any Indebtedness or other obligation payable or performable by another Person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness or other obligation of the payment or performance of such Indebtedness or other obligation, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation, or (iv) entered into for the purpose of assuring in any other manner the obligees in respect of such Indebtedness or other obligation of the payment or performance thereof or to protect such obligees against loss in respect thereof (in whole or in part), or (b) any Lien on any

assets of such Person securing any Indebtedness or other obligation of any other Person, whether or not such Indebtedness or other obligation is assumed by such Person; provided, however, that the term “Guaranty Obligation” shall not include endorsements of instruments for deposit or collection in the ordinary course of business. The amount of any Guaranty Obligation shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guaranty Obligation is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guarantying Person in good faith.

“Hazardous Materials” means all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

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

“Highest Lawful Rate” has the meaning given to it in Section 10.10.

“Honor Date” has the meaning set forth in Section 2.3.3(i).

“Hydrocarbon Interest” means all rights, titles, interests and estates now or hereafter acquired in and to oil and gas leases, oil, gas and mineral leases or other liquid or gaseous hydrocarbon leases, mineral fee interests, overriding royalty and royalty interests, operating rights, net profit interests, production payment interests and other similar types of interests, including any reserved or residual interest of whatever nature.

“Hydrocarbons” means oil, gas, casinghead gas, drip gasoline, natural gasoline, condensate, distillate, liquid hydrocarbons, gaseous hydrocarbons and all products refined or separated therefrom.

“ICC” has the meaning set forth in Section 2.3.7.

"Indebtedness" means, as to any Person at a particular time, all of the following:

- (a) all obligations of such Person for borrowed money and all obligations of such Person evidenced by bonds, debentures, notes, loan agreements or other similar instruments;
- (b) any direct or contingent obligations of such Person arising under letters of credit (including standby and commercial), banker's acceptances, bank guaranties, surety bonds and similar instruments;
- (c) net obligations under any Hedging Agreement in an amount equal to (i) if such Hedging Agreement has been closed out, the termination value thereof, or (ii) if such Hedging Agreement has not been closed out, the mark-to-market value thereof determined on the basis of readily available quotations provided by any recognized dealer in such Hedging Agreement;
- (d) whether or not so included as liabilities in accordance with GAAP, all obligations of such Person to pay the deferred purchase price of property or services, and indebtedness (excluding prepaid interest thereon) secured by a Lien on property owned or being purchased by such Person (including indebtedness arising under conditional sales or other title retention agreements), whether or not such indebtedness shall have been assumed by such Person or is limited in recourse;
- (e) capital leases and Synthetic Lease Obligations; and
- (f) all Guaranty Obligations of such Person in respect of any of the foregoing.

For all purposes hereof, the Indebtedness of any Person shall include the Indebtedness of any partnership or joint venture in which such Person is a general partner or a joint venturer, unless such Indebtedness is expressly made non-recourse to such Person except for customary exceptions acceptable to the Majority Lenders. The amount of any capital lease or Synthetic Lease Obligation as of any date shall be deemed to be the amount of Attributable Indebtedness in respect thereof as of such date.

"Indemnified Liabilities" has the meaning set forth in Section 10.5.

"Indemnitees" has the meaning set forth in Section 10.5.

"Indenture Debt" means all present and future Indebtedness and other liabilities owing pursuant to the Indenture Debt Documents.

"Indenture Debt Documents" means the 2004 Senior Notes Indenture and any documents related to or delivered in connection with any refinancings, refundings, renewals or extensions of the facilities described in the 2004 Senior Notes Indenture.

"Initial Audited Financial Statements" means each of the audited consolidated balance sheet of the Borrower and its Subsidiaries as of December 31, 2005 and the related consolidated statements of income and cash flows of the Borrower for the fiscal year ended December 31, 2005.

“Initial Engineering Report” means, collectively, the engineering report dated as of July 1, 2006 concerning Oil and Gas Properties of the Borrower, COGI, COGH, COGLA and COL, prepared by the Borrower.

“Intangible Assets” means assets that are considered to be intangible assets under GAAP, including customer lists, goodwill, computer software, copyrights, trade names, trademarks, patents, unamortized deferred charges, unamortized debt discount and capitalized research and development costs.

“Interest Payment Date” means, (a) as to any Loan other than a Base Rate Loan, the last day of each Interest Period applicable to such Loan; provided, however, that if any Interest Period for a LIBO Rate Loan exceeds three months, the respective dates that fall every three months after the beginning of such Interest Period shall also be Interest Payment Dates; and (b) as to any Base Rate Loan, the last Business Day of each March, June, September and December and the Maturity Date.

“Interest Period” means as to each LIBO Rate Loan, the period commencing on the date such LIBO Rate Loan is disbursed or (in the case of any Base Rate Loan) converted to or continued as a LIBO Rate Loan and ending on the date one, two, three or six months thereafter, as selected by the Borrower in its Notice of Advance; provided that:

(i) any Interest Period that would otherwise end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless, in the case of a LIBO Rate Loan, such Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day;

(ii) any Interest Period pertaining to a LIBO Rate Loan that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period; and

(iii) no Interest Period shall extend beyond the scheduled Maturity Date.

“Investment” means, as to any Person, any acquisition or investment by such Person, whether by means of (a) the purchase or other acquisition of capital stock or other securities of another Person, (b) a loan, advance or capital contribution to, guaranty of debt of, or purchase or other acquisition of any other debt or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person, or (c) the purchase or other acquisition (in one transaction or a series of transactions) of assets of another Person that constitute a business unit. For purposes of covenant compliance, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment.

“IRS” means the United States Internal Revenue Service.

“Issuing Bank” means Bank of Montreal in its capacity as issuer of Letters of Credit hereunder, or any successor issuer of Letters of Credit hereunder.

"Laws" means, collectively, all international, foreign, Federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority, in each case whether or not having the force of law.

"L/C Advance" means, with respect to any Lender, such Lender's participation in any L/C Borrowing in accordance with its Percentage Share.

"L/C Borrowing" means an extension of credit resulting from a drawing under any Letter of Credit that has not been reimbursed on the date when made or refinanced as a Borrowing.

"L/C Collateral" has the meaning set forth in Section 2.3.11.

"L/C Credit Extension" means, with respect to any Letter of Credit, the issuance thereof or extension of the expiry date thereof, or the renewal or increase of the amount thereof.

"L/C Obligations" means, as at any date of determination, the aggregate undrawn face amount of all outstanding Letters of Credit plus the aggregate of all Unreimbursed Amounts, including all L/C Borrowings.

"Lender" has the meaning set forth in the introductory paragraph hereto and, as the context requires, includes the Issuing Bank.

"Lender Assignment" means a Lender Assignment substantially in the form of Exhibit D.

"Lending Office" means, as to any Lender, the office or offices of such Lender described as such on Schedule 10.2, or such other office or offices as a Lender may from time to time designate to the Borrower and the Administrative Agent.

"Letter of Credit" means any standby or commercial letter of credit issued hereunder.

"Letter of Credit Application" means an application and agreement for the issuance or amendment of a letter of credit in the form from time to time in use by the Issuing Bank.

"Letter of Credit Availability Expiration Date" means the day that is seven days prior to the Maturity Date (or, if such day is not a Business Day, the next preceding Business Day).

"Letter of Credit Sublimit" means an amount equal to the lowest of (x) the Aggregate Commitments, (y) \$50,000,000, and (z) the Borrowing Base. The Letter of Credit Sublimit is part of, and not in addition to, the Aggregate Commitments.

"LIBO Rate" shall mean, with respect to any LIBO Rate Loan within a Borrowing and with respect to the related Interest Period, the rate of interest per annum equal to the offered quotation appearing on Telerate Page 3750 at approximately 11:00 a.m. (London time) on the date which is two Business Days prior to the beginning of the relevant Interest Period (or if such

Telerate Page shall not be available, the rate per annum determined by the Administrative Agent by reference to the British Bankers' Association Interest Settlement Rate for deposits in U.S. dollars as set forth by any service which has been nominated by the British Bankers' Association as an authorized information vendor for the purpose of displaying such rates) for a period most closely approximating such Interest Period, provided that, to the extent that an interest rate is not ascertainable pursuant to the foregoing provision of this definition, the "LIBO Rate" shall be the interest rate per annum, determined by the Administrative Agent to be the average of the rates per annum at which deposits in U.S. dollars are offered for such relevant Interest Period to major banks in the London interbank market in London, England by the Administrative Agent at approximately 11:00 a.m. (London time) on the date which is two Business Days prior to the beginning of such Interest Period.

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

"LIBOR Spread" means with respect to any LIBO Rate Loan for any time prior to the Maturity Date, the percentage per annum set forth below under the caption "LIBOR Spread," determined by reference to the percentage of the Borrowing Base that the sum of all Loans outstanding plus all L/C Obligations represents at that time.

Percentage of Borrowing Base Usage	LIBOR Spread
<sup>3</sup> 90%	1.750%
<sup>3</sup> 75% but <90%	1.500%
<sup>3</sup> 50% but < 75%	1.250%
< 50%	1.000%

"Lien" means any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge, or preference, priority or other security interest or preferential arrangement of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any financing lease having substantially the same economic effect as any of the foregoing, and the filing of any financing statement under the Uniform Commercial Code or comparable Laws of any jurisdiction), including the interest of a purchaser of accounts receivable.

"Loan" has the meaning set forth in Section 2.1.

"Loan Documents" means this Agreement, each Note, the Agent and Arranger Fee Letter, each Notice of Advance, each Letter of Credit Application, each Letter of Credit, each of the Security Documents, each Compliance Certificate, each Guaranty, each Subordination Agreement and all other written agreements, certificates, documents, instruments and writings at any time delivered in connection herewith or therewith.

"Loan Parties" means, collectively, the Borrower and each Guarantor.

“Majority Lenders” means, as of any date of determination, Lenders whose Voting Percentages aggregate to greater than 50.0%.

“Mandatory Prepayment Amount” has the meaning set forth in Section 2.4.2(ii).

“Material Adverse Effect” means (a) a material adverse change in, or a material adverse effect upon, the operations, business, properties, or condition (financial or otherwise) of the Borrower and its Restricted Subsidiaries taken as a whole; (b) a material impairment of the ability of any Loan Party to perform its obligations under any Loan Document to which it is a party; or (c) a material adverse effect upon the legality, validity, binding effect or enforceability against any Loan Party of any Loan Document to which it is a party or upon the rights and remedies of the Administrative Agent, the Issuing Bank, or any Lender under any Loan Document.

“Matured L/C Obligations” means all amounts paid by Issuing Bank on drafts or demands for payment drawn or purported to be under any Letter of Credit (or under or in connection with any L/C Application) that have not been repaid to the Issuing Bank (with the proceeds of a Loan or otherwise).

“Maturity Date” means (a) December 15, 2011, or (b) such earlier date upon which the Commitments may be terminated in accordance with the terms hereof.

“Maximum Loan Amount” means \$850,000,000 as such amount may be reduced from time to time pursuant to Section 2.5.

“Mortgage” means (i) each Mortgage, Deed of Trust, Assignment, Security Agreement, Financing Statement and Fixture Filing dated as December 17, 2001 described in the Security Schedule as (or as intended to be) assigned and amended pursuant to that certain Assignment of Secured Indebtedness and that certain Assignment and Amendment of Mortgage, Deed of Trust, Assignment, Security Agreement, Financing Statement and Fixture Filing, each dated as of February 25, 2004, (ii) each Mortgage, Deed of Trust, Assignment, Security Agreement, Financing Statement and Fixture Filing dated as February 25, 2004 described in the Security Schedule, and (iii) any mortgage, deed of trust or similar document delivered pursuant to this Agreement, in each case, as amended, supplemented, restated or otherwise modified from time to time.

“Mortgaged Property” has the meaning set forth in the Mortgage.

“Multiemployer Plan” means any employee benefit plan of the type described in Section 4001(a)(3) of ERISA, to which the Borrower or any ERISA Affiliate makes or is obligated to make contributions, or during the preceding three calendar years, has made or been obligated to make contributions.

“Net Sale Proceeds” means, with respect to any sale, lease, transfer or other disposition of any asset by the Borrower or any Restricted Subsidiary, the aggregate amount of cash or cash equivalents received by or paid to or for the account of the Borrower or such Restricted Subsidiary from time to time (whether as initial consideration or through payment or disposition

of deferred consideration) by or on behalf of such Person in connection with such transaction after deducting therefrom only (without duplication) (a) reasonable out-of-pocket costs and fees, (b) the amount of taxes payable in connection with or as a result of such transaction and (c) the amount of any Indebtedness permitted by Section 7.3 hereof secured by a Lien on such asset permitted by Section 7.1 hereof that, by the terms of the agreement or instrument governing such Indebtedness, is required to be repaid or may be prepaid upon such disposition, in each case, to the extent, but only to the extent, that the amounts so deducted are, at the time of receipt of such cash, actually paid to a Person that is not an Affiliate of the Borrower or such Restricted Subsidiary and are properly attributable to such transaction or to the asset that is the subject thereof.

“Note” means a promissory note made by the Borrower in favor of a Lender evidencing Loans made by such Lender, substantially in the form of Exhibit B.

“Notice of Advance” means a notice, which, if in writing, shall be substantially in the form of Exhibit A, of (a) a Borrowing, (b) a conversion of Loans from one Type to the other, or (c) a continuation of Loans as the same Type, pursuant to Section 2.2(a).

“Obligations” means all advances to, and debts, liabilities, obligations, covenants and duties of, any Loan Party arising under any Loan Document, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest that accrues after the commencement by or against any Loan Party or any Affiliate thereof of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding.

“Oil and Gas Properties” means Hydrocarbon Interests; the properties now or hereafter pooled or unitized with Hydrocarbon Interests; all presently existing or future unitization, pooling agreements and declarations of pooled units and the units created thereby (including without limitation all units created under orders, regulations and rules of any Governmental Authority have jurisdiction) that may affect all or any portion of the Hydrocarbon Interests; all operating agreements, contracts and other agreements that relate to any of the Hydrocarbon Interests or the production, sale, purchase, exchange or processing of Hydrocarbons from or attributable to such Hydrocarbon Interest; all Hydrocarbons in and under and which may be produced and saved or attributable to the Hydrocarbon Interests, the lands covered thereby and all oil in tanks and all rents, issues, profits, proceeds, products, revenues and other income from or attributable to the Hydrocarbon Interests; all tenements, hereditaments, appurtenances and properties in any manner appertaining, belonging, affixed or incidental to the Hydrocarbon Interests, properties, rights, titles, interests and estates described or referred to above, including any and all property, real or personal, now owned or hereinafter acquired and situated upon, used, held for use or useful in connection with the operating, working or development of any of such Hydrocarbon Interests or property (excluding drilling rigs, automotive equipment or other personal property which may be on such premises for the purpose of drilling a well or for other similar temporary uses) and including any and all oil wells, gas wells, injection wells or other wells, buildings, structures, fuel separators, liquid extraction plants, plant compressors, pumps, pumping units, field gathering systems, tanks and tank batteries, fixtures, valves, fittings, machinery and parts, engines, boilers, meters, apparatus, equipment, appliances, tools,



implements, cables, wires, towers, casing, tubing and rods, surface leases, rights-of-way, easements and servitudes together with all additions, substitutions, replacements, accessions and attachments to any and all of the foregoing.

“Optional Indebtedness Payment” has the meaning set forth in Section 7.12.

“Organization Documents” means, (a) with respect to any corporation, the certificate or articles of incorporation and the bylaws; (b) with respect to any limited liability company, the articles of formation and operating agreement; and (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation with the secretary of state or other department in the state of its formation, in each case as amended from time to time.

“Outstanding Amount” means (i) with respect to Loans on any date, the aggregate outstanding principal amount thereof after giving effect to any Borrowings and prepayments or repayments of Loans occurring on such date; and (ii) with respect to any L/C Obligations on any date, the amount of such L/C Obligations on such date after giving effect to any L/C Credit Extension occurring on such date and any other changes in the aggregate amount of the L/C Obligations as of such date, including as a result of any reimbursements of outstanding unpaid drawings under any Letters of Credit or any reductions in the maximum amount available for drawing under Letters of Credit taking effect on such date.

“Participant” has the meaning set forth in Section 10.7.3.

“PBGC” means the Pension Benefit Guaranty Corporation.

“Pension Plan” means any “employee pension benefit plan” (as such term is defined in Section 3(2) of ERISA), other than a Multiemployer Plan, that is subject to Title IV of ERISA and is sponsored or maintained by the Borrower or any ERISA Affiliate or to which the Borrower or any ERISA Affiliate contributes or has an obligation to contribute, or in the case of a multiple employer plan (as described in Section 4064(a) of ERISA) has made contributions at any time during the immediately preceding five plan years.

“Percentage Share” means, with respect to each Lender, the percentage (carried out to the ninth decimal place) set forth opposite the name of such Lender on Schedule 2.1 (as amended or modified from time to time) or on the relevant Lender Assignment, as the case may be, as such percentage share may be adjusted as provided herein (including pursuant to Section 2.15).

“Person” means any individual, trustee, corporation, general partnership, limited partnership, limited liability company, joint stock company, trust, unincorporated organization, bank, business association, firm, joint venture or Governmental Authority.

“Plan” means any “employee benefit plan” (as such term is defined in Section 3(3) of ERISA) established by the Borrower or any ERISA Affiliate.

“Pledge Agreement” means each amended and restated Pledge Agreement and Irrevocable Proxy dated as of the date hereof in favor of the Administrative Agent for the benefit of the Lenders in the form of Exhibit H and each other pledge agreement in substantially the same form in favor of the Administrative Agent for the benefit of the Lenders delivered in accordance with this Agreement.

“Pledged Note” mean each Pledged Note described in a Pledge Agreement pledged to the Administrative Agent for the benefit of the Lenders and the Issuing Bank.

“Prior Credit Facility” is defined in the first preliminary statement hereto.

“Prior Indebtedness” is defined in the second preliminary statement hereto.

“Prior Lenders” is defined in the first preliminary statement hereto.

“Proved Reserves” means those Hydrocarbons that have been estimated with reasonable certainty, as demonstrated by geological and engineering data, to be economically recoverable from the Oil and Gas Properties by existing producing methods under existing economic conditions.

“Register” has the meaning set forth in Section 10.7.2(b).

“Reportable Event” means any of the events set forth in Section 4043(c) of ERISA, other than events for which the 30 day notice period has been waived.

“Required Borrowing Base Lenders” means, as of any date of determination, Lenders whose Voting Percentages aggregate to 66-2/3% or more.

“Reserve Percentage” means, on any day with respect to each particular Borrowing comprised of LIBO Rate Loans, the maximum reserve requirement as determined by the Administrative Agent (including without limitation any basic, supplemental, marginal, emergency or similar reserves and taking into account any transitional adjustments or other scheduled changes in reserve requirements), expressed as a percentage, which would then apply under Regulation D with respect to “Eurocurrency liabilities” (as such term is defined in Regulation D) equal in amount to each Lender’s LIBO Rate Loan in such Borrowing, were such Lender to have any such “Eurocurrency liabilities”. If such reserve requirement shall change after the date hereof, the Reserve Percentage shall be automatically increased or decreased, as the case may be, from time to time as of the effective time of each such change in such reserve requirement.

“Responsible Officer” means the president, chief financial officer, treasurer or assistant treasurer of a Loan Party. Any document delivered hereunder that is signed by a Responsible Officer of a Loan Party shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of such Loan Party and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Loan Party.

“Restricted Payment” means any dividend or other distribution (whether in cash, securities or other property) with respect to any capital stock of the Borrower, any Guarantor or any Restricted Subsidiary, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such capital stock or of any option, warrant or other right to acquire any such capital stock.

“Restricted Subsidiary” means (a) each of COGI GP, COGI LP, COGI, COGH, COGLA, COL and (b) each other Subsidiary of the Borrower that is not designated as an Unrestricted Subsidiary pursuant to Section 1.6.

“Secured Obligations” means, collectively, the Obligations and all liabilities and obligations of the Borrower or any Restricted Subsidiary arising under any Hedging Agreement now or hereafter existing between or among the Borrower or any Restricted Subsidiary and any Lender or any Affiliate of any Lender.

“Security Agreement” means (a) each amended and restated Security Agreement dated as of the date hereof in favor of the Administrative Agent for the benefit of the Lenders substantially in the form of Exhibit I, and (b) each other security agreement (which shall also be substantially in the form of Exhibit I) in favor of the Administrative Agent on behalf of the Lender delivered in accordance with this Agreement.

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

“Security Schedule” means Schedule 4.1 hereto.

“Shareholders’ Equity” means, as of any date of determination for the Borrower and its Subsidiaries on a consolidated basis, shareholders’ equity as of that date determined in accordance with GAAP.

“Subordinate Mortgages” means each Subordinate Mortgage, Deed of Trust, Assignment, Security Agreement, Financing Statement and Fixture Filing heretofore delivered by a Guarantor in favor of the Borrower to secure any Indebtedness of such Guarantor owing to the Borrower outstanding including, without limitation, (i) each Subordinate Mortgage, Deed of Trust, Assignment, Security Agreement, Financing Statement and Fixture Filing dated as December 17, 2001, as assigned and amended, and (ii) each Subordinate Mortgage, Deed of Trust, Assignment, Security Agreement, Financing Statement and Fixture Filing dated as February 25, 2004.

“Subordination Agreement” means the Second Amended and Restated Intercompany Subordination Agreement dated the date hereof and substantially in the form of Exhibit G, as the same may be amended, modified, supplemented or restated from time to time.

“Subsidiary” of a Person means a corporation, partnership, joint venture, limited liability company or other business entity of which a majority of the shares of securities or other interests having ordinary voting power for the election of directors or other governing body (other than securities or interests having such power only by reason of the happening of a contingency) are at the time beneficially owned, or the management of which is otherwise controlled, directly, or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise specified, all references herein to a “Subsidiary” or to “Subsidiaries” shall refer to a Subsidiary or Subsidiaries of the Borrower.

“Synthetic Lease Obligation” means the monetary obligation of a Person under (a) a so-called synthetic, off-balance sheet or tax retention lease, or (b) an agreement for the use or possession of property creating obligations that do not appear on the balance sheet of such Person but which, upon the insolvency or bankruptcy of such Person, would be characterized as the indebtedness of such Person (without regard to accounting treatment).

“Type” means with respect to a Loan, its character as a Base Rate Loan or a LIBO Rate Loan.

“Unfunded Pension Liability” means the excess of a Pension Plan’s benefit liabilities under Section 4001(a)(16) of ERISA, over the current value of that Pension Plan’s assets, determined in accordance with the assumptions used for funding the Pension Plan pursuant to Section 412 of the Code for the applicable plan year.

“Unreimbursed Amount” has the meaning set forth in [Section 2.3.3\(i\)](#).

“Unrestricted Subsidiary” means (a) so long as it otherwise constitutes a Subsidiary, Bois d’Arc Energy and each of the other Bois d’Arc Entities, and (b) each other Subsidiary of the Borrower designated by the Borrower as an Unrestricted Subsidiary in accordance with, and subject to the satisfaction of the conditions set forth in, [Section 1.6](#).

“Voting Percentage” means, as to any Lender, (a) at any time when the Commitments are in effect, such Lender’s Percentage Share and (b) at any time after the termination of the Commitments, the percentage (carried out to the ninth decimal place) which (i) the sum of (A) the Outstanding Amount of such Lender’s Loans, plus (B) such Lender’s Percentage Share of the Outstanding Amount of L/C Obligations, then constitutes of (ii) the sum of Outstanding Amount of all Loans and L/C Obligations.

#### **SECTION 1.2 Other Interpretive Provisions.**

(a) The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.

(b) (i) The words “herein” and “hereunder” and words of similar import when used in any Loan Document shall refer to such Loan Document as a whole and not to any particular provision thereof.

(ii) Unless otherwise specified herein, Article, Section, Exhibit and Schedule references are to this Agreement.

(iii) The term “including” is by way of example and not limitation.

(iv) The term “documents” includes any and all instruments, documents, agreements, certificates, notices, reports, financial statements and other writings, however evidenced.

(c) In the computation of periods of time from a specified date to a later specified date, the word “from” means “from and including,” the words “to” and “until” each mean “to but excluding,” and the word “through” means “to and including.”

(d) Section headings herein and the other Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Loan Document.

(e) Pronouns in masculine, feminine and neuter genders shall be construed to include any other gender, and words in the singular form shall be construed to include the plural and vice versa, unless the context otherwise requires.

**SECTION 1.3 Accounting Terms.** All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP applied on a consistent basis, as in effect from time to time, applied in a manner consistent with that used in preparing the Initial Audited Financial Statements, except as otherwise specifically prescribed herein.

**SECTION 1.4 Rounding.** Any financial ratios required to be maintained by the Borrower pursuant to this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

**SECTION 1.5 References to Agreements and Laws.** Unless otherwise expressly provided herein, (a) references to agreements (including the Loan Documents) and other contractual instruments shall be deemed to include all subsequent amendments, restatements, extensions, supplements and other modifications thereto, but only to the extent that such amendments, restatements, extensions, supplements and other modifications are not prohibited by any Loan Document; and (b) references to any Law shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such Law.

**SECTION 1.6 Designation and Conversion of Restricted and Unrestricted Subsidiaries.**

(a) Unless designated in writing to the Administrative Agent by the Borrower and approved by the Administrative Agent and the Majority Lenders in accordance with clause (b).

below, any Person that becomes a Subsidiary of the Borrower or any of its Restricted Subsidiaries (whether by formation, acquisition or merger) shall be classified as a Restricted Subsidiary; provided, however, that Bois d'Arc Energy and the other Bois d'Arc Entities shall be classified and designated as Unrestricted Subsidiaries unless redesignated as Restricted Subsidiaries in accordance with clause (c) below.

(b) Any Subsidiary of the Borrower (including a newly formed or newly acquired Subsidiary) may be designated (or redesignated) as an Unrestricted Subsidiary if (i) the Administrative Agent shall have received (1) a written request from the Borrower specifying the applicable Subsidiary and such other information as the Administrative Agent may reasonably request, (2) the written consent of the Administrative Agent and the Majority Lenders approving such designation, and (3) a certificate of a Responsible Officer of the Borrower certifying that no Default or Event of Default shall then exist or would result from such designation (after giving effect to such designation), and (ii) such designation is deemed to be an Investment in an amount equal to the fair market value of Borrower's direct and indirect ownership interest in such Subsidiary and such Investment would be permitted under Section 7.2 to be made at the time of such designation. Except as provided in this Section 1.6(b), no Subsidiary may be designated (and no Restricted Subsidiary may be redesignated) as an Unrestricted Subsidiary.

(c) Borrower may designate any Unrestricted Subsidiary to be a Restricted Subsidiary if after giving effect to such designation, (i) the representations and warranties of Borrower and its Restricted Subsidiaries contained in each of the Loan Documents are true and correct on and as of such date as if made on and as of the date of such redesignation (or, if stated to have been made expressly as of an earlier date, were true and correct as of such date), (ii) no Default or Event of Default then exists or would result from such redesignation (after giving effect to such redesignation), and (iii) the Borrower complies, or causes such Subsidiary to comply, with the requirements of Sections 6.16 and 6.18.

## ARTICLE II. THE COMMITMENTS AND CREDIT EXTENSIONS

**SECTION 2.1 Loans.** Subject to the terms and conditions set forth herein, each Lender severally agrees to make loans (each such loan, a "Loan") to the Borrower from time to time on any Business Day during the period from the Closing Date to the Maturity Date, in an aggregate amount not to exceed at any time outstanding the lesser of (x) such Lender's Percentage Share of the aggregate amount of the Loans requested by the Borrower on such day and (y) such Lender's Commitment Amount; provided, however, that after giving effect to any borrowing, (i) the aggregate Outstanding Amount of all Loans and L/C Obligations shall not exceed the lesser of (A) the Aggregate Commitments on such date and (B) the Borrowing Base then in effect, and (ii) the aggregate Outstanding Amount of the Loans of any Lender, plus such Lender's Percentage Share of the Outstanding Amount of all L/C Obligations shall not exceed the lesser of such Lender's Commitment Amount or such Lender's Percentage Share of the Borrowing Base. Within the limits of each Lender's Commitment, and subject to the other terms and conditions hereof, the Borrower may borrow under this Section 2.1, prepay under Section 2.4 and reborrow under this Section 2.1.

## SECTION 2.2 Borrowings, Conversions and Continuations of Loans.

(a) Each Borrowing, each conversion of Loans from one Type to the other, and each continuation of Loans as the same Type shall be made upon the Borrower's irrevocable prior written notice to the Administrative Agent in the form of a Notice of Advance. Each such notice must be received by the Administrative Agent not later than 12:00 p.m., central time, (i) three Business Days prior to the requested date of any Borrowing of, conversion to or continuation of LIBO Rate Loans or of any conversion of LIBO Rate Loans to Base Rate Loans, and (ii) on the requested date of any Borrowing of Base Rate Loans. Each Notice of Advance shall be appropriately completed and signed by a Responsible Officer of the Borrower. Each Borrowing of, conversion to or continuation of LIBO Rate Loans shall be in a principal amount of \$1,000,000 or a whole multiple of \$1,000,000 in excess thereof. Each Borrowing of or conversion to Base Rate Loans shall be in a principal amount of \$500,000 or a whole multiple of \$100,000 in excess thereof. Each Notice of Advance shall specify (i) whether the Borrower is requesting a Borrowing, a conversion of Loans from one Type to the other, or a continuation of Loans as the same Type, (ii) the requested date of the Borrowing, conversion or continuation, as the case may be (which shall be a Business Day), (iii) the principal amount of Loans to be borrowed, converted or continued, (iv) the Type of Loans to be borrowed or to which existing Loans are to be converted, and (v) if applicable, the duration of the Interest Period with respect thereto. If the Borrower fails to specify a Type of Loan in a Notice of Advance or if the Borrower fails to give a timely notice requesting a conversion or continuation, then the applicable Loans shall be made or continued as, or converted to, Base Rate Loans. Any such automatic conversion to Base Rate Loans shall be effective as of the last day of the Interest Period then in effect with respect to the applicable LIBO Rate Loans. If the Borrower requests a Borrowing of, conversion to, or continuation of LIBO Rate Loans in any such Notice of Advance, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one month.

(b) Following receipt of a Notice of Advance, the Administrative Agent shall promptly notify each Lender of its Percentage Share of the applicable Loans, and if no timely notice of a conversion or continuation is provided by the Borrower, the Administrative Agent shall notify each Lender of the details of any automatic conversion to Base Rate Loans described in the preceding subsection. Each Lender shall make the amount of its Loan available to the Administrative Agent in immediately available funds at the Administrative Agent's Office not later than 2:00 p.m. central time, on the Business Day specified in the applicable Notice of Advance. Upon satisfaction of the applicable conditions set forth in Section 4.2 (and, if such Borrowing is the initial Credit Extension, Section 4.1), the Administrative Agent shall make all funds so received available to the Borrower in like funds as received by the Administrative Agent either by (i) crediting the account of the Borrower on the books of BMO with the amount of such funds or (ii) wire transfer of such funds, in each case in accordance with instructions provided to the Administrative Agent by the Borrower; provided, however, that if, on the date of the Borrowing there are L/C Borrowings outstanding, then the proceeds of such Borrowing shall be applied, first, to the payment in full of any such L/C Borrowings, and second, to the Borrower as provided above. Unless the Administrative Agent shall have received prompt notice from a Lender that such Lender will not make available to the Administrative Agent such Lender's Loans, the Administrative Agent may in its discretion assume that such Lender has made such

Loans available to the Administrative Agent in accordance with this section and the Administrative Agent may if it chooses, in reliance upon such assumption, make such Loan available to the Borrower. If and to the extent such Lender shall not so make its Loan available to the Administrative Agent, such Lender and the Borrower severally agree to pay or repay to the Administrative Agent within two Business Days after demand the amount of such Loan together with interest thereon, for each day from the date such amount is made available to the Borrower until the date such amount is paid or repaid to the Administrative Agent, to be calculated as to such Lender at the Federal Funds Rate, and to be calculated as to the Borrower at the interest rate applicable at the time to the other Loans made on such date. If any Lender fails to make such payment to the Administrative Agent within such two Business Day period, such Lender shall in addition to such amount pay interest thereon, for each day from the date such Loan is made available to the Borrower until the date such amount is paid or repaid to the Administrative Agent, at the interest rate applicable at the time to the other Loans made on such date. The failure of any Lender to make any Loan to be made by it hereunder shall not relieve any other Lender of its obligation hereunder, if any, to make its Loan, but no Lender shall be responsible for the failure of any other Lender to make any Loan to be made by such other Lender.

(c) Except as otherwise provided herein, a LIBO Rate Loan may be continued or converted only on the last day of the Interest Period for such LIBO Rate Loan. During the existence of a Default, Event of Default or Borrowing Base Deficiency, no Loans may be requested as, converted to or continued as LIBO Rate Loans.

(d) The Administrative Agent shall promptly notify the Borrower and the Lenders of the interest rate applicable to any LIBO Rate Loan upon determination of such interest rate. The determination of the LIBO Rate by the Administrative Agent shall be conclusive in the absence of manifest error. The Administrative Agent shall notify the Borrower and the Lenders of any change in BMO's prime rate used in determining the Base Rate promptly following the public announcement of such change.

(e) After giving effect to all Borrowings, all conversions of Loans from one Type to the other, and all continuations of Loans as the same Type, there shall not be more than ten (10) LIBO Interest Periods in effect with respect to Loans.

### **SECTION 2.3 Letters of Credit.**

#### **2.3.1 The Letter of Credit Commitment.**

(i) Subject to the terms and conditions set forth herein, (A) the Issuing Bank agrees, in reliance upon the agreements of the other Lenders set forth in this Section 2.3, (1) from time to time on any Business Day during the period from the Closing Date until the Letter of Credit Availability Expiration Date, to issue Letters of Credit for the account of the Borrower and in the name of the Borrower or any of its Restricted Subsidiaries, and to amend or renew Letters of Credit previously issued by it, in accordance with subsection 2.3.2 below, and (2) to honor drafts under the Letters of Credit; and (B) the Lenders severally agree to participate in Letters of Credit issued for the account of the Borrower; provided that the Issuing Bank shall not be obligated to make any L/C Credit Extension with respect to any Letter of Credit, and no Lender shall be obligated to



participate in, any Letter of Credit if as of the date of such L/C Credit Extension, (w) with respect to any renewal, extension or amendment to any previously issued Letter of Credit, the Restricted Subsidiary in whose name such Letter of Credit was originally issued (or was most recently renewed, extended or amended, if applicable) has become, or been redesignated as, an Unrestricted Subsidiary, (x) the Outstanding Amount of all L/C Obligations and all Loans would exceed the lesser of (A) the Aggregate Commitments on such date and (B) the Borrowing Base then in effect, (y) the aggregate Outstanding Amount of the Loans of any Lender, plus such Lender's Percentage Share of the Outstanding Amount of all L/C Obligations would exceed the lesser of (A) such Lender's Commitment Amount or (B) such Lender's Percentage Share of the Borrowing Base then in effect, or (z) the Outstanding Amount of the L/C Obligations would exceed the Letter of Credit Sublimit. Within the foregoing limits, and subject to the terms and conditions hereof, the Borrower's ability to obtain Letters of Credit shall be fully revolving, and accordingly the Borrower may, during the foregoing period, obtain Letters of Credit to replace Letters of Credit that have expired or that have been drawn upon and reimbursed.

(ii) The Issuing Bank shall be under no obligation to issue any Letter of Credit if:

(A) the expiry date of such requested Letter of Credit would occur more than twelve months after the date of issuance or last renewal, unless the Majority Lenders acting in their sole discretion have approved in writing such expiry date;

(B) the expiry date of such requested Letter of Credit would occur after the Letter of Credit Availability Expiration Date, unless all the Lenders acting in their sole discretion have approved in writing such expiry date;

(C) the issuance of such Letter of Credit would violate one or more policies of the Issuing Bank;

(D) such Letter of Credit is in a face amount less than \$100,000, or denominated in a currency other than Dollars, unless all the Lenders acting in their sole discretion have approved in writing the issuance of Letters of Credit denominated in a currency other than Dollars; or

(E) such Letter of Credit is to be used directly or indirectly to assure payment of or otherwise support any Person's Indebtedness for borrowed money;

(F) the issuance of such Letter of Credit is not in compliance with all applicable governmental restrictions, policies, and guidelines (whether or not having the force of law) or it subjects the Issuing Bank to any cost not anticipated by the Issuing Bank on the date hereof;

(G) the form and terms of such Letter of Credit are not acceptable to the Administrative Agent and Issuing Bank in their sole and absolute discretion; and

(H) any other condition in this Agreement to the issuance of such Letter of Credit has not been satisfied.

(iii) The Issuing Bank shall be under no obligation to amend any Letter of Credit if (A) the Issuing Bank would have no obligation at such time to issue such Letter of Credit in its amended form under the terms hereof, or (B) the beneficiary of such Letter of Credit does not accept the proposed amendment to such Letter of Credit.

#### 2.3.2 Procedures for Issuance and Amendment of Letters of Credit.

(i) Each Letter of Credit shall be issued or amended, as the case may be, upon the request of the Borrower delivered to the Issuing Bank (with a copy to the Administrative Agent) in the form of a Letter of Credit Application, appropriately completed and signed by a Responsible Officer of the Borrower. Such Letter of Credit Application must be received by the Issuing Bank and the Administrative Agent not later than 12:00 p.m., central time at least two Business Days (or such later date and time as the Issuing Bank may agree in a particular instance in its sole discretion) prior to the proposed issuance date or date of amendment, as the case may be. In the case of a request for an initial issuance of a Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to the Issuing Bank: (A) the proposed issuance date of the requested Letter of Credit (which shall be a Business Day); (B) the amount thereof; (C) the expiry date thereof; (D) the name and address of the beneficiary thereof; (E) the documents to be presented by such beneficiary in case of any drawing thereunder; (F) the full text of any certificate to be presented by such beneficiary in case of any drawing thereunder; and (G) such other matters as the Issuing Bank may require. In the case of a request for an amendment of any outstanding Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to the Issuing Bank (w) the Letter of Credit to be amended; (x) the proposed date of amendment thereof (which shall be a Business Day); (y) the nature of the proposed amendment; and (z) such other matters as the Issuing Bank may require.

(ii) Promptly after receipt of any Letter of Credit Application, the Issuing Bank will confirm with the Administrative Agent (by telephone or in writing) that the Administrative Agent has received a copy of such Letter of Credit Application from the Borrower and, if not, the Issuing Bank will provide the Administrative Agent with a copy thereof. Upon receipt by the Issuing Bank of confirmation from the Administrative Agent that the requested issuance or amendment is permitted in accordance with the terms hereof, then, subject to the terms and conditions hereof, the Issuing Bank shall, on the requested date, issue a Letter of Credit for the account of the Borrower or enter into the applicable amendment, as the case may be, in each case in accordance with the Issuing Bank's usual and customary business practices. Immediately upon the issuance of each Letter of Credit, each Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to and hereby does, purchase from the Issuing Bank a

participation in such Letter of Credit in an amount equal to the product of such Lender's Percentage Share times the amount of such Letter of Credit.

**2.3.3 Drawings and Reimbursements; Funding of Participations.**

(i) Upon any drawing under any Letter of Credit, the Issuing Bank shall notify the Borrower and the Administrative Agent thereof. Not later than 12:00 p.m., central time, on the date of any payment by the Issuing Bank under a Letter of Credit (each such date, an "Honor Date"), the Borrower shall reimburse the Issuing Bank through the Administrative Agent in an amount equal to the amount of such drawing. If the Borrower fails to so reimburse the Issuing Bank by such time, the Administrative Agent shall promptly notify each Lender of the Honor Date, the amount of the unreimbursed drawing (the "Unreimbursed Amount"), and such Lender's Percentage Share thereof. In such event, the Borrower shall be deemed to have requested a Borrowing of Base Rate Loans to be disbursed on the Honor Date in an amount equal to the Unreimbursed Amount, without regard to the minimum and multiples specified in Section 2.2 for the principal amount of Base Rate Loans, but subject to the amount of the unutilized portion of the lesser of (x) the Aggregate Commitments and (y) the Borrowing Base then in effect and the conditions set forth in Section 4.2 (other than the delivery of a Notice of Advance). Any notice given by the Issuing Bank or the Administrative Agent pursuant to this Section 2.3.3(i) may be given by telephone if immediately confirmed in writing; provided that the lack of such an immediate confirmation shall not affect the conclusiveness or binding effect of such notice.

(ii) Each Lender (including the Lender acting as Issuing Bank) shall upon any notice from the Administrative Agent pursuant to Section 2.3.3(i), make funds available to the Administrative Agent for the account of the Issuing Bank at the Administrative Agent's Office in an amount equal to such Lender's Percentage Share of the Unreimbursed Amount not later than 1:00 p.m., central time, on the Business Day specified in such notice by the Administrative Agent, whereupon, subject to the provisions of Section 2.3.3(iii), each Lender that so makes funds available shall be deemed to have made a Base Rate Loan to the Borrower in such amount. The Administrative Agent shall remit the funds so received to the Issuing Bank.

(iii) With respect to any Unreimbursed Amount that is not fully refinanced by a Borrowing of Base Rate Loans because the conditions set forth in Section 4.2 cannot be satisfied or for any other reason, the Borrower shall be deemed to have incurred from the Issuing Bank an L/C Borrowing in the amount of the Unreimbursed Amount that is not so refinanced, which L/C Borrowing shall be due and payable on demand (together with interest) and shall bear interest at the Default Rate. In such event, each Lender's payment to the Administrative Agent for the account of the Issuing Bank pursuant to Section 2.3.3(ii) shall be deemed payment in respect of its participation in such L/C Borrowing and shall constitute an L/C Advance from such Lender in satisfaction of its participation obligation under this Section 2.3.3.

(iv) Until each Lender funds its Loan or L/C Advance pursuant to this Section 2.3.3 to reimburse the Issuing Bank for any amount drawn under any Letter of

Credit, interest in respect of such Lender's Percentage Share of such amount shall be solely for the account of the Issuing Bank.

(v) Each Lender's obligation to make Loans or L/C Advances to reimburse the Issuing Bank for amounts drawn under Letters of Credit, as contemplated by this Section 2.3.3, shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any set-off, counterclaim, recoupment, defense or other right which such Lender may have against the Issuing Bank, the Borrower or any other Person for any reason whatsoever; (B) the occurrence or continuance of a Default or Event of Default, or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing. Any such reimbursement shall not relieve or otherwise impair the obligation of the Borrower to reimburse the Issuing Bank for the amount of any payment made by the Issuing Bank under any Letter of Credit, together with interest as provided herein.

(vi) If any Lender fails to make available to the Administrative Agent for the account of the Issuing Bank any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.3.3 by the time specified in Section 2.3.3(i), the Issuing Bank shall be entitled to recover from such Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to the Issuing Bank at a rate per annum equal to (1) for the first two Business Days immediately following the date such payment is required, the Federal Funds Rate from time to time in effect, and (2) for each day thereafter, the Base Rate from time to time in effect. A certificate of the Issuing Bank submitted to any Lender (through the Administrative Agent) with respect to any amounts owing under this clause (vi) shall be conclusive absent manifest error.

#### 2.3.4 Repayment of Participations.

(i) At any time after the Issuing Bank has made a payment under any Letter of Credit and has received from any Lender such Lender's L/C Advance in respect of such payment in accordance with Section 2.3.3, if the Administrative Agent receives for the account of the Issuing Bank any payment related to such Letter of Credit (whether directly from the Borrower or otherwise, including proceeds of Cash Collateral applied thereto by the Administrative Agent), or any payment of interest thereon, the Administrative Agent will distribute to such Lender its Percentage Share thereof in the same funds as those received by the Administrative Agent.

(ii) If any payment received by the Administrative Agent for the account of the Issuing Bank pursuant to Section 2.3.3 is required to be returned, each Lender shall pay to the Administrative Agent for the account of the Issuing Bank its Percentage Share thereof on demand of the Administrative Agent, plus interest thereon from the date of such demand to the date such amount is returned by such Lender, at a rate per annum equal to (1) with respect to the first two Business Days immediately following such demand, the Federal Funds Rate from time to time in effect, and (2) with respect to each day thereafter, the Base Rate from time to time in effect.

2.3.5 **Obligations Absolute.** The obligation of the Borrower to reimburse the Issuing Bank for each drawing under each Letter of Credit, and to repay each L/C Borrowing and each drawing under a Letter of Credit that is refinanced by a Borrowing of Loans, shall be absolute, unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including the following:

(i) any lack of validity or enforceability of such Letter of Credit, this Agreement, or any other agreement or instrument relating thereto;

(ii) the existence of any claim, counterclaim, set-off, defense or other right that the Borrower may have at any time against any beneficiary or any transferee of such Letter of Credit (or any Person for whom any such beneficiary or any such transferee may be acting), the Issuing Bank or any other Person, whether in connection with this Agreement, the transactions contemplated hereby or by such Letter of Credit or any agreement or instrument relating thereto, or any unrelated transaction;

(iii) any draft, demand, certificate or other document presented under such Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; or any loss or delay in the transmission or otherwise of any document required in order to make a drawing under such Letter of Credit;

(iv) any payment by the Issuing Bank under such Letter of Credit against presentation of a draft or certificate that does not strictly comply with the terms of such Letter of Credit; or any payment made by the Issuing Bank under such Letter of Credit to any Person purporting to be a trustee in bankruptcy, debtor-in-possession, assignee for the benefit of creditors, liquidator, receiver or other representative of or successor to any beneficiary or any transferee of such Letter of Credit, including any arising in connection with any proceeding under any Debtor Relief Law; or

(v) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including any other circumstance that might otherwise constitute a defense available to, or a discharge of, the Borrower.

The Borrower shall promptly examine a copy of each Letter of Credit and each amendment thereto that is delivered to it and, in the event of any claim of noncompliance with the Borrower's instructions or other irregularity, the Borrower will promptly notify the Issuing Bank. The Borrower shall be conclusively deemed to have waived any such claim against the Issuing Bank and its correspondents unless such notice is given as aforesaid.

2.3.6 **Role of Issuing Bank; Indemnity.** Each Lender and the Borrower agree that, in paying any drawing under a Letter of Credit, the Issuing Bank shall not have any responsibility to obtain any document (other than any sight draft, certificates and documents expressly required by the Letter of Credit) or to ascertain or inquire as to the validity or accuracy of any such document or the authority of the Person executing or delivering any such document. No Agent-Related Person nor any of the respective correspondents, participants or assignees of the Issuing

Bank shall be liable to any Lender for (i) any action taken or omitted in connection herewith at the request or with the approval of the Lenders or the Majority Lenders, as applicable; (ii) any action taken or omitted in the absence of gross negligence or willful misconduct; or (iii) the due execution, effectiveness, validity or enforceability of any document or instrument related to any Letter of Credit or Letter of Credit Application. The Borrower hereby assumes all risks of the acts or omissions of any beneficiary or transferee with respect to its use of any Letter of Credit. No Agent-Related Person, nor any of the respective correspondents, participants or assignees of the Issuing Bank, shall be liable or responsible for any of the matters described in clauses (i) through (v) of Section 2.3.5. The Borrower agrees to hold Issuing Bank and each Lender harmless and indemnified against any liability or claim in connection with or arising out of the subject matter of this section, **WHICH INDEMNITY SHALL APPLY WHETHER OR NOT ANY SUCH LIABILITY OR CLAIM IS IN ANY WAY OR TO ANY EXTENT CAUSED, IN WHOLE OR IN PART, BY ANY NEGLIGENT ACT OR OMISSION OF ANY KIND BY ISSUING BANK OR ANY LENDER**, provided only that the Issuing Bank or such Lender shall not be entitled to indemnification for that portion, if any, of any liability or claim which is proximately caused by its own individual gross negligence or willful misconduct as determined in a final judgment. In furtherance and not in limitation of the foregoing, the Issuing Bank may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary, and the Issuing Bank shall not be responsible for the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign a Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason. If any Letter of Credit provides that it is transferable, the Issuing Bank shall have no duty to determine the proper identity of anyone appearing as transferee of such Letter of Credit, nor shall the Issuing Bank be charged with responsibility of any nature or character for the validity or correctness of any transfer or successive transfers, and payment by the Issuing Bank to any purported transferee or transferees as determined by the Issuing Bank is hereby authorized and approved, and the Borrower further agrees to hold the Issuing Bank and each Lender harmless and indemnified against any liability or claim in connection with or arising out of the foregoing, **WHICH INDEMNITY SHALL APPLY WHETHER OR NOT ANY SUCH LIABILITY OR CLAIM IS IN ANY WAY OR TO ANY EXTENT CAUSED, IN WHOLE OR IN PART, BY ANY NEGLIGENT ACT OR OMISSION OF ANY KIND BY THE ISSUING BANK OR ANY LENDER**, provided only that the Issuing Bank or such Lender shall not be entitled to indemnification for that portion, if any, of any liability or claim which is caused by its own individual gross negligence or willful misconduct. All of Borrower's Obligations under this Section 2.3.6 shall survive termination of the Commitments or of this Agreement and repayment in full of the Obligations.

2.3.7 Applicability of ISP98 and UCP. Unless otherwise expressly agreed by the Issuing Bank and the Borrower when a Letter of Credit is issued, (i) the rules of the "International Standby Practices 1998" published by the Institute of International Banking Law & Practice (or such later version thereof as may be in effect at the time of issuance) shall apply to each standby Letter of Credit, and (ii) the rules of the Uniform Customs and Practice for Documentary Credits, as most recently published by the International Chamber of Commerce (the "ICC") at the time of issuance (including the ICC decision published by the Commission on

Banking Technique and Practice on April 6, 1998 regarding the European single currency (euro)) shall apply to each commercial Letter of Credit.

2.3.8 Letter of Credit Fees. The Borrower shall pay to the Administrative Agent for the account of each Lender in accordance with its Percentage Share a Letter of Credit fee for each Letter of Credit equal to the LIBOR Spread then in effect with respect to Loans after giving effect to the L/C Obligations incurred with respect to such Letter of Credit times the actual daily maximum amount available to be drawn under such Letter of Credit. Such fee for each Letter of Credit shall be due and payable on the last Business Day of each March, June, September and December, commencing with the first such date to occur after the issuance of such Letter of Credit, and on the Letter of Credit Availability Expiration Date. If there is any change in the LIBOR Spread during any quarter, the actual daily amount of each Letter of Credit shall be computed and multiplied by the LIBOR Spread with respect to Letters of Credit separately for each period during such quarter that such LIBOR Spread was in effect.

2.3.9 Letter of Credit Fronting Fee and Documentary and Processing Charges Payable to Issuing Bank. The Borrower shall pay directly to the Issuing Bank for its own account a fronting fee in an amount equal to 0.1875% per annum on the daily maximum amount available to be drawn thereunder, due and payable quarterly in arrears on the last Business Day of each March, June, September and December, commencing with the first such date to occur after the issuance of such Letter of Credit, and on the Letter of Credit Availability Expiration Date; provided that all such fees shall be payable on the date on which the Commitments terminate and any such fees accruing after the date on which the Commitments terminate shall be payable on demand. In addition, the Borrower shall pay directly to the Issuing Bank for its own account the customary issuance, presentation, amendment and other processing fees, and other standard costs and charges, of the Issuing Bank relating to letters of credit as from time to time in effect. Such fees and charges are due and payable on demand and are nonrefundable. All participation fees and fronting fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day).

2.3.10 Conflict with Letter of Credit Application. In the event of any conflict between the terms hereof and the terms of any Letter of Credit Application, the terms hereof shall control.

2.3.11 L/C Collateral.

(a) L/C Obligations in Excess of Borrowing Base. (i) If, after the making of all mandatory prepayments required under Section 2.4.2, the aggregate amount of all Loans outstanding plus all L/C Obligations outstanding excluding L/C Obligations secured by cash collateral pursuant to this Section 2.3.11 will exceed the Borrowing Base, then the Borrower will immediately pay to the Issuing Bank an amount in cash equal to such excess, or (ii) should any L/C Obligations remain outstanding on the Maturity Date, then the Borrower will immediately pay the Issuing Bank an amount in cash equal to the aggregate amount of such Issuing Bank's L/C Obligations. The Issuing Bank will hold such amount as security for the remaining L/C Obligations ("L/C Collateral") until such L/C Obligations become Matured L/C Obligations, at which time such L/C Collateral may be applied to such Matured L/C Obligations. Neither this subsection nor the following subsection shall, however, limit or impair any rights which the Issuing Bank may have under any other document or agreement relating to any Letter of Credit

or L/C Obligation, including any Letter of Credit Application, or any rights which the Issuing Bank or Lenders may have to otherwise apply any payments by the Borrower and L/C Collateral under Section 2.3.11.

(b) Acceleration of L/C Obligations. If the Obligations or any part thereof become immediately due and payable pursuant to Section 8.2 then, unless the Majority Lenders otherwise specifically elect to the contrary (which election may thereafter be retracted by the Majority Lenders at any time), all L/C Obligations shall become immediately due and payable without regard to whether or not actual drawings or payments on the Letters of Credit have occurred, and the Borrower shall be obligated to pay to the Issuing Bank immediately an amount equal to the aggregate L/C Obligations which are then outstanding. All amounts so paid shall first be applied to Matured L/C Obligations and then held by the Issuing Bank as L/C Collateral until such L/C Obligations become Matured L/C Obligations, at which time such L/C Collateral shall be applied to such Matured L/C Obligations.

(c) Investment of L/C Collateral. Pending application thereof, all L/C Collateral shall be invested by the Issuing Bank in such blocked account as the Issuing Bank may choose in its sole discretion reasonably exercised. All interest on such investments shall be reinvested or applied to Matured L/C Obligations. When all Obligations have been satisfied in full, including all L/C Obligations, all Letters of Credit have expired or been terminated, and all of the Borrower's reimbursement obligations in connection therewith have been satisfied in full, the Issuing Bank shall release any remaining L/C Collateral. The Borrower hereby assigns and grants to the Issuing Bank a continuing security interest in all L/C Collateral paid by it to the Issuing Bank, all investments purchased with such L/C Collateral, and all proceeds thereof to secure its Matured L/C Obligations and its Obligations under this Agreement, the Notes, and the other Loan Documents, and the Borrower agrees that such L/C Collateral and investments shall be subject to all of the terms and conditions of the Borrower's Security Agreement. The Borrower further agrees that the Issuing Bank shall have all of the rights and remedies of a secured party under the Uniform Commercial Code as adopted in the State of New York with respect to such security interest and that an Event of Default under this Agreement shall constitute a default for purposes of such security interest.

2.3.12 Calculations. A written advice setting forth in reasonable detail the amounts owing under this section, submitted by the Issuing Bank to the Borrower or any Lender from time to time, shall be conclusive, absent manifest error, as to the amounts thereof.

#### **SECTION 2.4 Prepayments.**

2.4.1 Voluntary Prepayments. The Borrower may, upon notice to the Administrative Agent, at any time or from time to time voluntarily prepay Loans in whole or in part without premium or penalty; provided that (i) such notice must be received by the Administrative Agent not later than 12:00 p.m., central time, (A) three Business Days prior to any date of prepayment of LIBO Rate Loans, and (B) on the date of prepayment of Base Rate Loans; (ii) any prepayment of LIBO Rate Loans shall be in a principal amount of \$1,000,000 or a whole multiple of \$1,000,000 in excess thereof; and (iii) any prepayment of Base Rate Loans shall be in a principal amount of \$500,000 or a whole multiple of \$100,000 in excess thereof. Each such notice shall specify the date and amount of such prepayment and the Type(s) of Loans to be prepaid. The



Administrative Agent will promptly notify each Lender of its receipt of each such notice, and of such Lender's Percentage Share of such prepayment. If such notice is given by the Borrower, the Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein. Any prepayment of a LIBO Rate Loan shall be accompanied by all accrued interest thereon, together with any additional amounts required pursuant to [Section 3.5](#). Each such prepayment shall be applied to the Loans of the Lenders in accordance with their respective Percentage Shares.

2.4.2 **Mandatory Prepayments.** The Borrower shall make the following prepayments of the Loans:

(i) **Outstandings Exceed Commitments.** If for any reason the Outstanding Amount of all Loans and L/C Obligations at any time exceeds the Aggregate Commitments then in effect, the Borrower shall first immediately prepay Loans and second following repayment of the Loans, Cash Collateralize the L/C Obligations in an aggregate amount equal to such excess.

(ii) **Borrowing Base Deficiency.**

(A) If at any time the aggregate unpaid principal balance of the Loans plus the aggregate amount of L/C Obligations exceeds the Borrowing Base (a "**Borrowing Base Deficiency**"), the Borrower shall, within thirty (30) days after the Administrative Agent sends written notice of such fact to the Borrower, (1) prepay the principal of the Loans (and, upon prepayment of all Loans, shall, to the extent required, provide L/C Collateral as set forth in [Section 2.3.11](#)) in an aggregate amount at least equal to such Borrowing Base Deficiency (in this section, a "**Mandatory Prepayment Amount**"), or (2) give notice to the Administrative Agent electing to prepay such Mandatory Prepayment Amount in six (6) (or fewer) monthly installments. Each such installment shall equal or exceed one-sixth of such Borrowing Base Deficiency; the first such installment shall be paid within thirty (30) days of the giving of such notice of the Borrowing Base Deficiency by the Administrative Agent to the Borrower and the five (or fewer) subsequent installments shall be due and payable at one month intervals thereafter until such Borrowing Base Deficiency has been eliminated.

(B) If (1) at any time during the existence or continuation of a Borrowing Base Deficiency, the Borrower or any Guarantor makes a Disposition of assets (other than those described in [clauses \(a\) through \(d\) of Section 7.5](#) hereof), or (2) a Disposition of assets included in the Borrowing Base results in a reduction of the Borrowing Base in accordance with [Section 7.5\(e\)](#) such that a Borrowing Base Deficiency occurs, then, in either case, the Borrower shall, or shall cause such Guarantor to, use the Net Sale Proceeds from such Disposition (whether or not such assets are included in the Borrowing Base) to prepay the Loans and, upon prepayment of all Loans, shall provide L/C Collateral as set

forth in Section 2.3.11, within one (1) Business Day of such Disposition in an amount equal to 100% of the Borrowing Base Deficiency then existing or occurring as a result of such disposition. Application of such Net Sale Proceeds shall be applied to the principal amount of the Loans until the Loans are paid in full and then shall be held as L/C Collateral in an amount equal to the aggregate amount of L/C Obligations pursuant to Section 2.3.11.

**SECTION 2.5 Reduction or Termination of Commitments and Maximum Loan Amount.** The Borrower may, upon notice to the Administrative Agent, terminate the Aggregate Commitments and the Maximum Loan Amount, or permanently reduce the Aggregate Commitments and the Maximum Loan Amount to an amount not less than the then Outstanding Amount of all Loans and L/C Obligations; provided that (i) any such notice shall be received by the Administrative Agent not later than 12:00 p.m., central time three (3) Business Days prior to the date of termination or reduction, and (ii) any such partial reduction shall be in an aggregate amount of \$5,000,000 or any whole multiple of \$1,000,000 in excess thereof. The Administrative Agent shall promptly notify the Lenders of any such notice of reduction or termination of the Aggregate Commitments and the Maximum Loan Amount. Once reduced in accordance with this Section, the Commitments may not be increased except in accordance with Section 2.15. Any reduction of the Aggregate Commitments shall be applied to the Commitment Amount of each Lender according to its Percentage Share. All commitment fees accrued until the effective date of any termination of the Aggregate Commitments shall be paid on the effective date of such termination.

**SECTION 2.6 Repayment of Loans.** The Borrower shall repay to the Lenders on the Maturity Date the aggregate principal amount of Loans outstanding on such date.

**SECTION 2.7 Initial Borrowing Base.** On any date during the period from the Closing Date to the first Evaluation Date, the Borrowing Base shall be an amount equal to \$400,000,000.

**SECTION 2.8 Subsequent Determinations of Borrowing Base.**

(a) By each Evaluation Date, the Borrower shall furnish to the Administrative Agent and each Lender all information, reports and data which the Administrative Agent has then reasonably requested concerning the Borrower's and the Guarantors' businesses and properties (including Borrower's and the Guarantors' Oil and Gas Properties and interests and the reserves and production relating thereto), together with the Engineering Report described in Section 6.2(g), if an Engineering Report is then due. Within thirty (30) days after receiving such information, reports and data, or as promptly thereafter as practicable, the Administrative Agent shall recommend a redetermined Borrowing Base to the Lenders. Such recommended Borrowing Base shall become effective upon the receipt by the Administrative Agent of the approval of the Required Borrowing Base Lenders. The failure of a Lender to respond or object to the recommended Borrowing Base within fifteen (15) days after notice thereof is given to such Lender by the Administrative Agent shall be deemed an acceptance and approval of such recommended Borrowing Base by such Lender. If such recommended Borrowing Base is not approved by Required Borrowing Base Lenders within fifteen (15) days after the Administrative

Agent submits the recommended Borrowing Base to the Lenders, then each Lender shall submit in writing to the Administrative Agent, on or within fifteen (15) days after the Administrative Agent notifies the Lenders that the Lenders have not approved any such recommended Borrowing Base, such Lender's determination of the redetermined Borrowing Base; in such case, the redetermined Borrowing Base shall be the highest amount approved by the Required Borrowing Base Lenders. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, WITHOUT THE PRIOR WRITTEN APPROVAL OF ALL OF THE LENDERS, SUCH APPROVAL TO BE IN EACH LENDER'S SOLE DISCRETION, THE REDETERMINED BORROWING BASE SHALL NOT BE INCREASED ABOVE THE AMOUNT OF THE BORROWING BASE IN EFFECT IMMEDIATELY PRIOR TO SUCH REDETERMINATION. The Administrative Agent shall by notice to the Borrower and the Lenders designate the amount of the Borrowing Base (determined by the Required Borrowing Base Lenders or all of the Lenders, as applicable, in accordance with the foregoing procedures) available to the Borrower hereunder, which designation shall take effect immediately on the date such notice is sent (a "Determination Date") and shall remain in effect until but not including the next date as of which the Borrowing Base is redetermined. If the Borrower does not furnish all such information, reports and data by the date specified in the first sentence of this section, the Administrative Agent may nonetheless designate the Borrowing Base at any amount which the Lenders determine, and may redesignate the Borrowing Base from time to time thereafter at any amount which all Lenders redetermine, until each Lender receives all such information, reports and data, whereupon Lenders shall designate a new Borrowing Base as described above. The Lenders shall determine the amount of the Borrowing Base based upon the loan collateral value which they, in their sole discretion and in accordance with their respective normal practices and standards for oil and gas loans as such practices and standards exist at the particular time, assign to the various Oil and Gas Properties of the Borrower or the Guarantors at the time in question and based upon such other factors (including without limitation the assets, liabilities, fixed charges, cash flow, business, properties, prospects, management and ownership of any of the Borrower or the Guarantors or any Subsidiary of any of the Borrower or the Guarantors) as they, in their sole discretion and in accordance with their respective normal practices and standards for oil and gas loans as such practices and standards exist at the particular time, deem significant. It is expressly understood that Lenders and the Administrative Agent have no obligation to agree upon or designate the Borrowing Base at any particular amount, whether in relation to the Maximum Loan Amount or otherwise, and that the Lenders' commitments to advance funds hereunder is determined by reference to the Borrowing Base from time to time in effect, which Borrowing Base shall be used for calculating commitment fees under Section 2.10(a). Additional redeterminations at the request of the Lenders, the Administrative Agent or the Borrower shall be subject to a \$5,000 engineering fee payable by Borrower to the Administrative Agent for its own account.

(b) The Borrower may include additional Oil and Gas Properties of the Borrower or the Guarantors acquired from time to time as Collateral for the Secured Obligations, which may then be included in the calculation of the Borrowing Base, by the Borrower or such Guarantor (A) giving written notice to the Administrative Agent of such properties to be included, (B) subjecting such properties to Liens securing the Secured Obligations (pursuant to Security Documents satisfactory to the Administrative Agent) if necessary to comply with the provisions of Section 6.16, (C) including such properties in an Engineering Report submitted to the

Administrative Agent and (D) delivering to the Administrative Agent title opinions (or other title reports or title information acceptable to the Administrative Agent) covering at least 80% of the additional value of such properties addressed to the Administrative Agent for the benefit of the Lenders covering all of such properties and other legal opinions from counsel acceptable to the Administrative Agent, in its sole discretion, in form, scope and substance acceptable to the Administrative Agent opining favorably as to, among such other matters as may be required by the Administrative Agent, (1) the Borrower's or the appropriate Guarantor's ownership of such properties and (2) matters of the type covered by the opinions delivered pursuant to Section 4.1(a)(vi).

(c) In addition to the any scheduled determination or discretionary determination of the Borrowing Base, the Borrowing Base shall be automatically reduced from time to time as set forth in Section 7.5(g).

**SECTION 2.9 Interest.**

(a) Subject to the provisions of subsection (b) below, (i) each LIBO Rate Loan shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the Adjusted LIBO Rate for such Interest Period plus the LIBOR Spread; and (ii) each Base Rate Loan shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Base Rate plus the Base Rate Spread.

(b) (i) While any Event of Default exists or after acceleration, the Borrower shall pay interest on the principal amount of all outstanding Obligations at a fluctuating interest rate per annum at all times equal to the Default Rate, and (ii) while any Borrowing Base Deficiency exists, the Borrower shall pay interest on the principal amount of all outstanding Obligations at a fluctuating interest rate per annum at all times equal to the Borrowing Base Deficiency Rate, in each case, to the fullest extent permitted by applicable Law. Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand.

(c) Interest on each Loan shall be due and payable in arrears on each Interest Payment Date applicable thereto and at such other times as may be specified herein. Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the commencement of any proceeding under any Debtor Relief Law.

**SECTION 2.10 Fees.** In addition to certain fees described in Sections 2.3.8 and 2.3.9:

(a) Commitment Fee. The Borrower shall pay to the Administrative Agent for the account of each Lender in accordance with its Percentage Share, a commitment fee equal to the Commitment Fee Rate times the actual daily amount by which the lesser of the Aggregate Commitments and the Borrowing Base then in effect exceeds the sum of (i) the Outstanding Amount of Loans and (ii) the Outstanding Amount of L/C Obligations. The commitment fee shall accrue at all times from the Closing Date until the Maturity Date and shall be due and payable quarterly in arrears on the last Business Day of each March, June, September and December, commencing with the first such date to occur after the Closing Date, and on the Maturity Date. The commitment fee shall be calculated quarterly in arrears, and if there is any

change in the Commitment Fee Rate with respect to commitment fees during any quarter, the actual daily amount shall be computed and multiplied by the Commitment Fee Rate with respect to commitment fees separately for each period during such quarter that such Commitment Fee Rate was in effect. The commitment fee shall accrue at all times, including at any time during which one or more of the conditions in Article IV is not met.

(b) Arrangement and Agency Fees. The Borrower shall pay an arrangement fee to the Arranger for the Arranger's own account, and shall pay an agency fee to the Administrative Agent for the Administrative Agent's own account, in the amounts and at the times specified in the letter agreement, dated December 15, 2006 (the "Agent and Arranger Fee Letter"), among the Borrower, the Arranger and the Administrative Agent. Such fees shall be fully earned when paid and shall be nonrefundable for any reason whatsoever.

**SECTION 2.11 Computation of Interest and Fees.** Computation of interest on Base Rate Loans and commitment fees shall be calculated on the basis of a year of 365 or 366 days, as the case may be, and the actual number of days elapsed. Computation of all other types of interest and all fees shall be calculated on the basis of a year of 360 days and the actual number of days elapsed, which results in a higher yield to the payee thereof than a method based on a year of 365 or 366 days. Interest shall accrue on each Loan for the day on which the Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which the Loan or such portion is paid, provided that any Loan that is repaid on the same day on which it is made shall bear interest for one day.

**SECTION 2.12 Notes and Other Evidence of Debt.**

(a) The obligation of the Borrower to repay to each Lender the aggregate amount of all Loans made by such Lender (such Lender's "Loan"), together with interest accruing in connection therewith, shall be evidenced by a single promissory note (such Lender's "Note") made by the Borrower in the amount of such Lender's Commitment Amount payable to the order of such Lender, which Note shall be substantially in the form of Exhibit B with appropriate insertions. Each Lender may record the date, Type (if applicable), amount and maturity of the applicable Loans and payments with respect thereto in one or more schedules to its Note or on one or more accounts or records maintained by such Lender and by the Administrative Agent in the ordinary course of business. The accounts or records maintained by the Administrative Agent and each Lender shall be conclusive absent manifest error of the amount of the Credit Extensions made by the Lenders to the Borrower and the interest and payments thereon. Any failure so to record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrower hereunder to pay any amount owing with respect to the Loans and L/C Obligations.

(b) In addition to the accounts and records referred to in subsection (a), each Lender and the Administrative Agent shall maintain in accordance with its usual practice accounts or records evidencing the purchases and sales by such Lender of participations in Letters of Credit. In the event of any conflict between the accounts and records maintained by the Administrative Agent and the accounts and records of any Lender in respect of such matters, the accounts and records of the Administrative Agent shall control.

**SECTION 2.13 Payments Generally.**

(a) All payments to be made by the Borrower shall be made without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, all payments by the Borrower hereunder shall be made to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the Administrative Agent's Office in Dollars and in immediately available funds not later than 12:00 noon, central time, on the date specified herein. The Administrative Agent will promptly distribute to each Lender its Percentage Share (or other applicable share as provided herein) of such payment in like funds as received by wire transfer to such Lender's Lending Office. All payments received by the Administrative Agent after 12:00 noon, central time, shall be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue.

(b) Subject to the definition of "Interest Period," if any payment to be made by the Borrower shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.

(c) Unless the Borrower or any Lender has notified the Administrative Agent prior to the date any payment is required to be made by it to the Administrative Agent hereunder, that the Borrower or such Lender, as the case may be, will not make such payment, the Administrative Agent may assume that the Borrower or such Lender, as the case may be, has timely made such payment and may (but shall not be so required to), in reliance thereon, make available a corresponding amount to the Person entitled thereto. If and to the extent that such payment was not in fact made to the Administrative Agent in immediately available funds, then:

(i) if the Borrower failed to make such payment, each Lender shall forthwith on demand repay to the Administrative Agent the portion of such assumed payment that was made available to such Lender in immediately available funds, together with interest thereon (1) in respect of each of the first two Business Days from and including the date such amount was made available by the Administrative Agent to such Lender to the date such amount is repaid to the Administrative Agent in immediately available funds, at the Federal Funds Rate from time to time in effect, and (2) in respect of each day after the first two Business Days from and including the date such amount was made available by the Administrative Agent to such Lender to the date such amount is repaid to the Administrative Agent in immediately available funds, at the Base Rate from time to time in effect; and

(ii) if any Lender failed to make such payment, such Lender shall forthwith on demand pay to the Administrative Agent the amount thereof in immediately available funds, together with interest thereon for the period from the date such amount was made available by the Administrative Agent to the Borrower to the date such amount is recovered by the Administrative Agent (the "Compensation Period") at a rate per annum equal to (1) for the first two Business Days of any Compensation Period, the Federal Funds Rate from time to time in effect, and (2) for each other day of any Compensation Period, the interest rate applicable to the applicable Borrowing. If such Lender pays such

amount to the Administrative Agent, then such amount shall constitute such Lender's Loan included in the applicable Borrowing. If such Lender does not pay such amount forthwith upon the Administrative Agent's demand therefor, the Administrative Agent may make a demand therefor upon the Borrower, and the Borrower shall pay such amount to the Administrative Agent, together with interest thereon for the Compensation Period at a rate per annum equal to the rate of interest applicable to the applicable Borrowing. Nothing herein shall be deemed to relieve any Lender from its obligation to fulfill its Commitment or to prejudice any rights that the Administrative Agent or the Borrower may have against any Lender as a result of any default by such Lender hereunder.

A notice of the Administrative Agent to any Lender with respect to any amount owing under this subsection (c) shall be conclusive, absent manifest error.

(d) If any Lender makes available to the Administrative Agent funds for any Loan to be made by such Lender as provided in the foregoing provisions of this Article II, and the conditions to the applicable Credit Extension set forth in Article IV are not satisfied or waived in accordance with the terms hereof, the Administrative Agent shall return such funds (in like funds as received from such Lender) to such Lender, without interest.

(e) The obligations of the Lenders hereunder to make Loans and to fund participations in Letters of Credit are several and not joint. The failure of any Lender to make any Loan or to fund any such participation on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Loan or purchase its participation.

(f) Nothing herein shall be deemed to obligate any Lender to obtain the funds for any Loan in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds for any Loan in any particular place or manner.

**SECTION 2.14 Sharing of Payments.** If, other than as expressly provided elsewhere herein, any Lender shall obtain on account of the Loans made by it, or the participations in L/C Obligations held by it, any payment (whether voluntary, involuntary, through the exercise of any right of set-off, or otherwise) in excess of its ratable share (or other share contemplated hereunder) thereof, such Lender shall immediately (a) notify the Administrative Agent of such fact, and (b) purchase from the other Lenders such participations in the Loans made by them and/or such subparticipations in the participations in L/C Obligations held by them, as the case may be, as shall be necessary to cause such purchasing Lender to share the excess payment in respect of such Loan or such participations, as the case may be, pro rata with each of them; provided, however, that if all or any portion of such excess payment is thereafter recovered from the purchasing Lender, such purchase shall to that extent be rescinded and each other Lender shall repay to the purchasing Lender the purchase price paid therefor, together with an amount equal to such paying Lender's ratable share (according to the proportion of (i) the amount of such paying Lender's required repayment to (ii) the total amount so recovered from the purchasing Lender) of any interest or other amount paid or payable by the purchasing Lender in respect of the total amount so recovered. The Borrower agrees that any Lender so purchasing a participation from another Lender may, to the fullest extent permitted by law, exercise all its

rights of payment (including the right of set-off, but subject to [Section 10.9](#)) with respect to such participation as fully as if such Lender were the direct creditor of the Borrower in the amount of such participation. The Administrative Agent will keep records (which shall be conclusive and binding in the absence of manifest error) of participations purchased under this Section and will in each case notify the Lenders following any such purchases or repayments. Each Lender that purchases a participation pursuant to this Section shall from and after such purchase have the right to give all notices, requests, demands, directions and other communications under this Agreement with respect to the portion of the Obligations purchased to the same extent as though the purchasing Lender were the original owner of the Obligations purchased.

**SECTION 2.15 Increase in Commitment Amounts and Aggregate Commitments.**

(a) Upon prior notice to, and the written consent (which consent shall not be unreasonably withheld or delayed) of, the Administrative Agent (which shall promptly notify the Lenders), the Borrower may from time to time, (i) request that the Lenders increase the Aggregate Commitments pro rata among the Lenders up to an amount not exceeding the Maximum Loan Amount or (ii) invite one or more Lenders to increase its respective Commitment Amount or one or more additional Eligible Assignees to become Lenders party to the Agreement, in each case so as to increase the Aggregate Commitments to an amount not exceeding the Maximum Loan Amount. At the time of sending such notice to the Lenders or any Lender or invitee, the Borrower (in consultation with the Administrative Agent) shall specify the time period within which each Lender or invitee, as applicable, is requested to respond (which shall in no event be less than ten (10) Business Days from the date of delivery of such notice to the Lenders). If the Borrower has requested that the Lenders increase their respective Commitment Amounts pro rata hereunder, each Lender shall notify the Administrative Agent within such time period whether or not it agrees to increase its respective Commitment Amount and, if so, whether by an amount equal to, greater than, or less than its then current Percentage Share of such requested increase and any Lender not responding within such time period shall be deemed to have declined to increase its respective Commitment Amount. Anything herein contained to the contrary notwithstanding, no Lender shall have any obligation whatsoever to increase its respective Commitment Amount hereunder. The consent of the Lenders shall not be required in order for one or more Lender to increase its Commitment Amount hereunder or for any Eligible Assignee to become a party to this Agreement pursuant to this [Section 2.15](#).

(b) If the Aggregate Commitments are increased in accordance with this [Section 2.15](#), the Administrative Agent and the Borrower shall determine the effective date of such increase (the "[Increase Effective Date](#)"). The Administrative Agent and the Borrower shall promptly notify the Lenders of the final allocation of such increase and the Increase Effective Date. Each existing Lender that increases its Commitment Amount and each additional Lender, if any, and the Borrower shall execute and deliver to the Administrative Agent (which the Administrative Agent shall also execute to acknowledge its acceptance thereof) a certificate substantially in the form of [Exhibit J](#) hereto (an "[Additional Lender Certificate](#)"). Upon receipt by the Administrative Agent of Additional Lender Certificates from existing Lenders or additional Lenders, if any, in an amount sufficient to effectuate the increase requested by the Borrower: (1) the Aggregate Commitments shall be increased, (2) the Administrative Agent shall amend and distribute to the Borrower and the Lenders a revised [Schedule 2.1](#) of the Commitment



Amounts and Percentage Shares of each Lender adding or amending, as applicable, the Commitment Amount and Percentage Share of any Lender executing the Additional Lender Certificate and the revised Percentage Shares of the other Lenders, as applicable (which shall be deemed incorporated into this Agreement), (3) any additional Lender shall be deemed to be a party in all respects to this Agreement and the other Loan Documents to which the Lenders are party as of the Increase Effective Date and (4) upon the Increase Effective Date, any increasing or additional Lender party to the Additional Lender Certificate shall purchase from each of the (other) Lenders party to the Agreement immediately prior to the Increase Effective Date a pro rata portion of the outstanding Loans (and participations L/C Obligations) of each such (other) Lender such that each Lender (including any additional Lender, if any) shall hold its respective Percentage Share of the outstanding Loans (and participations in L/C Obligations) as reflected in the revised Schedule 2.1 required by this Section 2.15, provided that the Borrower shall pay any amounts due under Section 3.5 to the extent that any such purchase gives rise to the costs indemnified thereby.

(c) As a condition precedent to such increase, the Borrower shall deliver to the Administrative Agent a certificate dated as of the Increase Effective Date (in sufficient copies for each Lender) signed by a Responsible Officer of the Borrower (i) certifying and attaching the resolutions adopted by the Borrower approving or consenting to such increase, (ii) including a Compliance Certificate demonstrating pro forma compliance with Section 7.13 after giving effect to such increase and (iii) certifying that, before and after giving effect to such increase, the representations and warranties contained in Article V are true and correct on and as of the Increase Effective Date and no Default or Event of Default exists. The Borrower shall execute and deliver (1) replacement Notes in accordance with Section 2.12 reflecting such Lender's Commitment Amount, which Notes shall be dated as of the date of this Agreement and shall otherwise comply with the provisions of Section 2.12, (2) if requested by the Administrative Agent in its sole discretion, amendments or supplements to any of the Security Documents as may be necessary or desirable to reflect the increase in the Aggregate Commitment Amount, and (3) a Form U-1 or an amendment to any previously delivered Form U-1, together with all annexes or schedules thereto and any other documents or information related thereto as may be requested by the Administrative Agent or any Lender, for each Lender duly completed and executed by the Borrower in form and substance acceptable to each Lender (as evidenced by each Lender having executed and returned a copy of its respective Form U-1) demonstrating compliance with Regulation U issued by the Board after giving effect to any increase in the Aggregate Commitments.

(d) This Section shall supersede any provision in Section 10.1 to the contrary but shall be subject to Section 2.5.

### ARTICLE III. TAXES, YIELD PROTECTION AND ILLEGALITY

#### SECTION 3.1 Taxes.

(a) Any and all payments by the Borrower to or for the account of the Administrative Agent or any Lender under any Loan Document shall be made free and clear of and without deduction for any and all present or future taxes, duties, levies, imposts, deductions, assessments,

fees, withholdings or similar charges, and all liabilities with respect thereto, excluding, in the case of the Administrative Agent and each Lender, taxes imposed on or measured by its net income, and franchise taxes imposed on it (in lieu of net income taxes), by the jurisdiction (or any political subdivision thereof) under the Laws of which the Administrative Agent or such Lender, as the case may be, is organized or maintains a lending office (all such non-excluded taxes, duties, levies, imposts, deductions, assessments, fees, withholdings or similar charges, and liabilities being hereinafter referred to as "Taxes"). If the Borrower shall be required by any Laws to deduct any Taxes from or in respect of any sum payable under any Loan Document to the Administrative Agent or any Lender, (i) the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section), the Administrative Agent and such Lender receives an amount equal to the sum it would have received had no such deductions been made, (ii) the Borrower shall make such deductions, (iii) the Borrower shall pay the full amount deducted to the relevant taxation authority or other authority in accordance with applicable Laws, and (iv) within 30 days after the date of such payment, the Borrower shall furnish to the Administrative Agent (which shall forward the same to such Lender) the original or a certified copy of a receipt evidencing payment thereof.

(b) In addition, the Borrower agrees to pay any and all present or future stamp, court or documentary taxes and any other excise or property taxes or charges or similar levies which arise from any payment made under any Loan Document or from the execution, delivery, performance, enforcement or registration of, or otherwise with respect to, any Loan Document (hereinafter referred to as "Other Taxes").

(c) If the Borrower shall be required to deduct or pay any Taxes or Other Taxes from or in respect of any sum payable under any Loan Document to the Administrative Agent or any Lender, the Borrower shall also pay to the Administrative Agent (for the account of such Lender) or to such Lender, at the time interest is paid, such additional amount that such Lender specifies as necessary to preserve the after-tax yield (after factoring in all taxes, including taxes imposed on or measured by net income) such Lender would have received if such Taxes or Other Taxes had not been imposed.

(d) The Borrower agrees to indemnify the Administrative Agent and each Lender for (i) the full amount of Taxes and Other Taxes (including any Taxes or Other Taxes imposed or asserted by any jurisdiction on amounts payable under this Section) paid by the Administrative Agent and such Lender, (ii) amounts payable under Section 3.1(c) and (iii) any liability (including penalties, interest and expenses) arising therefrom or with respect thereto, in each case whether or not such Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. Payment under this subsection (d) shall be made within 30 days after the date the Lender or the Administrative Agent makes a demand therefor.

**SECTION 3.2 Illegality.** If any Lender determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its applicable Lending Office to make, maintain or fund LIBO Rate Loans, or materially restricts the authority of such Lender to purchase or sell, or to take deposits of, Dollars in the applicable offshore Dollar market, or to determine or charge interest rates based upon the LIBO Rate, then,

on notice thereof by such Lender to the Borrower through the Administrative Agent, any obligation of such Lender to make or continue LIBO Rate Loans or to convert Base Rate Loans to LIBO Rate Loans shall be suspended until such Lender notifies the Administrative Agent and the Borrower that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, the Borrower shall, upon demand from such Lender (with a copy to the Administrative Agent), prepay or, if applicable, convert all LIBO Rate Loans of such Lender to Base Rate Loans, either on the last day of the Interest Period thereof, if such Lender may lawfully continue to maintain such LIBO Rate Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such LIBO Rate Loans. Upon any such prepayment or conversion, the Borrower shall also pay interest on the amount so prepaid or converted. Each Lender agrees to designate a different Lending Office if such designation will avoid the need for such notice and will not, in the good faith judgment of such Lender, otherwise be materially disadvantageous to such Lender.

**SECTION 3.3 Inability to Determine Rates.** If the Administrative Agent determines in connection with any request for a LIBO Rate Loan or a conversion to or continuation thereof that (a) Dollar deposits are not being offered to banks in the applicable offshore Dollar market for the applicable amount and Interest Period of such LIBO Rate Loan, (b) adequate and reasonable means do not exist for determining the LIBO Rate for such LIBO Rate Loan, or (c) the Adjusted LIBO Rate for such LIBO Rate Loan does not adequately and fairly reflect the cost to the Lenders of funding such LIBO Rate Loan, the Administrative Agent will promptly notify the Borrower and all Lenders. Thereafter, the obligation of the Lenders to make or maintain LIBO Rate Loans shall be suspended until the Administrative Agent revokes such notice. Upon receipt of such notice, the Borrower may revoke any pending request for a Borrowing, conversion or continuation of LIBO Rate Loans or, failing that, will be deemed to have converted such request into a request for a Borrowing of Base Rate Loans in the amount specified therein.

**SECTION 3.4 Increased Cost and Reduced Return; Capital Adequacy.**

(a) If any Lender determines that, as a result of the introduction of, or any change in, or in the interpretation of any Law, or such Lender's compliance therewith, there shall be any increase in the cost to such Lender of agreeing to make or making, funding or maintaining LIBO Rate Loans or (as the case may be) issuing or participating in Letters of Credit, or a reduction in the amount received or receivable by such Lender in connection with any of the foregoing (excluding for purposes of this subsection (a) any such increased costs or reduction in amount resulting from (i) Taxes or Other Taxes (as to which Section 3.1 shall govern), (ii) changes in the basis of taxation of overall net income or overall gross income by the United States or any foreign jurisdiction or any political subdivision of either thereof under the Laws of which such Lender is organized or has its Lending Office, and (iii) reserve requirements utilized, as to LIBO Rate Loans, in the determination of the Adjusted LIBO Rate), then from time to time upon demand of such Lender (with a copy of such demand to the Administrative Agent), the Borrower shall pay to such Lender such additional amounts as will compensate such Lender for such increased cost or reduction.

(b) If any Lender determines that the introduction of any Law regarding capital adequacy or any change therein or in the interpretation thereof, or compliance by such Lender (or its Lending Office) therewith, has the effect of reducing the rate of return on the capital of such Lender or any corporation controlling such Lender as a consequence of such Lender's obligations hereunder (taking into consideration its policies with respect to capital adequacy and such Lender's desired return on capital), then from time to time upon demand of such Lender (with a copy of such demand to the Administrative Agent), the Borrower shall pay to such Lender such additional amounts as will compensate such Lender for such reduction.

**SECTION 3.5 Funding Losses.** Upon demand of any Lender (with a copy to the Administrative Agent) from time to time, the Borrower shall promptly compensate such Lender for and hold such Lender harmless from any loss, cost or expense incurred by it as a result of:

(a) any continuation, conversion, payment or prepayment of any Loan other than a Base Rate Loan on a day other than the last day of the Interest Period for such Loan (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise); or

(b) any failure by the Borrower (for a reason other than the failure of such Lender to make a Loan) to prepay, borrow, continue or convert any Loan other than a Base Rate Loan on the date or in the amount notified by the Borrower; or

(c) any assignment of a LIBO Rate Loan on a day other than the last day of the Interest Period therefor as a result of a request by the Borrower pursuant to Section 3.9;

including any loss of anticipated profits and any loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain such Loan or from fees payable to terminate the deposits from which such funds were obtained. The Borrower shall also pay any customary administrative fees charged by such Lender in connection with the foregoing.

For purposes of calculating amounts payable by the Borrower to the Lenders under this Section 3.5, each Lender shall be deemed to have funded each LIBO Rate Loan made by it at the LIBO Rate for such Loan by a matching deposit or other borrowing in the applicable offshore Dollar interbank market for a comparable amount and for a comparable period, whether or not such LIBO Rate Loan was in fact so funded.

**SECTION 3.6 Matters Applicable to all Requests for Compensation.**

(a) A certificate of the Administrative Agent or any Lender claiming compensation under this Article III and setting forth the additional amount or amounts to be paid to it hereunder shall be conclusive in the absence of manifest error. In determining such amount, the Administrative Agent or such Lender may use any reasonable averaging and attribution methods.

(b) Upon any Lender's making a claim for compensation under Section 3.1 or 3.4, the Borrower may remove or replace such Lender in accordance with Section 3.9; provided that the Borrower shall have the right to replace such Lender only if they also replace any other Lender who has made or is making a similar claim for compensation under Section 3.1 or 3.4.

**SECTION 3.7 Survival.** All of the Borrower's obligations under this Article III shall survive termination of the Commitments and of this Agreement and payment in full of all the other Obligations.

**SECTION 3.8 Foreign Lenders.** Each Lender that is a "foreign corporation, partnership or trust" within the meaning of the Code (a "Foreign Lender") shall deliver to the Administrative Agent, prior to receipt of any payment subject to withholding under the Code (or after accepting an assignment of an interest herein), two duly signed completed copies of either IRS Form W-8BEN or any successor thereto (relating to such Person and entitling it to an exemption from, or reduction of, withholding tax on all payments to be made to such Person by the Borrower pursuant to this Agreement) or IRS Form W-8ECI or any successor thereto (relating to all payments to be made to such Person by the Borrower pursuant to this Agreement) or such other evidence satisfactory to the Borrower and the Administrative Agent that such Person is entitled to an exemption from, or reduction of, U.S. withholding tax. Thereafter and from time to time, each such Person shall (a) promptly submit to the Administrative Agent such additional duly completed and signed copies of one of such forms (or such successor forms as shall be adopted from time to time by the relevant United States taxing authorities) as may then be available under then current United States laws and regulations to avoid, or such evidence as is satisfactory to the Borrower and the Administrative Agent of any available exemption from or reduction of, United States withholding taxes in respect of all payments to be made to such Person by the Borrower pursuant to this Agreement, (b) promptly notify the Administrative Agent of any change in circumstances which would modify or render invalid any claimed exemption or reduction, and (c) take such steps as shall not be materially disadvantageous to it, in the reasonable judgment of such Lender, and as may be reasonably necessary (including the re-designation of its Lending Office) to avoid any requirement of applicable Laws that the Borrower make any deduction or withholding for taxes from amounts payable to such Person. If such Person fails to deliver the above forms or other documentation, then the Administrative Agent may withhold from any interest payment to such Person an amount equivalent to the applicable withholding tax imposed by Sections 1441 and 1442 of the Code, without reduction. If any Governmental Authority asserts that the Administrative Agent did not properly withhold any tax or other amount from payments made in respect of such Person, such Person shall indemnify the Administrative Agent therefor, including all penalties and interest, any taxes imposed by any jurisdiction on the amounts payable to the Administrative Agent under this Section, and costs and expenses (including Attorney Costs) of the Administrative Agent. The obligation of the Lenders under this Section shall survive the payment of all Obligations and the resignation or replacement of the Administrative Agent.

**SECTION 3.9 Removal and Replacement of Lenders.**

(a) Under any circumstances set forth herein providing that the Borrower shall have the right to remove or replace a Lender as a party to this Agreement, the Borrower may, upon notice to such Lender and the Administrative Agent, (i) remove such Lender by terminating such Lender's Commitment or (ii) replace such Lender by causing such Lender to assign its Commitment (and Commitment Amount) (without payment of any assignment fee) pursuant to Section 10.7.2(a) to one or more other Lenders or Eligible Assignees procured by the Borrower; provided, however, that if the Borrower elects to exercise such right with respect to any Lender

pursuant to Section 3.6(b), it shall be obligated to remove or replace, as the case may be, all Lenders that have made similar requests for compensation pursuant to Section 3.1 or 3.4. The Borrower shall (x) pay in full all principal, interest, fees and other amounts owing to such Lender through the date of termination or assignment (including any amounts payable pursuant to Section 3.5), (y) provide appropriate assurances and indemnities (which may include letters of credit) to the Issuing Bank as may reasonably be required with respect to any continuing obligation to purchase participation interests in any L/C Obligations then outstanding, and (z) release such Lender from its obligations under the Loan Documents. Any Lender being replaced shall execute and deliver an Lender Assignment with respect to such Lender's Commitment, Commitment Amount and outstanding Credit Extensions. The Administrative Agent shall distribute an amended Schedule 2.1, which shall be deemed incorporated into this Agreement, to reflect changes in the identities of the Lenders and adjustments of their respective Commitment Amounts and/or Percentage Shares resulting from any such removal or replacement.

(b) In order to make all the Lenders' interests in any outstanding Credit Extensions ratable in accordance with any revised Percentage Shares after giving effect to the removal or replacement of a Lender, the Borrower shall pay or prepay, if necessary, on the effective date thereof, all outstanding Loans of all Lenders, together with any amounts due under Section 3.5. The Borrower may then request Loans from the Lenders in accordance with their revised Percentage Shares. The Borrower may net any payments required hereunder against any funds being provided by any Lender or Eligible Assignee replacing a terminating Lender. The effect for purposes of this Agreement shall be the same as if separate transfers of funds had been made with respect thereto.

(c) This section shall supersede any provision in Section 10.1 to the contrary.

**ARTICLE IV.**  
**CONDITIONS PRECEDENT TO CREDIT EXTENSIONS**

**SECTION 4.1 Conditions of Initial Credit Extension.** The obligation of each Lender to make its initial Credit Extension hereunder is subject to satisfaction of the following conditions precedent:

(a) Unless waived by all the Lenders (or by the Administrative Agent with respect to immaterial matters or items specified in clause (v) or (vi) below with respect to which the Borrower has given assurances satisfactory to the Administrative Agent that such items shall be delivered promptly following the Closing Date), the Administrative Agent's receipt of the following, each of which shall be originals or facsimiles (followed promptly by originals) unless otherwise specified, each properly executed by a Responsible Officer of the signing Loan Party, each dated the Closing Date (or, in the case of certificates of governmental officials, a recent date before the Closing Date) and each in form and substance satisfactory to the Administrative Agent and its legal counsel:

(i) executed counterparts of this Agreement, an amended and restated Guaranty substantially in the form of Exhibit E from each of the Guarantors, the Second Amended and Restated Subordination Agreement substantially in the form of Exhibit G

from each of the Guarantors, an amended and restated Security Agreement substantially in the form of Exhibit I from each of the Loan Parties, an amended and restated Pledge Agreement and Irrevocable Proxy substantially in the form of Exhibit H from each Loan Party (other than COL), and each Mortgage dated as of the date hereof and each of the Mortgage Amendments described in the Security Schedule, sufficient in number for distribution to the Administrative Agent, each Lender and the Borrower, and, in the case of the Security Documents, in form and in sufficient number of counterparts for the prompt completion of all recording and filing of the Security Documents as may be necessary or, in the opinion of the Administrative Agent, desirable to create or continue, as appropriate, a valid perfected first Lien against the collateral covered by such Security Documents, and together with stock certificates, membership interest certificates or such other certificated security as may be part of the collateral covered by the Security Documents and with stock powers or other transfer powers or instruments executed in blank for each such certificate, interest or security;

(ii) Notes executed by the Borrower in favor of each Lender, each in a principal amount equal to such Lender's Commitment Amount;

(iii) such certificates of resolutions or other action, incumbency certificates and/or other certificates of Responsible Officers of each Loan Party as the Administrative Agent may require to establish the identities of and verify the authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Agreement and the other Loan Documents to which such Loan Party is a party;

(iv) such evidence as the Administrative Agent may reasonably require to verify that each Loan Party is duly organized or formed, validly existing, in good standing and qualified to engage in business in each jurisdiction in which it is required to be qualified to engage in business, including certified copies of each Loan Party's Organization Documents (unless previously delivered pursuant to the Prior Credit Facility), certificates of good standing and/or qualification to engage in business and tax clearance certificates;

(v) a certificate signed by a Responsible Officer of the Borrower certifying (A) that the conditions specified in Sections 4.2(a) and (b) have been satisfied, and (B) that there has been no event or circumstance since the date of the Initial Audited Financial Statements that has or could be reasonably expected to have a Material Adverse Effect;

(vi) an opinion of counsel to each Loan Party substantially in the form of Exhibits F-1, F-2, F-3, F-4, F-5 and F-6;

(vii) a Form U-1, together with all annexes or schedules thereto and any other documents or information related thereto as may be requested by the Administrative Agent or any Lender, for each Lender duly completed and executed by the Borrower in form and substance acceptable to each Lender (as evidenced by each Lender having executed and returned a copy of its respective Form U-1) demonstrating compliance with Regulation U issued by the Board (including with respect to those certain loans in an

aggregate principal amount of \$40,000,000 advanced by the Prior Lenders under the Prior Credit Facility on or about August 28, 2006);

(viii) a certificate of insurance of the Borrower and its Restricted Subsidiaries evidencing that the Borrower and its Restricted Subsidiaries are carrying insurance in accordance with Section 6.7 and that such insurance is in full force and effect;

(ix) the Initial Engineering Report;

(x) the Initial Audited Financial Statements;

(xi) the unaudited consolidated balance sheet of the Borrower and its Subsidiaries as of September 30, 2006 and the related unaudited consolidated statements of income and cash flows of the Borrower for the fiscal quarter ended September 30, 2006, all in form and substance satisfactory to the Administrative Agent;

(xii) proper financing statements (form UCC-1) or amendments to existing financing statements (form UCC-3), as appropriate, to be filed on or promptly after the date of the initial Borrowing, and, in the case of form UCC-1, naming the Borrower as debtor and the Administrative Agent as secured party, describing all of the Collateral in which the Borrower has granted or purported to grant an interest, filed in the appropriate jurisdictions; proper financing statements (form UCC-1) or amendments to existing financing statements (form UCC-3), as appropriate, to be filed on or promptly after the date of the initial Borrowing, and, in the case of form UCC-1, naming one or more of the Guarantors as debtor(s) and the Administrative Agent as secured party, describing all of the Collateral in which the Guarantor or Guarantors have granted or purported to grant an interest, filed in the appropriate jurisdictions; together with copies of search reports in such jurisdictions as the Administrative Agent may reasonably request, listing all effective financing statements that name any of the Borrower or the Guarantors as debtor and any other documents or instruments as may be necessary or desirable (in the opinion of the Administrative Agent) to perfect or continue the perfection of the Administrative Agent's interest in the Collateral; and

(xiii) such other assurances, certificates, documents, consents or opinions as the Administrative Agent, the Issuing Bank or the Majority Lenders reasonably may require.

(b) Any fees required to be paid on or before the Closing Date pursuant to any of the Loan Documents shall have been paid.

(c) Unless waived by the Administrative Agent, the Borrower shall have paid all costs and expenses payable to the Administrative Agent pursuant to Section 10.4 to the extent invoiced prior to or on the Closing Date, plus such additional amounts of costs and expenses as shall constitute the Administrative Agent's reasonable estimate of the costs and expenses described in Section 10.4 incurred or to be incurred by it through the closing proceedings (provided that such estimate shall not thereafter preclude a final settling of accounts between the Borrower and the Administrative Agent).



**SECTION 4.2 Conditions to all Credit Extensions.** The obligation of each Lender to honor any Notice of Advance or Letter of Credit Application (other than a Notice of Advance requesting only a conversion of Loans to the other Type, or a continuation of Loans as the same Type) is subject to the following conditions precedent:

- (a) The representations and warranties of the Borrower contained in Article V, or which are contained in any document furnished at any time under or in connection herewith, shall be true and correct on and as of the date of such Credit Extension, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct as of such earlier date.
- (b) No Default or Event of Default shall exist, or would result from such proposed Credit Extension.
- (c) The Administrative Agent or, if applicable, the Issuing Bank shall have received a Notice of Advance or Letter of Credit Application in accordance with the requirements hereof.
- (d) The Administrative Agent shall have received, in form and substance satisfactory to it, such other assurances, certificates, documents or consents related to the foregoing as the Administrative Agent or the Majority Lenders reasonably may require.
- (e) If all or any portion of the proceeds of the Credit Extension will be used (or is intended to be used) by the Borrower to make any Investment pursuant to Section 7.2(g), the Borrower shall have satisfied the conditions set forth in such Section.

Each Notice of Advance or Letter of Credit Application (other than a Notice of Advance requesting only a conversion of Loans to the other Type or a continuation of Loans as the same Type) submitted by the Borrower shall be deemed to be a representation and warranty that the conditions specified in Section 4.2 have been satisfied on and as of the date of the applicable Credit Extension.

#### **ARTICLE V. REPRESENTATIONS AND WARRANTIES**

The Borrower represents and warrants to the Administrative Agent and the Lenders that:

**SECTION 5.1 Existence, Qualification and Power; Compliance with Laws.** Each Loan Party (a) is a corporation, partnership or limited liability company duly organized or formed, validly existing and in good standing under the Laws of the jurisdiction of its incorporation or organization, (b) has all requisite power and authority and all governmental licenses, authorizations, consents and approvals to own its assets, carry on its business and to execute, deliver, and perform its obligations under the Loan Documents to which it is a party, (c) is duly qualified and is licensed and in good standing under the Laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification or license, and (d) is in compliance with all Laws, except in each case referred to in clause (c) or this clause (d), to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect.

**SECTION 5.2 Authorization; No Contravention.** The execution, delivery and performance by each Loan Party of each Loan Document to which such Person is a party, have been duly authorized by all necessary corporate or other organizational action, and do not and will not (a) contravene the terms of any of such Person's Organization Documents; (b) conflict with or result in any breach or contravention of, or the creation of any Lien under, any Contractual Obligation to which such Person is a party or any order, injunction, writ or decree of any Governmental Authority to which such Person or its property is subject; or (c) violate any Law.

**SECTION 5.3 Governmental Authorization; Consents.** No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority or any other Person or entity (including, without limitation, any creditor or stockholder of the Borrower or any Guarantor) is necessary or required in connection with the execution, delivery or performance by, or enforcement against, any Loan Party of this Agreement or any other Loan Document.

**SECTION 5.4 Binding Effect.** This Agreement has been, and each other Loan Document, when delivered hereunder, will have been, duly executed and delivered by each Loan Party that is a party thereto. This Agreement constitutes, and each other Loan Document when so delivered will constitute, a legal, valid and binding obligation of such Loan Party, enforceable against each Loan Party that is a party thereto in accordance with its terms except as such enforceability may be limited by any applicable bankruptcy, insolvency, reorganization, moratorium or similar law affecting creditors' rights generally and by general principles of equity.

**SECTION 5.5 Financial Statements; No Material Adverse Effect.**

(a) The Initial Audited Financial Statements (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; (ii) fairly present the financial condition of the Borrower and its Subsidiaries as of the date thereof and their results of operations for the period covered thereby in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; and (iii) show all material indebtedness and other liabilities, direct or contingent, of the Borrower and its Subsidiaries as of the date thereof, including liabilities for taxes, material commitments and Indebtedness in accordance with GAAP consistently applied throughout the period covered thereby.

(b) Since the date of the Initial Audited Financial Statements, there has been no event or circumstance that has or could reasonably be expected to have a Material Adverse Effect.

**SECTION 5.6 Litigation.** Except as specifically disclosed in Schedule 5.6, there are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of the Borrower, threatened or contemplated, at law, in equity, in arbitration or before any Governmental Authority, by or against the Borrower or any of its Restricted Subsidiaries or against any of their properties or revenues that (a) purport to affect or pertain to this Agreement or any other Loan Document, or any of the transactions contemplated hereby, or (b) if determined adversely, could reasonably be expected to have a Material Adverse Effect.

**SECTION 5.7 No Default.** Neither the Borrower nor any Subsidiary is in default under or with respect to any Contractual Obligation that could be reasonably expected to have a Material Adverse Effect. No Default or Event of Default has occurred and is continuing or would result from the consummation of the transactions contemplated by this Agreement or any other Loan Document.

**SECTION 5.8 Ownership of Property; Liens.** The Borrower and each Restricted Subsidiary has good record and marketable title in fee simple to, or valid leasehold interests in, all real property necessary or used in the ordinary conduct of its business, except for such defects in title as would not, individually or in the aggregate, have a Material Adverse Effect. As of the Closing Date, the property of the Borrower and its Restricted Subsidiaries is subject to no Liens, other than Liens permitted by Section 7.1.

**SECTION 5.9 Environmental Matters.** The Borrower and its Subsidiaries conduct in the ordinary course of business a review of the effect of existing Environmental Laws and claims alleging potential liability or responsibility for violation of any Environmental Law on their respective businesses, operations and properties, and as a result thereof the Borrower has reasonably concluded that, except as would not have a Material Adverse Effect (or with respect to (c), (d) and (e) below, where the failure to take such actions would not have a Material Adverse Effect):

(a) neither any property of any Loan Party or any Subsidiary, nor the operations conducted thereon violate any Environmental Laws;

(b) without limitation of clause (a) above, no property of any Loan Party or any Subsidiary, nor the operations currently conducted thereon or, to the best knowledge of the Borrower, by any prior owner or operator of such property or operation, are in violation of or subject to any existing, pending or, to the Borrower's knowledge, threatened action, suit, investigation, inquiry or proceeding by or before any Governmental Authority or to any remedial obligations under Environmental Laws;

(c) all notices, permits, licenses or similar authorizations, if any, required pursuant to Environmental Laws to be obtained or filed in connection with the operation or use of the property of any Loan Party and each Subsidiary have been duly obtained or filed, and the Loan Party and each Subsidiary are in compliance with the terms and conditions of all such notices, permits, licenses and similar authorizations;

(d) all Hazardous Materials, solid waste, and oil and gas exploration and production wastes, if any, generated at the property of any Loan Party or any Subsidiary have in the past been transported, treated and disposed of in accordance with Environmental Laws and so as not to pose an imminent and substantial endangerment to public health or welfare or the environment, and, to the best knowledge of the Borrower, all such transport carriers and treatment and disposal facilities have been and are operating in compliance with Environmental Laws and so as not to pose an imminent and substantial endangerment to public health or welfare or the environment, and are not the subject of any existing, pending or, to the Borrower's knowledge, threatened action, investigation or inquiry by any Governmental Authority in connection with any Environmental Laws;

(e) the Loan Parties and their Subsidiaries have taken all steps reasonably necessary to determine and have determined that no Hazardous Materials, solid waste, or oil and gas exploration and production wastes, have been disposed of or otherwise released and there has been no threatened release of any Hazardous Materials on or to any property of the Loan Parties or any Subsidiary except, in each case, in compliance with Environmental Laws and so as not to pose an imminent and substantial endangerment to public health or welfare or the environment; and

(f) none of the Loan Parties nor any Subsidiary has any known contingent liability in connection with any release or threatened release of any oil, Hazardous Materials or solid waste into the environment.

**SECTION 5.10 Insurance.** The properties of the Borrower and its Restricted Subsidiaries are insured with financially sound and reputable insurance companies that are not Affiliates of the Borrower, in such amounts, with such deductibles and covering such risks as are customarily carried by companies engaged in similar businesses and owning similar properties in localities where the Borrower or its Restricted Subsidiaries operate.

**SECTION 5.11 Taxes.** The Borrower, its Restricted Subsidiaries and each of the Borrower's other Subsidiaries that is a member of Borrower's consolidated U.S. federal income tax group, have filed all Federal, state and other material tax returns and reports required to be filed, and have paid all Federal, state and other material taxes, assessments, fees and other governmental charges levied or imposed upon them or their properties, income or assets otherwise due and payable, except those which are being contested in good faith by appropriate proceedings and for which adequate reserves have been provided in accordance with GAAP. There is no proposed tax assessment against the Borrower, any Restricted Subsidiary or any of the Borrower's other Subsidiaries that is a member of Borrower's consolidated U.S. federal income tax group, that would, if made, have a Material Adverse Effect.

**SECTION 5.12 ERISA Compliance.**

(a) Each Plan is in compliance in all material respects with the applicable provisions of ERISA, the Code and other Federal or state Laws. Each Plan that is intended to qualify under Section 401(a) of the Code has received a favorable determination letter from the IRS or an application for such a letter is currently being processed by the IRS with respect thereto and, to the best knowledge of the Borrower, nothing has occurred which would prevent, or cause the loss of, such qualification. The Borrower and each ERISA Affiliate of the Borrower have made all required contributions to each Plan subject to Section 412 of the Code, and no application for a funding waiver or an extension of any amortization period pursuant to Section 412 of the Code has been made with respect to any Plan.

(b) There are no pending or, to the best knowledge of the Borrower, threatened claims, actions or lawsuits, or action by any Governmental Authority, with respect to any Plan that could be reasonably be expected to have a Material Adverse Effect. There has been no prohibited transaction or violation of the fiduciary responsibility rules with respect to any Plan that has resulted or could be reasonably expected to result in a Material Adverse Effect.

(c) (i) No ERISA Event has occurred or is reasonably expected to occur; (ii) no Pension Plan has any Unfunded Pension Liability; (iii) neither the Borrower nor any ERISA Affiliate of the Borrower has incurred, or reasonably expects to incur, any liability under Title IV of ERISA with respect to any Pension Plan (other than premiums due and not delinquent under Section 4007 of ERISA); (iv) neither the Borrower nor any ERISA Affiliate of the Borrower has incurred, or reasonably expects to incur, any liability (and no event has occurred which, with the giving of notice under Section 4219 of ERISA, would result in such liability) under Sections 4201 or 4243 of ERISA with respect to a Multiemployer Plan; and (v) neither the Borrower nor any ERISA Affiliate of the Borrower has engaged in a transaction that could be subject to Sections 4069 or 4212(c) of ERISA.

**SECTION 5.13 Subsidiaries.**

(a) The Borrower has no Subsidiaries other than those specifically disclosed in Part (a) of Schedule 5.13. All Restricted Subsidiaries of Borrower are duly organized, validly existing and in good standing under the laws of their respective jurisdictions of organization and are duly qualified to do business in each jurisdiction where failure to so qualify would have an Material Adverse Effect. All outstanding shares of stock of each class of each Restricted Subsidiary of Borrower have been and will be validly issued and are and will be fully paid and nonassessable. Except as otherwise set forth on Schedule 5.13, all outstanding shares of stock of each class of each Restricted Subsidiary of Borrower are and will be owned, beneficially and of record, by Borrower or a wholly-owned Subsidiary of Borrower. All outstanding shares of stock of each class of (i) Bois d'Arc Energy owned by the Borrower or any Restricted Subsidiary and (ii) each Restricted Subsidiary of Borrower, are and will be free and clear of any Liens (other than Liens permitted by Section 7.1).

(b) Part (b) of Schedule 5.13 sets forth each of the Subsidiaries of the Borrower that shall have delivered a Guaranty on the Closing Date. Each such Guarantor is and will remain a wholly-owned Subsidiary of the Borrower.

(c) The Borrower has no equity investments in any other corporation or entity other than those specifically disclosed in Part (c) of Schedule 5.13.

**SECTION 5.14 Margin Regulations; Investment Company Act.**

(a) Neither the Borrower nor any of its Subsidiaries is not engaged, and will not engage, principally or as one of its important activities, in the business of purchasing or carrying margin stock (within the meaning of Regulation U issued by the Board), or extending credit for the purpose of purchasing or carrying margin stock.

(b) None of the Borrower, any Person controlling the Borrower, or any Subsidiary is or is required to be registered as an "investment company" under the Investment Company Act of 1940.

**SECTION 5.15 Disclosure.** No statement, information, report, representation, or warranty made in writing by any Loan Party in any Loan Document or furnished to the Administrative Agent or any Lender by or on behalf of any Loan Party in connection with any

Loan Document contains any untrue statement of a material fact or omits any 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. There is no fact known to the Borrower which has caused, or which likely would in the future in the reasonable judgment of the Borrower cause, a Material Adverse Effect (except for any economic conditions which affect generally the industry in which the Borrower and its Restricted Subsidiaries conduct business), that has not been set forth in this Agreement or in the other documents, certificates, statements, reports and other information furnished in writing to the Lenders by or on behalf of the Borrower or any other Loan Party in connection with the transactions contemplated hereby.

**SECTION 5.16 Intellectual Property; Licenses, Etc.** The Borrower and its Restricted Subsidiaries own, or possess the right to use, all of the trademarks, service marks, trade names, copyrights, patents, patent rights, franchises, licenses and other rights that are reasonably necessary for the operation of their respective businesses, without conflict with the rights of any other Person. To the best knowledge of the Borrower, no slogan or other advertising device, product, process, method, substance, part or other material now employed, or now contemplated to be employed, by the Borrower or any Restricted Subsidiary infringes upon any rights held by any other Person. No claim or litigation regarding any of the foregoing is pending or, to the best knowledge of the Borrower, threatened, and no patent, invention, device, application, principle or any statute, law, rule, regulation, standard or code is pending or, to the knowledge of the Borrower, proposed, which, in either case, could reasonably be expected to have a Material Adverse Effect.

**SECTION 5.17 Direct Benefit.** The initial Loans and Letters of Credit hereunder and all additional Loans and Letters of Credit hereunder are for the direct benefit of the Borrower, or in the case of any initial or additional Letters of Credit, one or more of the Restricted Subsidiaries of the Borrower, and the initial Loans and Letters of Credit hereunder are used to refinance and replace indebtedness owing, directly or indirectly, by the Borrower and certain of the Guarantors to the Lenders under the Prior Credit Facility. The Borrower and the Guarantors are engaged as an integrated group in the business of oil and gas exploration and related fields, and any benefits to the Borrower or any Guarantor is a benefit to all of them, both directly or indirectly, inasmuch as the successful operation and condition of the Borrower and the Guarantors is dependent upon the continued successful performance of the functions of the integrated group as a whole.

**SECTION 5.18 Solvency.** Each of the following is true for the Borrower, each Guarantor and the Borrower and the Guarantors on a consolidated basis: (a) the fair saleable value of its or their property is (i) greater than the total amount of its liabilities (including contingent liabilities), and (ii) greater than the amount that would be required to pay its probable aggregate liability on its then existing debts as they become absolute and matured; (b) its or their property is not unreasonable in relation to its business or any contemplated or undertaken transaction; and (c) it or they do not intend to incur, or believe that it or they will incur, debts beyond its or their ability to pay such debts as they become due.

**SECTION 5.19 Indenture Debt Documents.** Before and after giving effect to all the Credit Extensions contemplated hereunder, all representations and warranties of the Borrower or

any Guarantor contained in any Indenture Debt Document are true and correct in all material respects (except to the extent such representations or warranties relate or refer to a specified, earlier date). Before and after giving effect to all the Credit Extensions contemplated hereunder, there is no event of default or event or condition that could become an event of default with notice or lapse of time or both, under the Indenture Debt Documents and each of the Indenture Debt Documents is in full force and effect.

**ARTICLE VI.  
AFFIRMATIVE COVENANTS**

So long as any Lender shall have any Commitment hereunder, any Loan or other Obligation shall remain unpaid or unsatisfied, or any Letter of Credit shall remain outstanding, the Borrower shall, and shall (except in the case of the covenants set forth in Sections 6.1, 6.2, 6.3 and 6.11) cause each of its Restricted Subsidiaries to:

**SECTION 6.1 Financial Statements.** Deliver to the Administrative Agent and each Lender, in form and detail satisfactory to the Administrative Agent and the Majority Lenders:

(a) as soon as available, but in any event within 90 days after the end of each fiscal year of the Borrower, a consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such fiscal year, and the related consolidated statements of income and cash flows for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail, audited and accompanied by a report and opinion of an independent certified public accountant of nationally recognized standing reasonably acceptable to the Majority Lenders, which report and opinion shall be prepared in accordance with GAAP and shall not be subject to any qualifications or exceptions as to the scope of the audit nor to any qualifications and exceptions not reasonably acceptable to the Majority Lenders; and

(b) as soon as available, but in any event within 45 days after the end of each of the first three fiscal quarters of each fiscal year of the Borrower, a consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such fiscal quarter, and the related consolidated statements of income and cash flows for such fiscal quarter and for the portion of the Borrower's fiscal year then ended, setting forth in each case in comparative form the figures for the corresponding fiscal quarter of the previous fiscal year and the corresponding portion of the previous fiscal year, all in reasonable detail and certified by a Responsible Officer of the Borrower as fairly presenting the financial condition, results of operations and cash flows of the Borrower and its Subsidiaries in accordance with GAAP, subject only to normal year-end audit adjustments and the absence of footnotes.

**SECTION 6.2 Certificates; Other Information.** Deliver to the Administrative Agent and each Lender, in form and detail satisfactory to the Administrative Agent and the Majority Lenders:

(a) concurrently with the delivery of the financial statements referred to in Section 6.1(a), a certificate of its independent certified public accountants certifying such financial statements and stating that in making the examination necessary therefor no knowledge

was obtained of any Default or Event of Default or, if any such Default or Event of Default shall exist, stating the nature and status of such event;

(b) concurrently with the delivery of the financial statements referred to in Sections 6.1(a) and (b), a duly completed Compliance Certificate signed by a Responsible Officer of the Borrower;

(c) promptly after requested by the Administrative Agent or any Lender, copies of any detailed audit reports, management letters or recommendations submitted to the board of directors (or the audit committee of the board of directors) of the Borrower by independent accountants in connection with the accounts or books of the Borrower or any Subsidiary, or any audit of any of them;

(d) promptly after the same are available, copies of each annual report, proxy or financial statement or other report or communication sent to the stockholders of the Borrower, and copies of all annual, regular, periodic and special reports and registration statements which the Borrower may file or be required to file with the Securities and Exchange Commission under Section 13 or 15(d) of the Securities Exchange Act of 1934, and not otherwise required to be delivered to the Administrative Agent pursuant hereto;

(e) upon the reasonable request of the Majority Lenders or the Administrative Agent, a schedule of all oil, gas, and other mineral production attributable to all material Oil and Gas Properties of the Borrower and the Guarantors, and in any event all such Oil and Gas Properties included in the Borrowing Base;

(f) promptly, all title or other information received after the Closing Date by the Borrower or any Guarantor which discloses any material defect in the title to any material asset included in the Borrowing Base;

(g) (A) as soon as available and in any event within 90 days after each January 1, commencing with January 1, 2007, an annual reserve report as of each such January 1 with respect to all Hydrocarbons attributable to the Oil and Gas Properties of the Borrower and the Guarantors prepared by an independent engineering firm of recognized standing acceptable to the Majority Lenders in accordance with accepted industry practices and otherwise acceptable and in form and substance satisfactory to the Majority Lenders, and including without limitation all assets included in the Borrowing Base, and (B) within 90 days after each July 1 commencing with July 1, 2007, a reserve report as of such July 1, with respect to all Hydrocarbons attributable to the Oil and Gas Properties of the Borrower and the Guarantors prepared by the Borrower in accordance with accepted industry practices and otherwise acceptable and in form and substance satisfactory to the Majority Lenders, and including without limitation all assets included in the Borrowing Base;

(h) on or within 30 days after the request of the Administrative Agent or the Majority Lenders, in connection with a redetermination of the Borrowing Base permitted under Section 2.8 an updated reserve report with respect to all Hydrocarbons attributable to the Oil and Gas Properties of the Borrower and the Guarantors prepared by an independent engineering firm of recognized standing acceptable to the Majority Lenders in accordance with accepted industry



practices and otherwise acceptable and in form and substance satisfactory to the Majority Lenders, and including without limitation all assets included in the Borrowing Base;

(i) promptly, any management letter from the auditors for the Borrower or any Guarantor and all other information respecting the business, properties or the condition or operations, financial or otherwise, including, without limitation, geological and engineering data of the Borrower or an Guarantor and any title work with respect to any Oil and Gas Properties of the Borrower or any Guarantor as any Bank may from time to time reasonably request;

(j) if requested by the Majority Lenders, title opinions (or other title reports or title information acceptable to the Majority Lenders) and other opinions of counsel, in each case in form and substance acceptable to the Majority Lenders, with respect to at least eighty (80%) percent of the value of the assets included in the Borrowing Base for which satisfactory title reports have not been previously delivered to the Administrative Agent, if any; and

(k) promptly, such additional information regarding the business, financial or corporate affairs of the Borrower or any Subsidiary as the Administrative Agent, at the request of any Lender, may from time to time reasonably request (including, without limitation, updated or supplemental Forms U-1, together with all annexes, schedules and other information, as may be necessary for each Lender to confirm compliance with Regulation U issued by the Board).

**SECTION 6.3 Notices.** Promptly notify the Administrative Agent and each Lender:

(a) of the occurrence of any Default or Event of Default;

(b) of any matter that has resulted or may reasonably be expected to result in a Material Adverse Effect, including (i) breach or non-performance of, or any default under, a Contractual Obligation of the Borrower or any Restricted Subsidiary; (ii) any dispute, litigation, investigation, proceeding or suspension between the Borrower or any Restricted Subsidiary and any Governmental Authority; or (iii) the commencement of, or any material development in, any litigation or proceeding affecting any of the Borrower or any Restricted Subsidiary, including pursuant to any applicable Environmental Laws;

(c) of any litigation, investigation or proceeding affecting any Loan Party in which the amount involved exceeds \$10,000,000 or in which injunctive relief or similar relief is sought, which relief, if granted, could be reasonably expected to have a Material Adverse Effect;

(d) of the occurrence of any ERISA Event; and

(e) of any material change in accounting policies or financial reporting practices by the Borrower or any Subsidiary.

Each notice pursuant to this Section shall be accompanied by a statement of a Responsible Officer of the Borrower setting forth details of the occurrence referred to therein and stating what action the Borrower or the relevant Subsidiary has taken and proposes to take with respect thereto. Each notice pursuant to Section 6.3(a) shall describe with particularity any and all provisions of this Agreement or other Loan Document that have been breached.

**SECTION 6.4 Payment of Obligations.** Pay and discharge as the same shall become due and payable, all its obligations and liabilities, including (a) all tax liabilities, assessments and governmental charges or levies upon it or its properties or assets, unless the same are being contested in good faith by appropriate proceedings and adequate reserves in accordance with GAAP are being maintained by the Borrower or such Restricted Subsidiary; (b) all lawful claims which, if unpaid, would by law become a Lien upon its property; and (c) all Indebtedness, as and when due and payable, but subject to any subordination provisions contained in any instrument or agreement evidencing such Indebtedness.

**SECTION 6.5 Preservation of Existence, Etc.** Preserve, renew and maintain in full force and effect its legal existence and good standing under the Laws of the jurisdiction of its organization; take all reasonable action to maintain all rights, privileges, permits, licenses and franchises necessary or desirable in the normal conduct of its business, except in a transaction permitted by [Section 7.4](#) or [7.5](#); and preserve or renew all of its registered patents, trademarks, trade names and service marks, the non-preservation of which could reasonably be expected to have a Material Adverse Effect.

**SECTION 6.6 Maintenance of Properties.** (a) Maintain, preserve and protect all of its material properties and equipment necessary in the operation of its business in good working order and condition, ordinary wear and tear excepted; (b) make all necessary repairs thereto and renewals and replacements thereof except where the failure to do so could not reasonably be expected to have a Material Adverse Effect; and (c) use the standard of care typical in the industry in the operation and maintenance of its facilities.

**SECTION 6.7 Maintenance of Insurance.** Maintain with financially sound and reputable insurance companies not Affiliates of the Borrower, insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business, of such types and in such amounts as are customarily carried under similar circumstances by such other Persons.

**SECTION 6.8 Compliance with Laws.** Comply in all material respects with the requirements of all Laws applicable to it or to its business or property, except in such instances in which (i) such requirement of Law is being contested in good faith or a bona fide dispute exists with respect thereto; or (ii) the failure to comply therewith could not be reasonably expected to have a Material Adverse Effect.

**SECTION 6.9 Books and Records.** (a) Maintain proper books of record and account, in which full, true and correct entries in conformity with GAAP consistently applied shall be made of all financial transactions and matters involving the assets and business of the Borrower or its Subsidiaries, as the case may be; and (b) maintain such books of record and account in material conformity with all applicable requirements of any Governmental Authority having regulatory jurisdiction over the Borrower or any Subsidiary, as the case may be.

**SECTION 6.10 Inspection Rights.** Permit representatives and independent contractors of the Administrative Agent and each Lender to visit and inspect any of its properties, to examine its corporate, financial and operating records, and make copies thereof or abstracts therefrom, and to discuss its affairs, finances and accounts with its directors, officers,

and independent public accountants, all at the expense of the Borrower and at such reasonable times during normal business hours and as often as may be reasonably desired, upon reasonable advance notice to the Borrower; provided, however, that when an Event of Default exists the Administrative Agent or any Lender (or any of their respective representatives or independent contractors) may do any of the foregoing at the expense of the Borrower at any time during normal business hours and without advance notice.

**SECTION 6.11 Compliance with ERISA.** Do, and cause each of its ERISA Affiliates to do, each of the following: (a) maintain each Plan in compliance in all material respects with the applicable provisions of ERISA, the Code and other Federal or state law; (b) cause each Plan which is qualified under Section 401(a) of the Code to maintain such qualification; and (c) make all required contributions to any Plan subject to Section 412 of the Code.

**SECTION 6.12 Use of Proceeds.** Use the proceeds of the Credit Extensions for working capital and other general corporate purposes, in each case, in compliance with, and not in contravention of, Section 7.11, any Law, any Loan Document, or any other Contractual Obligation.

**SECTION 6.13 Title Materials.** Not later than ninety (90) days following the Closing Date, the Borrower agrees to deliver, or to cause to be delivered, to the Administrative Agent favorable title reports or other title materials (including, if reasonably requested by the Administrative Agent, title opinions) in form and substance satisfactory to the Administrative Agent with respect to such of Borrower's and the Guarantor's Oil and Gas Properties as the Administrative Agent shall reasonably determine or request and for which satisfactory title reports or other title materials have not been previously delivered to the Administrative Agent, if any, and demonstrating that the Borrower or a Guarantor, as applicable, has good and defensible title to such properties and interests that is at least equal to the interest included in the Initial Engineering Report, free and clear of all Liens (other than those permitted by Section 7.1) and covering such other matters as the Administrative Agent may reasonably request.

**SECTION 6.14 [Intentionally Omitted].**

**SECTION 6.15 Additional Covenants.** If at any time the Borrower shall enter into or be a party to any instrument or agreement, including all such instruments or agreements in existence as of the date hereof and all such instruments or agreements entered into after the date hereof, relating to or amending any terms or conditions applicable to any of its Indebtedness which includes covenants, terms, conditions or defaults not substantially provided for in this Agreement or more favorable to the lender or lenders thereunder than those provided for in this Agreement, then the Borrower shall promptly so advise the Administrative Agent and the Lenders. Thereupon, if the Administrative Agent shall request, upon notice to the Borrower, the Administrative Agent and the Lenders shall enter into an amendment to this Agreement or an additional agreement (as the Administrative Agent may request), providing for substantially the same covenants, terms, conditions and defaults as those provided for in such instrument or agreement to the extent required and as may be selected by the Administrative Agent. In addition to the foregoing, any covenants, terms, conditions or defaults in any existing agreements or other documents evidencing or relating to any Indebtedness of the Borrower or any Guarantor (including without limitation the Indenture Debt Documents) not substantially provided for in

this Agreement or more favorable to the holders of such Indebtedness, are hereby incorporated by reference into this Agreement to the same extent as if set forth fully herein, and no subsequent amendment, waiver or modification thereof shall affect any such covenants, terms, conditions or defaults as incorporated herein.

**SECTION 6.16 Security.**

(a) The Security. The Secured Obligations will be secured by the Security Documents listed in the Security Schedule and any additional Security Documents hereafter delivered by any Loan Party or any Affiliate of any Loan Party.

(b) Agreement to Deliver Security Documents. The Borrower shall promptly deliver, and to cause each of the Guarantors to deliver, to further secure the Secured Obligations, deeds of trust, mortgages, chattel mortgages, security agreements, financing statements and other Security Documents in form and substance satisfactory to the Administrative Agent for the purpose of granting, confirming, and perfecting first and prior liens or security interests in (i) prior to the occurrence of a Default (A) at least eighty percent (80%) of the present value of the Borrower's and the Guarantors' Oil and Gas Properties constituting proved reserves to which value is given in the determination of the then current Borrowing Base, (B) after the occurrence of a Default, at least ninety-five percent (95%) of the present value of the Borrower's and the Guarantors' Oil and Gas Properties, (ii) all of the equity interests of the Borrower or any Guarantor in any other Guarantor now owned or hereafter acquired by the Borrower or any Guarantor, and (iii) all property of the Borrower or any Guarantor of the type described in the Security Agreement attached hereto as Exhibit I. The Borrower also agrees to deliver, or to cause to be delivered, to the extent not already delivered, whenever requested by the Administrative Agent in its sole and absolute discretion (a) favorable title information (including, if reasonably requested by the Administrative Agent, title opinions) acceptable to the Administrative Agent with respect to the Borrower's or any Guarantor's Oil and Gas Properties constituting at least eighty percent (80%) of the present value, determined by the Lenders in their sole and absolute discretion and in accordance with their normal practices and standards for oil and gas loans as it exists at the particular time, of the Borrower's and the Guarantors' properties and demonstrating that the Borrower or a Guarantor, as applicable, have good and defensible title to such properties and interests, free and clear of all Liens (other than those permitted by Section 7.1) and covering such other matters as the Administrative Agent may reasonably request and (b) favorable opinions of counsel satisfactory to the Administrative Agent in its sole discretion opining that the forms of Mortgage are sufficient to create valid first deed of trust or mortgage liens in such properties and interests and first priority assignments of and security interests in the Hydrocarbons attributable to such properties and interests and proceeds thereof. In addition and not by way of limitation of the foregoing, in the case of the Borrower or any Guarantor granting a Lien in favor of the Administrative Agent upon any assets having a present value in excess of \$1,000,000 located in a new jurisdiction, the Borrower or Guarantor will at its own expense, obtain and furnish to the Administrative Agent all such opinions of legal counsel as the Administrative Agent may reasonably request in connection with any such security or instrument.

(c) Perfection and Protection of Security Interests and Liens. In addition and not by way of limitation of the foregoing, the Borrower will from time to time deliver, or cause to be delivered, to the Administrative Agent any financing statements, continuation statements, extension agreements and other documents, properly completed (and executed and acknowledged when required) by the Borrower or appropriate Guarantor in form and substance satisfactory to the Administrative Agent, which the Administrative Agent requests for the purpose of perfecting, confirming, or protecting any Liens or other rights in the collateral securing any Secured Obligations. In addition to the foregoing, the Borrower hereby authorizes, and shall cause each Guarantor to authorize, the Administrative Agent, on behalf of the Issuing Bank and the Lenders, to file in the appropriate filing office pursuant to applicable Law such financing statements, assignments and continuation statements as the Administrative Agent shall deem necessary or desirable for the purpose of perfecting, confirming, or protecting any Liens or other rights in the collateral securing any Secured Obligations without the signature of the Borrower or any Guarantor.

(d) Additional Restricted Subsidiaries. Within thirty (30) Business Days after the Borrower or any Restricted Subsidiary creates, acquires or otherwise forms any other Subsidiary (other than a Subsidiary designated as an Unrestricted Subsidiary in accordance with Section 1.6(b)), the Borrower shall:

(i) execute and deliver, or cause each such Subsidiary owning any of the outstanding equity interests in such other Restricted Subsidiary to execute and deliver, as applicable, to the Administrative Agent on behalf of the Lenders, a Pledge Agreement, or an amendment or supplement to an existing Pledge Agreement, if appropriate, pursuant to which all of the outstanding equity interests in such other Restricted Subsidiary owned by the Borrower or such Restricted Subsidiary shall be pledged to the Administrative Agent on behalf of the Lenders, together with any certificates representing all equity interests so pledged, if any, and for each such certificate representing shares of stock, a stock power executed in blank;

(ii) cause such Subsidiary to execute and deliver to the Administrative Agent on behalf of the Lenders (i) a Guaranty, (ii) a ratification and acceptance of the Subordination Agreement, (iii) an agreement substantially similar to the Security Documents executed and delivered on the Closing Date and (iv) a Mortgage as to all Oil and Gas Properties containing any proved Hydrocarbon reserves owned or leased by such Subsidiary;

(iii) cause such Subsidiary to execute and deliver to the Administrative Agent on behalf of the Lenders and the Issuing Bank, or to authorize the Administrative Agent to file or record without such Subsidiary's signature, appropriate financing statements covering the collateral of such Subsidiary described in the Security Documents required to be delivered pursuant to the foregoing clauses (i) or (ii);

(iv) deliver or cause to be delivered to the Administrative Agent on behalf of the Lenders and the Issuing Bank all agreements, documents, instruments and other writings of the type described in Section 4.1(a)(iii), (iv) and (vi) with respect to such Subsidiary and opinions of counsel acceptable to the Administrative Agent and in form

and substance satisfactory to the Administrative Agent covering the matters covered by the opinions delivered on the Closing Date with respect to such Subsidiary; and

(v) deliver or cause to be delivered to the Administrative Agent on behalf of the Lenders all such information regarding the condition (financial or otherwise), business and operations of such Subsidiary as the Administrative Agent, or the Issuing Bank or any Lender through the Administrative Agent, may reasonably request.

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

**SECTION 6.17 [Intentionally Omitted].**

**SECTION 6.18 Unrestricted Subsidiaries.** The Borrower:

(a) will cause the management, business and affairs of each of Borrower and its Subsidiaries to be conducted in such a manner (including, without limitation, by keeping separate books of account, maintaining separate policies of insurance and by not permitting Properties of Borrower and its respective Subsidiaries to be commingled) so that each Unrestricted Subsidiary will be treated as an entity separate and distinct from Borrower and the Restricted Subsidiaries (except (i) with respect to the treatment for tax purposes of the Borrower or any Restricted Subsidiary holding any interest in an Unrestricted Subsidiary that is regarded as a partnership and (ii) for the common management/directorship between the Borrower and any Unrestricted Subsidiary);

(b) except as permitted by Section 7.3(e), will not, and will not permit any of the Restricted Subsidiaries to, incur, assume or suffer to exist Guaranty Obligations or be or become liable for any Indebtedness of any Unrestricted Subsidiary; and

(c) will not permit any Unrestricted Subsidiary to hold any equity interest in, or any Indebtedness of, the Borrower or any Restricted Subsidiary.

**ARTICLE VII.  
NEGATIVE COVENANTS**

So long as any Lender shall have any Commitment hereunder, any Loan or other Obligation shall remain unpaid or unsatisfied, or any Letter of Credit shall remain outstanding, the Borrower shall not, and the Borrower shall not permit any Restricted Subsidiary to, directly or indirectly:

**SECTION 7.1 Liens.** Create, incur, assume or suffer to exist, any Lien upon any of its property, assets or revenues, whether now owned or hereafter acquired, other than the following:

- (a) Liens existing pursuant to any Loan Document;
- (b) Liens existing on the date hereof and listed on Schedule 7.1 and any renewals or extensions thereof, provided that the property covered thereby is not increased and any renewal or extension of the obligations secured or benefited thereby is permitted by Section 7.3(b);
- (c) Liens for taxes not yet due or which are being contested in good faith and by appropriate proceedings, if adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with GAAP;
- (d) carriers', warehousemen's, mechanics', materialmen's, repairmen's, operator's, statutory, royalty owner's or other like Liens arising in the ordinary course of business that are not overdue for a period of more than 30 days or which are being contested in good faith and by appropriate proceedings, if adequate reserves with respect thereto are maintained on the books of the applicable Person;
- (e) pledges or deposits in the ordinary course of business in connection with workers' compensation, unemployment insurance and other social security legislation, other than any Lien imposed by ERISA;
- (f) deposits to secure the performance of bids, trade contracts (other than for borrowed money), leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature incurred in the ordinary course of business;
- (g) easements, rights-of-way, restrictions and other similar encumbrances affecting real property which, in the aggregate, are not substantial in amount, and which do not in any case materially detract from the value of the property subject thereto or materially interfere with the ordinary conduct of the business of the applicable Person;
- (h) Liens on fixed or capital assets acquired, constructed or improved by any Borrower or any Restricted Subsidiary; provided that (i) such Liens, secure Indebtedness permitted by clause (e) of Section 7.3, (ii) such Liens and the Indebtedness secured thereby are incurred prior to or within 90 days after such acquisition or the completion of such construction or improvement, (iii) the Indebtedness secured thereby does not exceed the cost of acquiring,

constructing or improving such fixed or capital assets and (iv) such Liens shall not apply to any other property or assets of any Borrower or any other Restricted Subsidiaries; and

(i) Until such time as the Subordinate Mortgages are released and terminated as permitted by Section 10.16, the Liens existing pursuant to the Subordinate Mortgages.

**SECTION 7.2 Investments.** Make any Investments, except:

(a) Investments other than those permitted by clauses (b) through (h) existing on the date hereof and listed on Schedule 7.2;

(b) Investments held by the Borrower or such Restricted Subsidiary in the form of cash or cash equivalents;

(c) advances to officers, directors and employees of the Borrower or any Restricted Subsidiary in an aggregate amount not to exceed \$50,000 at any time outstanding, for travel, entertainment, relocation and analogous ordinary business purposes;

(d) Investments constituting (1) contributions of capital (but not loans or advances) made by the Borrower in any Guarantor or by any Guarantor in any other Guarantor, and (2) loans or advances by the Borrower to any Guarantor, provided that such Investment constituting a loan or advance shall be evidenced by a Pledged Note pledged to the Administrative Agent pursuant to a Pledge Agreement;

(e) Guaranty Obligations permitted by Section 7.3;

(f) Investments permitted by Section 7.4;

(g) Investments made by the Borrower to purchase or acquire additional shares of common stock of Bois d'Arc Energy, provided that all such Investments made after the Closing Date do not exceed \$40,000,000 in the aggregate during any calendar year; provided, however, that both before and after giving effect to such Investment (on a pro forma basis acceptable to the Administrative Agent) (i) no Default or Event of Default shall have occurred and be continuing, (ii) all representations and warranties contained in Article V hereof shall be true and correct in all material respects as if made both immediately before and immediately after the time of such Investment, and (iii) the Outstanding Amount does not exceed, or would not exceed after giving effect to any Credit Extension the proceeds of which are used (or are intended to be used) to fund any portion of such Investment, 80% of the Borrowing Base then in effect; and further provided, however, that if all or any portion of such Investment is made using the proceeds of any Borrowing, directly or indirectly, then (x) the Borrower shall have delivered to the Administrative Agent and the Lenders prior written notice of such Investment at least five (5) Business Days prior to the requested date of the Borrowing describing such Investment in reasonable detail (as determined by the Administrative Agent and the Lenders), and (y) prior to making any such Investment, the Borrower shall have completed, executed and delivered to each Lender, and each Lender shall have accepted (in each such Lender's sole and absolute discretion) and executed, a Form U-1 (or any successor form promulgated by or on behalf of the Board) demonstrating compliance with Regulation U issued by the Board; and



(h) Investments by the Borrower or any Guarantor in any other Person, provided that all such Investments made after the Closing Date do not exceed \$10,000,000 in the aggregate at any time; provided that such Investment shall not violate Section 7.8 or Section 7.11, and provided, further, that the Borrower shall, or shall cause such other Person to, comply with the provisions of Section 6.16(d) in accordance therewith; and provided, further, that both before and after giving effect to such Investment (on a pro forma basis acceptable to the Administrative Agent) no Default or Event of Default shall have occurred and be continuing and all representations and warranties contained in Article V hereof shall be true and correct in all material respects as if made both immediately before and immediately after the time of such Investment.

**SECTION 7.3 Indebtedness.** Create, incur, assume or suffer to exist any Indebtedness, except:

(a) Indebtedness under the Loan Documents;

(b) Indebtedness outstanding on the date hereof and listed on Schedule 7.3 and any refinancings, refundings, renewals or extensions thereof; provided that the amount of such Indebtedness is not increased at the time of such refinancing, refunding, renewal or extension except by an amount equal to a reasonable premium or other reasonable amount paid, and fees and expenses reasonably incurred, in connection with such refinancing;

(c) Guaranty Obligations of the Borrower or any Restricted Subsidiary in respect of Indebtedness otherwise permitted hereunder of the Borrower or any wholly-owned Restricted Subsidiary provided all such Indebtedness shall be evidenced by Pledged Notes (as described in the Pledged Agreements) which shall have been pledged the Administrative Agent in accordance with the Pledge Agreements;

(d) obligations (contingent or otherwise) of the Borrower or any Restricted Subsidiary existing or arising under any Hedging Agreement with any Lender or any Person with an investment grade debt rating acceptable to the Administrative Agent at the time such Hedging Agreement is entered into or any other Person acceptable to the Administrative Agent, provided that (i) such obligations are (or were) entered into by such Person in the ordinary course of business for the purpose of directly mitigating risks associated with liabilities, commitments, investments, assets, or property held or reasonably anticipated by such Person, or changes in the value of securities issued by such Person and not for purposes of speculation or taking a "market view;" and (ii) such Hedging Agreement does not contain any provision exonerating the non-defaulting party from its obligation to make payments on outstanding transactions to the defaulting party;

(e) Indebtedness in an aggregate principal amount not to exceed \$20,000,000 at any time outstanding, provided that such Indebtedness shall either be unsecured or secured only by Liens satisfying all of the conditions set forth in Section 7.1(h);

(f) Indebtedness of Borrower outstanding under the Indenture Debt Documents, provided that the principal amount of any Indebtedness outstanding under the Indenture Debt Documents shall not exceed \$175,000,000 at any time (except by an amount equal to a

reasonable premium or other reasonable amount paid, and fees and expenses reasonably incurred, in connection with any refinancing, refunding, renewal or extension of the facilities described in the Indenture Debt Documents);

(g) Indebtedness constituting intercompany loans or advances owing by a Guarantor to the Borrower evidenced by a Pledged Note; and

(h) Unsecured insurance premium financing in the ordinary course of business.

**SECTION 7.4 Fundamental Changes.** Merge, consolidate with or into, or convey, transfer, lease or otherwise dispose of (whether in one transaction or in a series of related transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to or in favor of any Person, except that, so long as no Default or Event of Default exists or would result therefrom:

(a) any Restricted Subsidiary may merge with (i) the Borrower, provided that the Borrower shall be the continuing or surviving Person, or (ii) any one or more Restricted Subsidiaries, provided that when any wholly-owned Subsidiary is merging with another Restricted Subsidiary, the wholly-owned Subsidiary shall be the continuing or surviving Person; and

(b) any Restricted Subsidiary may sell all or substantially all of its assets (upon voluntary liquidation or otherwise), to the Borrower or to another Restricted Subsidiary; provided that if the seller in such a transaction is a wholly-owned Restricted Subsidiary, then the purchaser must also be a wholly-owned Restricted Subsidiary.

**SECTION 7.5 Dispositions.** Make any Disposition or enter into any agreement to make any Disposition, except:

(a) Dispositions of obsolete or worn out property, whether now owned or hereafter acquired, in the ordinary course of business;

(b) Dispositions of inventory in the ordinary course of business;

(c) Dispositions of property by any Restricted Subsidiary to the Borrower or to a wholly-owned Restricted Subsidiary;

(d) Dispositions permitted by Section 7.4;

(e) if no Default or Event of Default exists either before or after such Disposition or would result therefrom, Dispositions of Oil and Gas Properties constituting Proved Reserves included in the most recently delivered Engineering Report that, when aggregated with any other Disposition made pursuant to this Section 7.5(g) between the most recent and the next succeeding regularly schedule redeterminations of the Borrowing Base, have a fair market value not exceeding ten percent (10%) of the Borrowing Base in effect at the time of such Disposition, provided that, in connection with any such sales of assets included in the most recently delivered Engineering Report having a fair market value, when aggregated with any other Disposition

made pursuant to this Section 7.5(e) between the most recent and the next succeeding regularly schedule redeterminations of the Borrowing Base, in excess of five percent (5%) of the Borrowing Base in effect at the time of such Disposition, the Borrowing Base shall automatically be reduced concurrently with such Disposition in an amount equal to such excess;

(f) if no Default or Event of Default exists either before or after such Disposition or would result therefrom, Dispositions of Oil and Gas Properties that do not constitute Proved Reserves in the most recently delivered Engineering Report;

(g) if no Default or Event of Default exists either before or after such Disposition or would result therefrom, Dispositions of some or all of the common stock of Bois d'Arc Energy by the Borrower, provided that the Borrower shall have delivered to the Administrative Agent and the Lenders prior written notice of such Disposition at least five (5) Business Days prior to the consummation thereof and, if requested by the Administrative Agent or any Lender in connection with such Disposition, the Borrower shall have executed and delivered prior to the consummation thereof a Form U-1 or an amendment to any previously delivered Form U-1, together with all annexes or schedules thereto and any other documents or information related thereto as may be requested by the Administrative Agent or any Lender, for each Lender duly completed by the Borrower in form and substance acceptable to each Lender (as evidenced by each Lender having executed and returned a copy of its respective Form U-1) demonstrating compliance with Regulation U issued by the Board after giving effect to any such Disposition; and

(h) if no Default or Event of Default exists either before or after such Disposition or would result therefrom, Dispositions of any other assets that are not Oil and Gas Properties, provided that the aggregate fair market value of all such assets shall not exceed \$20,000,000 in any calendar year;

provided, however, that any Disposition pursuant to this Section 7.5 shall be for fair market value.

**SECTION 7.6 Restricted Payments.** Declare or make, directly or indirectly, any Restricted Payment, or incur any obligation (contingent or otherwise) to do so, except that:

(a) each Restricted Subsidiary may make Restricted Payments, directly or indirectly, to the Borrower or a Guarantor;

(b) Borrower may declare and make dividend payments or other distributions payable solely in the common stock of Borrower;

(c) the Borrower and each Restricted Subsidiary may purchase, redeem or otherwise acquire shares of its common stock or warrants or options to acquire any such shares with the proceeds received from the substantially concurrent issue of new shares of its common stock; and

(d) other Restricted Payments that, when aggregated with all Optional Indebtedness Payments made pursuant to Section 7.12(b), if any, do not exceed \$40,000,000 in aggregate

amount during any calendar year; provided that both before and after giving effect to such Restricted Payment, as applicable, (on a pro forma basis acceptable to the Administrative Agent) no Default or Event of Default shall have occurred and be continuing and all representations and warranties contained in Article V hereof shall be true and correct in all material respects as if made at the time of such Restricted Payment;

provided, however, that notwithstanding the foregoing, no Restricted Payment (other than Restricted Payments pursuant to clause (a)) shall be made at any time when the Outstanding Amount exceeds, or would exceed after giving effect to any Credit Extension the proceeds of which are used (or are intended to be used) to fund any portion of such Restricted Payment, 80% of the Borrowing Base then in effect; and further provided, however, that the Borrower will not issue any Disqualified Stock.

**SECTION 7.7 ERISA.** At any time engage in a transaction which could be subject to Section 4069 or 4212(c) of ERISA, or permit any Plan to (a) engage in any non-exempt “prohibited transaction” (as defined in Section 4975 of the Code); (b) fail to comply with ERISA or any other applicable Laws; or (c) incur any material “accumulated funding deficiency” (as defined in Section 302 of ERISA), which, with respect to each event listed above, could be reasonably expected to have a Material Adverse Effect.

**SECTION 7.8 Change in Nature of Business.** Engage in any material line of business substantially different from those lines of business conducted by the Borrower and its Restricted Subsidiaries on the date hereof.

**SECTION 7.9 Transactions with Affiliates.** Enter into any transaction of any kind with any Affiliate of the Borrower (including without limitation, the purchase from, sale to, or exchange of property with, or the rendering of any service by or from, any Affiliate), except in the ordinary course of, and pursuant to the reasonable requirements of, the Borrower’s or any Guarantor’s business and upon fair and reasonable terms no less favorable to the Borrower or such Guarantor than would be obtained in a comparable arms-length transaction with a Person other than an Affiliate provided such transactions are otherwise permitted hereunder.

**SECTION 7.10 Burdensome Agreements.** Enter into any Contractual Obligation (other than this Agreement and the other Loan Documents) that limits the ability of (a) any Restricted Subsidiary to make Restricted Payments to the Borrower or any Guarantor or to otherwise transfer property to the Borrower or any Guarantor, (b) any Restricted Subsidiary to Guarantee the Secured Obligations, or (c) the Borrower or any Restricted Subsidiary to create, incur, assume or suffer to exist Liens on property of such Person, in each case, other than Contractual Obligations pursuant to the Indenture Debt Documents to the extent listed in Schedule 7.10 provided, however, that this clause (c) shall not prohibit any negative pledge incurred or provided in favor of any holder of any Lien permitted under Section 7.1(h) solely to the extent any such negative pledge relates to the property encumbered by such Lien.

**SECTION 7.11 Use of Proceeds.** Except as expressly provided in, and subject to the satisfaction of the conditions set forth in, Section 7.2(g), use the proceeds of any Credit Extension, whether directly or indirectly, and whether immediately, incidentally or ultimately, to purchase or carry margin stock (within the meaning of Regulation U of the Board) or to extend

credit to others for the purpose of purchasing or carrying margin stock or to refund indebtedness originally incurred for such purpose.

**SECTION 7.12 Payments and Modification of Indenture Debt Documents.** Make, or permit any Restricted Subsidiary to make, any optional payment or prepayment of principal of, or make any payment of interest on, any Indebtedness on any day other than the stated, scheduled date for such payment or prepayment set forth in the documents and instruments memorializing such Indebtedness, or defease (whether a covenant defeasance, legal defeasance or other defeasance), prepay or redeem any of Indebtedness or enter into any agreement or arrangement providing for any defeasance of any kind of any Indebtedness, or make any deposit for any of the foregoing purposes (all of the foregoing defined herein as "Optional Indebtedness Payments"), except such Optional Indebtedness Payments that, when aggregated with all Restricted Payments made pursuant to Section 7.6(d), if any, do not exceed \$40,000,000 in aggregate amount during any calendar year, provided that both before and after giving effect to any Optional Indebtedness Payment (on a pro forma basis acceptable to the Administrative Agent) no Default or Event of Default shall have occurred and be continuing and all representations and warranties contained in Article V hereof shall be true and correct in all material respects as if made at the time of the applicable Optional Indebtedness Payment, and further provided, that the Borrower shall not make any Optional Indebtedness Payments permitted above at any time when the Outstanding Amount exceeds, or would exceed after giving effect to any Credit Extension the proceeds of which are used (or are intended to be used) to fund any portion of any Optional Indebtedness Payments, 80% of the Borrowing Base then in effect, or amend or modify, or consent or agree to any amendment or modification of, any Indenture Debt Document.

**SECTION 7.13 Financial Covenants.**

(a) Minimum Tangible Net Worth. Permit or suffer the Consolidated Tangible Net Worth of Borrower and its Subsidiaries, at any time, to be less than the sum of (i) \$450,000,000, plus (ii) 50% of Consolidated Net Income for each fiscal quarter, commencing with the fiscal quarter beginning January 1, 2007, and to be added as of the last day of such fiscal quarter (provided that if such Consolidated Net Income is negative in such fiscal quarter, the amount added pursuant to this clause (ii) shall be zero and shall not reduce the amount previously added pursuant to this clause (ii) for any other fiscal quarter), plus (iii) 75% of the net cash proceeds of any equity offering or other sale of capital stock of Borrower or any of its Restricted Subsidiaries, other than net cash proceeds in an aggregate amount per fiscal year not to exceed \$5,000,000 received by Borrower in connection with the exercising of stock options; provided that for purposes of calculating Consolidated Tangible Net Worth and Consolidated Net Income, the Borrower shall exclude (x) any ceiling test write-down and impairment write-downs required by GAAP or by the Securities and Exchange Commission, (y) any non-cash charges or losses and any non-cash income or gains, in each case described in, and calculated pursuant to, Financial Accounting Standards Board Statements of Financial Accounting Standards Nos. 133 or 143, but shall expressly include any cash charges or payments in respect of the termination of any Hedging Agreement.

(b) Current Ratio. Permit or suffer the ratio of (i) sum of Current Assets plus the unused availability under this Agreement, to (ii) Current Liabilities, to be less than 1.0 to 1.0 at any time; provided that the calculation of Current Assets and Current Liabilities for purposes of this Section 7.13(b) shall exclude any non-cash Current Assets and Current Liabilities, in each case described in, and calculated pursuant to, Financial Accounting Standards Board Statements of Financial Accounting Standards Nos. 133 or 143, but shall expressly include any Current Assets or Current Liabilities in respect of, or arising from, the termination of any Hedging Agreement.

**SECTION 7.14 Limitation on Hedges.** Enter into any commodity hedging or derivative transactions except Hedge Agreements related to bona fide hedging activities of the Borrower or any of its Restricted Subsidiaries in an aggregate notional amount not to exceed, with respect to any future calendar quarter, 100% of the Borrower's and its Restricted Subsidiaries' projected production of oil (for oil related transactions) and 100% of the Borrower's and its Restricted Subsidiaries' projected production of natural gas (for natural gas related transactions), in each case, from proved producing Oil and Gas Properties of the Borrower and its Restricted Subsidiaries.

**ARTICLE VIII.  
EVENTS OF DEFAULT AND REMEDIES**

**SECTION 8.1 Events of Default.** Any of the following shall constitute an Event of Default:

(a) Non-Payment. The Borrower fails to pay within two (2) Business Days after the same becomes due any amount of principal of any Loan or any L/C Obligation, or any interest on any Loan or on any L/C Obligation, or any commitment fee or other fee due hereunder, or any other amount payable hereunder or under any other Loan Document; or

(b) Specific Covenants. The Borrower fails to perform or observe any term, covenant or agreement contained in any of Sections 6.3, 6.5, 6.7, 6.10, 6.12, 6.13 or 6.16 or Article VII; or

(c) Other Defaults. Any Loan Party fails to perform or observe any other covenant or agreement (not specified in clauses (a) or (b), above) contained in any Loan Document on its part to be performed or observed and such failure continues for 30 days after written notice to the Borrower; or

(d) Representations and Warranties. Any representation or warranty made or deemed made by the Borrower or any other Loan Party herein, in any other Loan Document, or in any certificate or document delivered in connection herewith or therewith proves to have been incorrect in any material respect when made or deemed made; or

(e) Cross-Default. (i) Any Loan Party (A) fails to make any payment when due (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) in respect of any Indebtedness or Guaranty Obligation having an aggregate principal amount (including undrawn or available amounts and including amounts owing to all creditors under any combined or syndicated credit arrangement) of more than \$20,000,000, or (B) fails to observe or

perform any other agreement or condition relating to any such Indebtedness or Guaranty Obligation or contained in any instrument or agreement evidencing, securing or relating thereto, or any other event occurs, the effect of which default or other event is to cause, or to permit the holder or holders of such Indebtedness or the beneficiary or beneficiaries of such Guaranty Obligation (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause, with the actual giving of notice if required, such Indebtedness to be demanded or to become due or to be repurchased or redeemed (automatically or otherwise) prior to its stated maturity, or such Guaranty Obligation to become payable or cash collateral in respect thereof to be demanded; or

(f) Insolvency Proceedings, Etc. Any Loan Party institutes or consents to the institution of any proceeding under any Debtor Relief Law, or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer for it or for all or any material part of its property; or any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer is appointed without the application or consent of such Loan Party and the appointment continues undischarged or unstayed for 30 calendar days; or any proceeding under any Debtor Relief Law relating to any such Person or to all or any part of its property is instituted without the consent of such Person and continues undismissed or unstayed for 30 calendar days, or an order for relief is entered in any such proceeding; or

(g) Inability to Pay Debts; Attachment. (i) Any Loan Party becomes unable or admits in writing its inability or fails generally to pay its debts as they become due, or (ii) any writ or warrant of attachment or execution or similar process is issued or levied against all or any material part of the property of any such Loan Party and is not released, vacated or fully bonded within 30 days after its issue or levy; or

(h) Judgments. There is entered against the Borrower or any Guarantor (i) one or more final judgments or orders for the payment of money which together with other such judgments or orders exceeds the aggregate amount of \$20,000,000 (to the extent not covered by independent third-party insurance as to which the insurer does not dispute coverage), or (ii) any non-monetary final judgment that has, or would reasonably be expected to have, a Material Adverse Effect and, in either case, (A) enforcement proceedings are commenced by any creditor upon such judgment or order, or (B) there is a period of 30 consecutive days during which a stay of enforcement of such judgment, by reason of a pending appeal or otherwise, is not in effect; or

(i) ERISA. (i) An ERISA Event occurs with respect to a Pension Plan or Multiemployer Plan which has resulted or could reasonably be expected to result in liability of any Loan Party under Title IV of ERISA to the Pension Plan, Multiemployer Plan or the PBGC, or (ii) any Loan Party or any ERISA Affiliate fails to pay when due, after the expiration of any applicable grace period, any installment payment with respect to its withdrawal liability under Section 4201 of ERISA under a Multiemployer Plan; or

(j) Event of Default Under Other Loan Document. Any event of default described in any Security Document or any other Loan Document shall have occurred and be continuing, or any material provision of any Security Agreement or any other Loan Document shall at any time

for any reason cease to be valid, binding and enforceable against any Loan Party that is an obligor thereunder; or

(k) Invalidity of Loan Documents. Any Loan Document, at any time after its execution and delivery and for any reason other than the agreement of all the Lenders or satisfaction in full of all the Obligations, ceases to be in full force and effect, or is declared by a court of competent jurisdiction to be null and void, invalid or unenforceable in any respect; or any Loan Party denies that it has any or further liability or obligation under any Loan Document, or purports to revoke, terminate or rescind any Loan Document; or

(l) Change of Control. There occurs any Change of Control with respect to any of the Borrower or any Restricted Subsidiary; or there occurs any "Change of Control Triggering Event" as defined in the 2004 Senior Notes Indenture; or

(m) Material Adverse Effect. There occurs any event or circumstance that has a Material Adverse Effect which Material Adverse Effect shall not have been cured within 30 days following notice from the Administrative Agent.

**SECTION 8.2 Remedies Upon Event of Default.** If any Event of Default occurs, the Administrative Agent shall, at the request of, or may, with the consent of, the Majority Lenders,

(a) declare the commitment of each Lender to make Loans and any obligation of the Issuing Bank to make L/C Credit Extensions to be terminated, whereupon such commitments and obligation shall be terminated;

(b) declare the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Borrower;

(c) require that the Borrower Cash Collateralize the L/C Obligations (in an amount equal to the then Outstanding Amount thereof); and

(d) exercise on behalf of itself and the Lenders all rights and remedies available to it and the Lenders under the Loan Documents or applicable law, including, without limitation, the enforcement of the Administrative Agent's and the Lenders' rights either by suit in equity, or by action at law, or by other appropriate proceedings, whether for the specific performance (to the extent permitted by law) of any covenant or agreement contained in this Agreement or in any then outstanding Note or any Security Document or in aid of the exercise of any power granted in this Agreement or in any then outstanding Note or any Security Document;

provided, however, that upon the occurrence of any event specified in clause (f) of Section 8.1, the obligation of each Lender to make Loans and any obligation of the Issuing Bank to make L/C Credit Extensions shall automatically terminate, the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable, and the obligation of the Borrower to Cash Collateralize the L/C Obligations as



aforesaid shall automatically become effective, in each case without further act of the Administrative Agent or any Lender.

**SECTION 8.3 Distribution of Proceeds.** All proceeds of any realization on the Collateral received by the Administrative Agent pursuant to the Security Documents or any payments on any of the liabilities secured by the Security Documents received by the Administrative Agent or any Lender upon and during the continuance of any Event of Default shall be allocated and distributed as follows (and with respect to any contingent obligation shall be held as cash collateral for application as follows):

- (a) First, to the payment of all costs and expenses, including without limitation all attorneys' fees, of the Administrative Agent in connection with the enforcement of the Security Documents and otherwise administering this Agreement;
- (b) Second, to the payment of all costs, expenses and fees, including without limitation, commitment fees, letter of credit fees and attorneys' fees, owing to the Issuing Bank and the Lenders pursuant to the Obligations on a pro rata basis in accordance with the Obligations consisting of fees, costs and expenses owing to the Issuing Bank and the Lenders under the Obligations for application to payment of such liabilities;
- (c) Third, to the Issuing Bank, the Lenders or any Affiliate of a Lender on a pro rata basis in accordance with (i) the Obligations consisting of interest and principal owing to the Lenders under the Obligations, (ii) any obligations owing to any Lender or any Affiliate of a Lender pursuant to any Hedging Agreement to which it is a party (whether pursuant to a termination thereof or otherwise) and (iii) any reimbursement obligations or other liabilities owing to the Issuing Bank or any Lender with respect to any Letter of Credit or any application for a Letter of Credit, for application to payment of such liabilities;
- (d) Fourth, to the payment of any and all other amounts owing to the Administrative Agent, the Issuing Bank and the Lenders on a pro rata basis in accordance with the total amount of such Indebtedness owing to each of the Lenders, for application to payment of such liabilities; and
- (e) Fifth, to the Borrower or such other Person as may be legally entitled thereto.

**ARTICLE IX.  
ADMINISTRATIVE AGENT**

**SECTION 9.1 Appointment and Authorization of Administrative Agent.**

(a) Each Lender hereby irrevocably (subject to Section 9.9) appoints, designates and authorizes the Administrative Agent to take such action on its behalf under the provisions of this Agreement and each other Loan Document and to exercise such powers and perform such duties as are expressly delegated to it by the terms of this Agreement or any other Loan Document, together with such powers as are reasonably incidental thereto. Notwithstanding any provision to the contrary contained elsewhere herein or in any other Loan Document, the Administrative Agent shall not have any duties or responsibilities, except those expressly set forth herein, nor

shall the Administrative Agent have or be deemed to have any fiduciary relationship with any Lender or participant, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Loan Document or otherwise exist against the Administrative Agent. Without limiting the generality of the foregoing sentence, the use of the term "agent" herein and in the other Loan Documents with reference to the Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable law. Instead, such term is used merely as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties. Each Lender hereby agrees to assert no claim against the Administrative Agent on any agency theory or any other theory of liability for breach of fiduciary duty, all of which claims are hereby expressly waived by each Lender.

(b) The Issuing Bank shall act on behalf of the Lenders with respect to any Letters of Credit issued by it and the documents associated therewith until such time (and except for so long) as the Administrative Agent may agree at the request of the Majority Lenders to act for the Issuing Bank with respect thereto; provided, however, that the Issuing Bank shall have all of the benefits and immunities (i) provided to the Administrative Agent in this Article IX with respect to any acts taken or omissions suffered by the Issuing Bank in connection with Letters of Credit issued by it or proposed to be issued by it and the application and agreements for letters of credit pertaining to the Letters of Credit as fully as if the term "Administrative Agent" as used in this Article IX included the Issuing Bank with respect to such acts or omissions, and (ii) as additionally provided herein with respect to the Issuing Bank.

**SECTION 9.2 Delegation of Duties.** The Administrative Agent may execute any of its duties under this Agreement or any other Loan Document by or through agents, employees or attorneys-in-fact and shall be entitled to advice of counsel and other consultants or experts concerning all matters pertaining to such duties. The Administrative Agent shall not be responsible for the negligence or misconduct of any agent or attorney-in-fact that it selects in the absence of gross negligence or willful misconduct.

**SECTION 9.3 Liability of Administrative Agent.** No Agent-Related Person shall (a) be liable for any action taken or omitted to be taken by any of them under or in connection with this Agreement or any other Loan Document or the transactions contemplated hereby (except for its own gross negligence or willful misconduct in connection with its duties expressly set forth herein), or (b) be responsible in any manner to any Lender or participant for any recital, preliminary statement, statement, representation or warranty made by any Loan Party or any officer thereof, contained herein or in any other Loan Document, or in any certificate, report, statement or other document referred to or provided for in, or received by the Administrative Agent under or in connection with, this Agreement or any other Loan Document, or the validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Loan Document, or for any failure of any Loan Party or any other party to any Loan Document to perform its obligations hereunder or thereunder. No Agent-Related Person shall be under any obligation to any Lender or participant to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Loan Document, or to inspect the properties, books or records of any Loan Party or any Affiliate thereof.

**SECTION 9.4 Reliance by Administrative Agent.**

(a) The Administrative Agent shall be entitled to rely, and shall be fully protected in relying, upon any writing, communication, signature, resolution, representation, notice, consent, certificate, affidavit, letter, telegram, facsimile, telex or telephone message, statement or other document or conversation believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons, and upon advice and statements of legal counsel (including counsel to any Loan Party), independent accountants and other experts selected by the Administrative Agent. The Administrative Agent shall be fully justified in failing or refusing to take any action under any Loan Document unless it shall first receive such advice or concurrence of the Majority Lenders as it deems appropriate and, if it so requests, it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. The Administrative Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement or any other Loan Document in accordance with a request or consent of the Majority Lenders or all the Lenders, if required hereunder, and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders and participants. Where this Agreement expressly permits or prohibits an action unless the Majority Lenders otherwise determine, the Administrative Agent shall, and in all other instances, the Administrative Agent may, but shall not be required to, initiate any solicitation for the consent or a vote of the Lenders.

(b) For purposes of determining compliance with the conditions specified in Section 4.1, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter either sent by the Administrative Agent to such Lender for consent, approval, acceptance or satisfaction, or required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender.

**SECTION 9.5 Notice of Default.** The Administrative Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default, except with respect to defaults in the payment of principal, interest and fees required to be paid to the Administrative Agent for the account of the Lenders, unless the Administrative Agent shall have received written notice from a Lender or the Borrower referring to this Agreement, describing such Default or Event of Default and stating that such notice is a "notice of default." The Administrative Agent will notify the Lenders of its receipt of any such notice. The Administrative Agent shall take such action with respect to such Default or Event of Default as may be directed by the Majority Lenders in accordance with Article VIII; provided, however, that unless and until the Administrative Agent has received any such direction, the Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable or in the best interest of the Lenders.

**SECTION 9.6 Credit Decision; Disclosure of Information by Administrative Agent.** Each Lender acknowledges that no Agent-Related Person has made any representation or warranty to it, and that no act by the Administrative Agent hereinafter taken, including any consent to and acceptance of any assignment or review of the affairs of any Loan Party or any Affiliate thereof, shall be deemed to constitute any representation or warranty by any Agent-

Related Person to any Lender as to any matter, including whether Agent-Related Persons have disclosed material information in their possession. Each Lender represents to the Administrative Agent that it has, independently and without reliance upon any Agent-Related Person and based on such documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, prospects, operations, property, financial and other condition and creditworthiness of the Loan Parties and their respective Restricted Subsidiaries, and all applicable bank or other regulatory Laws relating to the transactions contemplated hereby, and made its own decision to enter into this Agreement and to extend credit to the Borrower hereunder. Each Lender also represents that it will, independently and without reliance upon any Agent-Related Person and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Loan Documents, and to make such investigations as it deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of the Borrower and the other Loan Parties. Except for notices, reports and other documents expressly required to be furnished to the Lenders by the Administrative Agent herein, the Administrative Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of any of the Loan Parties or any of their respective Affiliates which may come into the possession of any Agent-Related Person.

**SECTION 9.7 Indemnification of Administrative Agent.** Whether or not the transactions contemplated hereby are consummated, the Lenders shall indemnify upon demand each Agent-Related Person (to the extent not reimbursed by or on behalf of any Loan Party and without limiting the obligation of any Loan Party to do so), pro rata, and hold harmless each Agent-Related Person from and against any and all Indemnified Liabilities incurred by it (**INCLUDING ANY AND ALL INDEMNIFIED LIABILITIES ARISING OUT OF, IN ANY WAY RELATING TO, OR RESULTING FROM SUCH AGENT-RELATED PARTY'S OWN NEGLIGENCE**); provided, however, that no Lender shall be liable for the payment to any Agent-Related Person of any portion of such Indemnified Liabilities resulting from such Agent-Related Person's gross negligence or willful misconduct; provided, however, that no action taken in accordance with the directions of the Majority Lenders shall be deemed to constitute gross negligence or willful misconduct for purposes of this Section. Without limitation of the foregoing, each Lender shall reimburse the Administrative Agent upon demand for its ratable share of any costs or out-of-pocket expenses (including Attorney Costs) incurred by the Administrative Agent in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement, any other Loan Document, or any document contemplated by or referred to herein, to the extent that the Administrative Agent is not reimbursed for such expenses by or on behalf of the Borrower. The undertaking in this Section shall survive termination of the Commitments, the payment of all Obligations hereunder and the resignation or replacement of the Administrative Agent.

**SECTION 9.8 Administrative Agent in its Individual Capacity.** BMO and its Affiliates may make loans to, issue letters of credit for the account of, accept deposits from,

acquire equity interests in and generally engage in any kind of banking, trust, financial advisory, underwriting or other business with each of the Loan Parties and their respective Affiliates as though BMO were not the Administrative Agent or the Issuing Bank hereunder and without notice to or consent of the Lenders. The Lenders acknowledge that, pursuant to such activities, BMO or its Affiliates may receive information regarding any Loan Party or its Affiliates (including information that may be subject to confidentiality obligations in favor of such Loan Party or such Affiliate) and acknowledge that the Administrative Agent shall be under no obligation to provide such information to them. With respect to its Loans, BMO shall have the same rights and powers under this Agreement as any other Lender and may exercise such rights and powers as though it were not the Administrative Agent or the Issuing Bank, and the terms "Lender" and "Lenders" include BMO in its individual capacity.

**SECTION 9.9 Successor Administrative Agent.** The Administrative Agent may resign as Administrative Agent upon 30 days' notice to the Lenders. If the Administrative Agent resigns under this Agreement, the Majority Lenders shall appoint from among the Lenders a successor administrative agent for the Lenders. If no successor administrative agent is appointed prior to the effective date of the resignation of the Administrative Agent, the Administrative Agent may appoint, after consulting with the Lenders, a successor administrative agent from among the Lenders. Upon the acceptance of its appointment as successor administrative agent hereunder, such successor administrative agent shall succeed to all the rights, powers and duties of the retiring Administrative Agent and the term "Administrative Agent" shall mean such successor administrative agent and the retiring Administrative Agent's appointment, powers and duties as Administrative Agent shall be terminated. After any retiring Administrative Agent's resignation hereunder as Administrative Agent, the provisions of this [Article IX](#) and [Sections 10.4](#) and [10.5](#) shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Administrative Agent under this Agreement. If no successor administrative agent has accepted appointment as Administrative Agent by the date which is 30 days following a retiring Administrative Agent's notice of resignation, the retiring Administrative Agent's resignation shall nevertheless thereupon become effective and the Lenders shall perform all of the duties of the Administrative Agent hereunder until such time, if any, as the Majority Lenders appoint a successor agent as provided for above.

**SECTION 9.10 Other Agents; Lead Managers.** None of the Lenders identified on the facing page or signature pages of this Agreement as a "syndication agent," "documentation agent," "co-agent" or "lead manager" shall have any right, power, obligation, liability, responsibility or duty under this Agreement other than those applicable to all Lenders as such. Without limiting the foregoing, none of the Lenders so identified shall have or be deemed to have any fiduciary relationship with any Lender. Each Lender acknowledges that it has not relied, and will not rely, on any of the Lenders so identified in deciding to enter into this Agreement or in taking or not taking action hereunder.

**SECTION 9.11 Hedging Arrangements.** To the extent any Affiliate of a Lender is a party to a Hedging Agreement with any Loan Party, such Affiliate of a Lender shall be deemed to appoint the Administrative Agent its nominee and agent, and to act for and on behalf of such Affiliate in connection with the Security Documents and to be bound by this [Article IX](#).

**ARTICLE X.  
MISCELLANEOUS**

**SECTION 10.1 Amendments, Etc.** No amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by the Borrower or any other Loan Party therefrom, shall be effective unless in writing signed by the Majority Lenders and the Borrower and acknowledged and agreed by each other Loan Party, and acknowledged by the Administrative Agent, and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that no such amendment, waiver or consent shall, unless in writing and signed by each of the Lenders directly affected thereby and by the Borrower, and acknowledged and agreed by each other Loan Party and acknowledged by the Administrative Agent, do any of the following:

- (a) extend or increase the Commitment Amount of any Lender (or reinstate any Commitment terminated pursuant to Section 8.2); or
- (b) postpone any date fixed by this Agreement or any other Loan Document for any payment or mandatory prepayment of principal, interest, fees or other amounts due to the Lenders (or any of them) hereunder or under any other Loan Document; or
- (c) reduce the principal of, or the rate of interest specified herein on, any Loan or L/C Borrowing, or any fees or other amounts payable hereunder or under any other Loan Document, or change the manner of computation of any financial covenant used in determining the Base Rate Spread, LIBOR Spread or Commitment Fee Rate that would result in a reduction of any interest rate on any Loan; provided, however, that only the consent of the Majority Lenders shall be necessary to waive any obligation of the Borrower to pay interest at the rate specified in Section 2.9(b); or
- (d) change the percentage of the Aggregate Commitments or of the aggregate unpaid principal amount of the Loans and L/C Obligations which is required for the Lenders or any of them to take any action hereunder or change the definition of "Majority Lenders" or "Required Borrowing Base Lenders"; or
- (e) increase the Borrowing Base, or take any other action which requires the signing of all the Lenders pursuant to the terms of this Agreement or of any other Loan Document, or change the Percentage Share or Voting Percentage of any Lender; or
- (f) amend this Section, or Section 2.14, or any provision herein providing for consent or other action by all the Lenders; or
- (g) permit any termination, amendment, modification, waiver, or release of any Guaranty or any provision thereof; or
- (h) release any collateral under any of the Security Documents, or permit any termination, amendment, modification, waiver or release of any Security Document or an provision thereof, provided that, notwithstanding the foregoing, the consent of the Lenders shall not be required for any release of any collateral under any of the Security Documents in

connection with a Disposition by the Borrower or any Guarantor if such Disposition is permitted by Section 7.5 hereof as Section 7.5 is in effect on the Closing Date; or

(i) waive, amend or otherwise modify the provisions of Section 4.2(e), Section 5.14(a), Section 7.2(g) or Section 7.11, or any condition set forth therein;

and, provided further, that (i) no amendment, waiver or consent shall, unless in writing and signed by the Issuing Bank in addition to the Majority Lenders or all the Lenders, as the case may be, affect the rights or duties of the Issuing Bank under this Agreement or any Letter of Credit Application relating to any Letter of Credit issued or to be issued by it; (ii) no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent in addition to the Majority Lenders or all the Lenders, as the case may be, affect the rights or duties of the Administrative Agent under this Agreement or any other Loan Document; and (iii) the Agent and Arranger Fee Letter may be amended, or rights or privileges thereunder waived, in a writing executed only by the parties thereto.

**SECTION 10.2 Notices and Other Communications; Facsimile Copies.**

(a) General. Unless otherwise expressly provided herein, all notices and other communications provided for hereunder shall be in writing (including by facsimile transmission) and mailed, faxed or delivered, to the address, facsimile number or (subject to subsection (c), below) electronic mail address specified for notices on Schedule 10.2; or, in the case of the Borrower, the Administrative Agent, or the Issuing Bank, to such other address as shall be designated by such party in a notice to the other parties, and in the case of any other party, to such other address as shall be designated by such party in a notice to the Borrower, the Administrative Agent and the Issuing Bank. All such notices and other communications shall be deemed to be given or made upon the earlier to occur of (i) actual receipt by the intended recipient and (ii) (A) if delivered by hand or by courier, when signed for by the intended recipient; (B) if delivered by mail, four Business Days after deposit in the mails, postage prepaid; (C) if delivered by facsimile, when sent and receipt has been confirmed by telephone; and (D) if delivered by electronic mail (which form of delivery is subject to the provisions of subsection (c), below), when delivered; provided, however, that notices and other communications to the Administrative Agent and the Issuing Bank pursuant to Article II shall not be effective until actually received by such Person. Any notice or other communication permitted to be given, made or confirmed by telephone hereunder shall be given, made or confirmed by means of a telephone call to the intended recipient at the number specified on Schedule 10.2, it being understood and agreed that a voicemail message shall in no event be effective as a notice, communication or confirmation hereunder.

(b) Effectiveness of Facsimile Documents and Signatures. Loan Documents may be transmitted and/or signed by facsimile. The effectiveness of any such documents and signatures shall, subject to applicable Law, have the same force and effect as manually-signed originals and shall be binding on all Loan Parties, the Administrative Agent and the Lenders. The Administrative Agent may also require that any such documents and signatures be confirmed by a manually-signed original thereof; provided, however, that the failure to request or deliver the same shall not limit the effectiveness of any facsimile document or signature.

(c) Electronic Communications. Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communication (including email and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent, provided that the foregoing shall not apply to notices to any Lender pursuant to Article II if such Lender has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications. Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), provided that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.

(d) Reliance by Administrative Agent and Lenders. The Administrative Agent and the Lenders shall be entitled to rely and act upon any notices (including telephonic Notice of Advances) purportedly given by or on behalf of the Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Borrower shall indemnify each Agent-Related Person and each Lender from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of the Borrower. All telephonic notices to and other communications with the Administrative Agent may be recorded by the Administrative Agent, and each of the parties hereto hereby consents to such recording.

**SECTION 10.3 No Waiver; Cumulative Remedies.** No failure by any Lender or the Administrative Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein or therein provided are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

**SECTION 10.4 Attorney Costs, Expenses and Taxes.** The Borrower agrees (a) to pay or reimburse the Administrative Agent for all costs and expenses incurred in connection with the development, preparation, negotiation and execution of this Agreement and the other Loan Documents and any amendment, waiver, consent or other modification of the provisions hereof and thereof (whether or not the transactions contemplated hereby or thereby are consummated), and the consummation and administration of the transactions contemplated hereby and thereby, including all Attorney Costs, and (b) to pay or reimburse the Administrative Agent, the Issuing



Bank and each Lender for all costs and expenses incurred in connection with the enforcement, attempted enforcement, or preservation of any rights or remedies under this Agreement or the other Loan Documents (including all such costs and expenses incurred during any “workout” or restructuring in respect of the Obligations and during any legal proceeding, including any proceeding under any Debtor Relief Law), including all Attorney Costs. The foregoing costs and expenses shall include all search, filing, recording, title insurance and appraisal charges and fees and taxes related thereto, and other out-of-pocket expenses incurred by the Administrative Agent and the cost of independent public accountants and other outside experts retained by the Administrative Agent or any Lender. The agreements in this Section shall survive the termination of the Commitments and repayment of all the other Obligations.

**SECTION 10.5 Indemnification by the Borrower.** Whether or not the transactions contemplated hereby are consummated, the Borrower agrees to indemnify, defend, save and hold harmless each Agent-Related Person, each Lender and their respective Affiliates, directors, officers, employees, counsel, agents and attorneys-in-fact (collectively the “Indemnitees”) from and against: (a) any and all claims, demands, actions or causes of action that are asserted against any Indemnitee by any Person (other than the Administrative Agent or any Lender) relating directly or indirectly to a claim, demand, action or cause of action that such Person asserts or may assert against any Loan Party, any Affiliate of any Loan Party or any of their respective officers or directors; (b) any and all claims, demands, actions or causes of action that may at any time (including at any time following repayment of the Obligations and the resignation or removal of the Administrative Agent or the replacement of any Lender) be asserted or imposed against any Indemnitee, arising out of or relating to, the Loan Documents, any predecessor loan documents, the Commitments, the use or contemplated use of the proceeds of any Credit Extension, or the relationship of any Loan Party, the Administrative Agent and the Lenders under this Agreement or any other Loan Document; (c) any administrative or investigative proceeding by any Governmental Authority arising out of or related to a claim, demand, action or cause of action described in clause (a) or (b) above; and (d) any and all liabilities (including liabilities under indemnities), losses, costs or expenses (including Attorney Costs) that any Indemnitee suffers or incurs as a result of the assertion of any foregoing claim, demand, action, cause of action, litigation or proceeding, or as a result of the preparation of any defense in connection with any foregoing claim, demand, action, cause of action, litigation or proceeding, in all cases, **WHETHER OR NOT ARISING OUT OF THE NEGLIGENCE OF AN INDEMNITEE**, and whether or not an Indemnitee is a party to such claim, demand, action, cause of action, litigation or proceeding (all the foregoing, collectively, the “Indemnified Liabilities”); provided that no Indemnitee shall be entitled to indemnification for any claim caused by its own gross negligence or willful misconduct or for any loss asserted against it by another Indemnitee. The agreements in this Section shall survive the termination of the Commitments and repayment of all the other Obligations.

**SECTION 10.6 Payments Set Aside.** To the extent that the Borrower makes a payment to the Administrative Agent or any Lender, or the Administrative Agent or any Lender exercises its right of set-off, and such payment or the proceeds of such set-off or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Administrative Agent or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any

proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such set-off had not occurred, and (b) each Lender severally agrees to pay to the Administrative Agent upon demand its applicable share of any amount so recovered from or repaid by the Administrative Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to (i) with respect to the first two Business Days following such demand, the Federal Funds Rate from time to time in effect, and (ii) with respect to each day thereafter, the Base Rate from time to time in effect.

**SECTION 10.7 Successors and Assigns; Assignments; Participations.**

10.7.1 Successors and Assigns. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by the Borrower without such consent shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby and, to the extent expressly contemplated hereby, the Indemnitees) any legal or equitable right, remedy or claim under or by reason of this Agreement.

10.7.2 Assignments.

(a) Any Lender may assign to one or more Eligible Assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans (including in all instances for purposes of this subsection (a), participations in L/C Obligations) at the time owing to it); provided that (i) except in the case of an assignment of the entire remaining amount of the assigning Lender's Commitment and the Loans at the time owing to it or in the case of an assignment to a Lender or an Affiliate of a Lender, the aggregate amount of the Commitment (which for this purpose includes Loans outstanding thereunder, including as noted above, participations in L/C Obligations) subject to each such assignment, determined as of the date the Lender Assignment with respect to such assignment is delivered to the Administrative Agent, shall not be less than \$5,000,000 unless each of the Administrative Agent and, so long as no Default has occurred and is continuing and so long as in the case of Bank of Montreal, such Lender shall have been reduced to its "final hold amount" as described in the commitment letter referred to in the Agent and Arranger Fee Letter, the Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed), (ii) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Loans or the Commitment assigned, except that this clause (ii) shall not prohibit any Lender from assigning all or a portion of its rights and obligations among separate Borrowings on a non-pro rata basis, (iii) the parties to each assignment shall execute and deliver to the Administrative Agent a Lender Assignment, together with a processing and recordation fee of \$3,500. Subject to acceptance and recording thereof by the Administrative Agent pursuant to subsection (c) of this Section, from and after the effective date specified in each Lender Assignment, the Eligible

Assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Lender Assignment, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Lender Assignment, be released from its obligations under this Agreement (and, in the case of an Lender Assignment covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 3.7, 10.4 and 10.5). Upon request, the Borrower (at its expense) shall execute and deliver new or replacement Notes to the assigning Lender and the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with Section 10.7.3 of this Section.

(b) The Administrative Agent, acting solely for this purpose as an agent of the Borrower, shall maintain at the Administrative Agent's Office a copy of each Lender Assignment delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amount of the Loans and L/C Obligations owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive, and the Borrower, the Administrative Agent and the Lenders may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

#### 10.7.3 Participations.

(a) Any Lender may, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to one or more banks or other entities (a "Participant") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans (including such Lender's participations in L/C Obligations) owing to it); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Administrative Agent and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification that would (i) postpone any date upon which any payment of money is scheduled to be paid to such Participant, (ii) reduce the principal, interest, fees or other amounts payable to such Participant, or (iii) release any Guarantor from the Guaranty. Subject to subsection (b) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 3.1, 3.4 and 3.5 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to Section 10.7.2 of this Section. To the extent permitted by law,

each Participant also shall be entitled to the benefits of Section 10.9 as though it were a Lender, provided such Participant agrees to be subject to Section 2.14 as though it were a Lender.

(b) A Participant shall not be entitled to receive any greater payment under Section 3.1 or 3.4 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent. A Participant that would be a Foreign Lender if it were a Lender shall not be entitled to the benefits of Section 3.1 unless the Borrower is notified of the participation sold to such Participant and such Participant agrees, for the benefit of the Borrower, to comply with Section 3.8 as though it were a Lender.

10.7.4 Pledge of Lender's Interest. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Notes, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

10.7.5 Consent to Assignment. If the consent of the Borrower to an assignment or to an Eligible Assignee is required hereunder (including a consent to an assignment which does not meet the minimum assignment threshold specified in clause (i) of the proviso to the first sentence of Section 10.7.2, the Borrower shall be deemed to have given its consent five Business Days after the date notice thereof has been delivered by the assigning Lender (through the Administrative Agent) unless such consent is expressly refused by the Borrower prior to such fifth Business Day.

10.7.6 Definitions for Section 10.7. As used herein, the following terms have the following meanings:

"Eligible Assignee" means (a) a Lender; (b) an Affiliate of a Lender; and (c) any other Person (other than a natural Person) approved by the Administrative Agent, the Issuing Bank, and provided that no Default has occurred and is continuing, the Borrower (each such approval not to be unreasonably withheld or delayed).

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

10.7.7 Assignment by BMO. Notwithstanding anything to the contrary contained herein, if at any time BMO assigns all of its Commitment and Loans pursuant to Section 10.7.2 above, BMO may, upon 30 days' notice to the Borrower and the Lenders, resign as Issuing Bank. In the event of any such resignation as Issuing Bank, the Borrower shall be entitled to appoint from among the Lenders a successor Issuing Bank hereunder; provided, however, that no failure by the Borrower to appoint any such successor shall affect the resignation of BMO as Issuing Bank.

BMO shall retain all the rights and obligations of the Issuing Bank hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as Issuing Bank and all L/C Obligations with respect thereto (including the right to require the Lenders to make Base Rate Loans or fund participations in Unreimbursed Amounts pursuant to [Section 2.3.3](#)).

**SECTION 10.8 Confidentiality.** (a) Each of the Administrative Agent and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its and its Affiliates' directors, officers, employees and agents, including accountants, legal counsel and other advisors (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential); (b) to the extent requested by any regulatory authority; (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process; (d) to any other party to this Agreement; (e) in connection with the exercise of any remedies hereunder or any suit, action or proceeding relating to this Agreement or the enforcement of rights hereunder; (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any Eligible Assignee of or Participant in, or any prospective Eligible Assignee of or Participant in, any of its rights or obligations under this Agreement or (ii) any direct or indirect contractual counterparty or prospective counterparty (or such contractual counterparty's or prospective counterparty's professional advisor) to any credit derivative transaction relating to obligations of the Borrower; (g) with the consent of the Borrower; (h) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section or (ii) becomes available to the Administrative Agent or any Lender on a nonconfidential basis from a source other than the Borrower; or (i) to the National Association of Insurance Commissioners or any other similar organization or any nationally recognized rating agency that requires access to information about a Lender's or its Affiliates' investment portfolio in connection with ratings issued with respect to such Lender or its Affiliates. For the purposes of this Section, "Information" means all information received from the Borrower relating to the Borrower or its business, other than any such information that is available to the Administrative Agent or any Lender on a nonconfidential basis prior to disclosure by the Borrower; provided that, in the case of information received from the Borrower after the date hereof, such information is clearly identified in writing at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

**SECTION 10.9 Set-off.** In addition to any rights and remedies of the Lenders provided by law, upon the occurrence and during the continuance of any Event of Default, each Lender is authorized at any time and from time to time, without prior notice to the Borrower or any other Loan Party, any such notice being waived by the Borrower (on its own behalf and on behalf of each Loan Party) to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held by, and other indebtedness at any time owing by, such Lender to or for the credit or the account of the respective Loan Parties against any and all Obligations owing to such Lender, now or hereafter existing, irrespective of whether or not the Administrative Agent or such Lender shall have made

demand under this Agreement or any other Loan Document and although such Obligations may be contingent or unmatured. Each Lender agrees promptly to notify the Borrower and the Administrative Agent after any such set-off and application made by such Lender; provided, however, that the failure to give such notice shall not affect the validity of such set-off and application.

**SECTION 10.10 Interest Rate Limitation.** It is the intention of the parties hereto to conform strictly to applicable usury laws and, anything herein to the contrary notwithstanding, the obligations of the Borrower to each Lender and the Issuing Bank under this Agreement shall be subject to the limitation that payments of interest shall not be required to the extent that receipt thereof would be contrary to provisions of law applicable to such Lender or the Issuing Bank limiting rates of interest which may be charged or collected by such Lender or the Issuing Bank. Accordingly, if the transactions contemplated hereby would be usurious under applicable law (including the Federal and state laws of the United States of America, or of any other jurisdiction whose laws may be mandatorily applicable) with respect to a Lender or the Issuing Bank then, in that event, notwithstanding anything to the contrary in this Agreement, it is agreed as follows: (i) the provisions of this Section 10.10 shall govern and control; (ii) the aggregate of all consideration which constitutes interest under applicable law that is contracted for, charged or received under this Agreement, or under any of the other aforesaid agreements or otherwise in connection with this Agreement by such Lender or the Issuing Bank shall under no circumstances exceed the maximum amount of interest allowed by applicable law (such maximum lawful interest rate, if any, with respect to such Lender or the Issuing Bank herein called the "Highest Lawful Rate"), and any excess shall be credited to the Borrower by such Lender or the Issuing Bank (or, if such consideration shall have been paid in full, such excess promptly refunded to the Borrower); (iii) all sums paid, or agreed to be paid, to the Lender or the Issuing Bank for the use, forbearance and detention of the indebtedness of the Borrower to such Lender or the Issuing Bank hereunder shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full term of such indebtedness until payment in full so that the actual rate of interest is uniform throughout the full term thereof; and (iv) if at any time the interest provided pursuant to Article II together with any other fees payable pursuant to this Agreement and deemed interest under applicable law, exceeds that amount which would have accrued at the Highest Lawful Rate, the amount of interest and any such fees to accrue to such Lender or the Issuing Bank pursuant to this Agreement shall be limited, notwithstanding anything to the contrary in this Agreement to that amount which would have accrued at the Highest Lawful Rate, but any subsequent reductions, as applicable, shall not reduce the interest to accrue to such Lender or the Issuing Bank pursuant to this Agreement below the Highest Lawful Rate until the total amount of interest accrued pursuant to this Agreement and such fees deemed to be interest equals the amount of interest which would have accrued to such Lender or the Issuing Bank if a varying rate per annum equal to the interest provided pursuant to Article II had at all times been in effect, plus the amount of fees which would have been received but for the effect of this Section 10.10. For purposes of Tex. Fin. Code Ann. Ch. 303, as amended, to the extent, if any, applicable to a Lender or the Issuing Bank, the Borrower agrees that the Highest Lawful Rate shall be the "weekly ceiling" as defined in said Article, provided that such Lender and the Issuing Bank may also rely, to the extent permitted by applicable laws, on alternative maximum rates of interest under other laws applicable to such Lender or such Issuer, as the case may be, if greater. Tex. Fin. Code Ann. Ch. 346 (which

regulates certain revolving credit loan accounts and revolving tri-party accounts) shall not apply to this Agreement or the Notes.

**SECTION 10.11 Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

**SECTION 10.12 Survival of Representations and Warranties.** All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Administrative Agent and each Lender, regardless of any investigation made by the Administrative Agent or any Lender or on their behalf and notwithstanding that the Administrative Agent or any Lender may have had notice or knowledge of any Default or Event of Default at the time of any Credit Extension, and shall continue in full force and effect as long as any Loan or any other Obligation shall remain unpaid or unsatisfied or any Letter of Credit shall remain outstanding.

**SECTION 10.13 Collateral Matters; Hedges.** The benefit of the Security Documents and the provisions of this Agreement and the other Loan Documents relating to the collateral shall also extend to and be available on a pro rata basis to each Lender and such Lender's Affiliates in respect of any obligations under a Hedging Agreement only so long as such Lender remains a party to this Agreement and this Agreement remains in effect. No Lender or Affiliate of a Lender shall have any voting or consent right under any Loan Document as a result of the existence of obligations owed to it under a Hedging Agreement.

**SECTION 10.14 Renewal and Continuation of Prior Indebtedness.** Upon the effectiveness of this Agreement, all of the Prior Indebtedness outstanding on such date shall hereby be restructured, rearranged, renewed, extended and continued as provided in this Agreement and all Loans outstanding under the Prior Credit Facility shall become Loans outstanding hereunder.

In connection herewith, the Prior Lenders have sold, assigned, transferred and conveyed, and Lenders party to this Agreement have purchased and accepted, and hereby purchase and accept, so much of the Prior Indebtedness such that each Lender's percentage of the loans and obligations outstanding pursuant to the Prior Credit Facility, as restructured, rearranged, renewed, extended and continued pursuant to this Agreement, shall be equal to such Lender's Percentage Share upon the effectiveness of this Agreement. The Lenders acknowledge and agree that the assignment, transfer and conveyance of the Prior Indebtedness is without recourse to the Prior Lenders and without any warranties whatsoever by any Prior Lender.

**SECTION 10.15 Severability.** Any provision of this Agreement and the other Loan Documents to which the Borrower is a party that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions thereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

**SECTION 10.16 Authorization to Release Subordinate Mortgages.** By executing this Agreement, each Lender hereby consents to the execution by the Administrative Agent and delivery to the Borrower or its designee one or more releases of any subordinate mortgages, deeds of trust, assignments, security agreements, financing statements and fixture filings heretofore delivered by a Guarantor in favor of the Borrower to secure any Indebtedness of such Guarantor owing to the Borrower that have been collaterally assigned to the Administrative Agent for the benefit of the Lenders and the other parties secured thereby (including, without limitation, the Subordinate Mortgages), together with any and all other documents or instruments of release with respect to the Liens evidenced thereby as the Administrative Agent shall determine are necessary or appropriate (in its sole discretion).

**SECTION 10.17 USA PATRIOT Act Notice.** Each Lender that is subject to the Act (as hereinafter defined) and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies the Borrower and each other Loan Party that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Act"), it is required to obtain, verify and record information that identifies the Borrower and each other Loan Party, which information includes the name and address of the Borrower and each other Loan Party and other information that will allow such Lender or the Administrative Agent, as applicable, to identify the Borrower and each other Loan Party in accordance with the Act.

**SECTION 10.18 Governing Law.**

(a) THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK APPLICABLE TO AGREEMENTS MADE AND TO BE PERFORMED ENTIRELY WITHIN SUCH STATE (WITHOUT GIVING EFFECT TO THE PRINCIPLES THEREOF RELATING TO CONFLICT OF LAW EXCEPT SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW); PROVIDED THAT THE ADMINISTRATIVE AGENT AND EACH LENDER SHALL RETAIN ALL RIGHTS ARISING UNDER FEDERAL LAW.

(b) ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT MAY BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK SITTING IN MANHATTAN OR OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF SUCH STATE, AND BY EXECUTION AND DELIVERY OF THIS AGREEMENT, THE BORROWER, THE ADMINISTRATIVE AGENT AND EACH LENDER CONSENTS, FOR ITSELF AND IN RESPECT OF ITS PROPERTY, TO THE NON-EXCLUSIVE JURISDICTION OF THOSE COURTS. THE BORROWER, THE ADMINISTRATIVE AGENT AND EACH LENDER IRREVOCABLY WAIVES ANY OBJECTION, INCLUDING ANY OBJECTION TO THE LAYING OF VENUE OR BASED ON THE GROUNDS OF FORUM *NON CONVENIENS*, WHICH IT MAY NOW OR HEREAFTER HAVE TO THE BRINGING OF ANY ACTION OR PROCEEDING IN SUCH JURISDICTION IN RESPECT OF ANY LOAN DOCUMENT OR OTHER DOCUMENT RELATED THERETO. THE BORROWER, THE ADMINISTRATIVE AGENT AND EACH LENDER WAIVES PERSONAL SERVICE OF ANY SUMMONS, COMPLAINT OR OTHER PROCESS, WHICH MAY BE MADE BY ANY OTHER MEANS PERMITTED BY THE LAW OF SUCH STATE.



**SECTION 10.19 Waiver of Right to Trial by Jury.** EACH PARTY TO THIS AGREEMENT HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION ARISING UNDER ANY LOAN DOCUMENT OR IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO ANY LOAN DOCUMENT, OR THE TRANSACTIONS RELATED THERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER FOUNDED IN CONTRACT OR TORT OR OTHERWISE; AND EACH PARTY HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT ANY PARTY TO THIS AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE SIGNATORIES HERETO TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

**SECTION 10.20 Consents to Renewals, Modifications and Other Actions and Events.** This Agreement and all of the obligations of the Borrower hereunder shall remain in full force and effect without regard to and shall not be released, affected or impaired by: (a) any amendment, assignment, transfer, modification of or addition or supplement to the Lenders' Obligations, this Agreement, any Note or any other Loan Document; (b) any extension, indulgence, increase in the Lenders' Obligations or other action or inaction in respect of any of the Loan Documents or otherwise with respect to the Lenders' Obligations, or any acceptance of security for, or guaranties of, any of the Lenders' Obligations or Loan Documents, or any surrender, release, exchange, impairment or alteration of any such security or guaranties including without limitation the failing to perfect a security interest in any such security or abstaining from taking advantage of or realizing upon any guaranties or upon any security interest in any such security; (c) any default by the Borrower under, or any lack of due execution, invalidity or unenforceability of, or any irregularity or other defect in, any of the Loan Documents; (d) any waiver by the Lenders or any other Person of any required performance or otherwise of any condition precedent or waiver of any requirement imposed by any of the Loan Documents, any guaranties or otherwise with respect to the Lenders' Obligations; (e) any exercise or non-exercise of any right, remedy, power or privilege in respect of this Agreement or any of the other Loan Documents; (f) any sale, lease, transfer or other disposition of the assets of the Borrower or any consolidation or merger of the Borrower with or into any other Person, corporation, or entity, or any transfer or other disposition by the Borrower or any other holder of any shares of capital stock or other ownership interest of the Borrower; (g) any bankruptcy, insolvency, reorganization or similar proceedings involving or affecting the Borrower; (h) the release or discharge of the Borrower from the performance or observance of any agreement, covenant, term or condition under any of the Obligations or contained in any of the Loan Documents by operation of law; or (i) any other cause whether similar or dissimilar to the foregoing which, in the absence of this provision, would release, affect or impair the Obligations, covenants, agreements and duties of the Borrower hereunder, including without limitation any act or omission by the Administrative Agent, or the Lenders or any other Person which increases the scope of the Borrower's risk; and in each case described in this paragraph whether or not the Borrower shall have notice or knowledge of any of the foregoing, each of which is specifically waived by the Borrower. The Borrower warrants to the Administrative Agent and the Lenders

that it has adequate means to obtain from the Guarantors on a continuing basis information concerning the financial condition and other matters with respect to the Guarantors and it is not relying on the Administrative Agent or the Lenders to provide such information either now or in the future.

**SECTION 10.21 ENTIRE AGREEMENT.** This Agreement, together with the other Loan Documents, comprises the complete and integrated agreement of the parties on the subject matter hereof and thereof and supersedes all prior agreements, written or oral, on such subject matter. **THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.**

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

**COMSTOCK RESOURCES, INC.**

By: ROLAND O. BURNS

Name: Roland O. Burns

Title: Chief Financial Officer

**BANK OF MONTREAL,**  
as Administrative Agent and Issuing Bank and Lender

By: JOSEPH A. BLISS

Name: Joseph A. Bliss

Title: Managing Director

**BMO CAPITAL MARKETS  
FINANCING, INC.,** as Lender

By: MARY LOU ALLEN

Name: Mary Lou Allen

Title: Vice President

**BANK OF AMERICA, N.A.,**  
as Syndications Agent and Lender

By: JEFFREY H. RATHKAMP

Name: Jeffrey H. Rathkamp

Title: Director

**COMERICA BANK,**  
as Co-Documentation Agent and Lender

By: PETER L. SEFZIK  
Name: Peter L. Sefzik  
Title: Vice President

**FORTIS CAPITAL CORP.,**  
as Co-Documentation Agent and Lender

By: SCOTT MYATT  
Name: Scott Myatt  
Title: Vice President

By: DARRELL HOLLEY  
Name: Darrell Holley  
Title: Managing Director

**UNION BANK OF CALIFORNIA, N.A.,**  
as Co-Documentation Agent and Lender

By: SEAN MURPHY  
Name: Sean Murphy  
Title: Vice President

**BANK OF SCOTLAND, as Lender**

By: JOSEPH FRATUS  
Name: Joseph Fratus  
Title: First Vice President

**CALYON NEW YORK BRANCH, as Lender**

By: DENNIS PETITO

Name: Dennis Petito

Title: Managing Director

By: MICHAEL WILLIS

Name: Michael Willis

Title: Director

**THE ROYAL BANK OF SCOTLAND plc,  
as Lender**

By: ROBERT E. POIRRIER, JR.

Name: Robert E. Poirrier, Jr.

Title: Vice President

**THE BANK OF NOVA SCOTIA,  
as Lender**

By: GREGORY GEORGE

Name: Gregory George

Title: Managing Director

**REGIONS BANK, successor by merger to  
AmSouth Bank, as Lender**

By: WILLIAM A. PHILIPP

Name: William A. Philipp

Title: Vice President

**COMPASS BANK,  
as Lender**

By: DOROTHY MARCHAND

Name: Dorothy Marchand

Title: Senior Vice President

**CAPITAL ONE, NATIONAL ASSOCIATION,**  
as Lender

By: NANCY G. MORAGAS

Name: Nancy G. Moragas

Title: Senior Vice President

**NATIXIS, as Lender**

By: DONOVAN C. BROUSSARD

Name: Donovan C. Broussard

Title: Managing Director

By: LOUIS P. LAVILLE, III

Name: Louis P. Laville, III

Title: Managing Director

**U.S. BANK NATIONAL ASSOCIATION,**  
as Lender

By: DARIA M. MAHONEY

Name: Daria M. Mahoney

Title: Vice President

**KEYBANK NATIONAL ASSOCIATION,**  
as Lender

By: BRENDAN A. LAWLOR

Name: Brendan A. Lawlor

Title: Senior Vice President

**COMMITMENT AMOUNTS  
AND PERCENTAGE SHARES**

<u>Lender</u>	<u>Commitment Amount</u>	<u>Percentage Share</u>
BMO Capital Markets Financing, Inc.	\$ 54,000,000.00	9.00000000%
Bank of America, N.A.	\$ 48,000,000.00	8.00000000%
Comerica Bank	\$ 48,000,000.00	8.00000000%
Fortis Capital Corp.	\$ 48,000,000.00	8.00000000%
Union Bank of California, N.A.	\$ 48,000,000.00	8.00000000%
Bank of Scotland	\$ 42,000,000.00	7.00000000%
Calyon New York Branch	\$ 42,000,000.00	7.00000000%
The Royal Bank of Scotland plc	\$ 36,000,000.00	6.00000000%
The Bank of Nova Scotia	\$ 36,000,000.00	6.00000000%
Regions Bank	\$ 36,000,000.00	6.00000000%
Compass Bank	\$ 36,000,000.00	6.00000000%
Capital One National Association	\$ 36,000,000.00	6.00000000%
Natixis	\$ 36,000,000.00	6.00000000%
U.S. Bank National Association	\$ 27,000,000.00	4.50000000%
KeyBank National Association	\$ 27,000,000.00	4.50000000%
<b>Total</b>	<b>\$ 600,000,000.00</b>	<b>100.00000000%</b>

SECURITY SCHEDULE

Sch 4.1 — 1

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**LITIGATION**

Sch 5.6 — 1

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**SUBSIDIARIES  
AND OTHER EQUITY INVESTMENTS  
[MODIFIED BY SECOND AMENDMENT; SEE ATTACHMENT THERETO]**

- Part (a). Subsidiaries.
- Part (b). Guarantors on the Closing Date.
- Part (b). Other Equity Investments.

EXISTING LIENS

Sch 7.1 — 1

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EXISTING INVESTMENTS

Sch 7.2 — 1

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EXISTING INDEBTEDNESS

Sch 7.3 — 1

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**PERMITTED RESTRICTIONS ON LIEN INCURRENCE**

Section 6.12 of the 2004 Senior Notes Indenture provides that the Borrower shall not, and shall not permit any of the Loan Parties to, directly or indirectly, create, incur, assume, affirm or suffer to exist or become effective any "Lien" (as defined therein) of any kind, except for Permitted Liens (as defined therein), upon any of their respective properties, whether now owned or acquired after the date of the 2004 Senior Notes Indenture or any income or profits therefrom, or assign or convey any right to receive income thereon, unless (a) in the case of any Lien securing Subordinated Indebtedness (as defined therein), the 2004 Senior Notes are secured by a lien on such property or proceeds that is senior in priority to such Lien and (b) in the case of any other Lien, the 2004 Senior Notes are directly secured equally and ratably with the obligation or liability secured by such Lien.

**EURODOLLAR AND DOMESTIC LENDING OFFICES,  
ADDRESSES FOR NOTICES**

**COMSTOCK RESOURCES, INC.**

5300 Town and Country Blvd., Suite 500  
Frisco, TX 75034

Attention: Roland Burns  
Chief Financial Officer

Telephone: (972) 668-8800

Facsimile: (972) 668-8822

Electronic Mail: [rbums@comstockresources.com](mailto:rbums@comstockresources.com)

**BANK OF MONTREAL**

Administrative Agent's Office for Notices:

Bank of Montreal  
700 Louisiana, Suite 4400  
Houston, TX 77002  
Attention: Joseph A. Bliss  
Telephone: (713) 546-9735  
Facsimile: (713) 223-4007  
Electronic Mail: joe.bliss@bmo.com

Lender's Lending Office For Requests of Credit Extensions and Payments:

BMO Capital Markets Financing, Inc.  
115 South LaSalle  
Chicago, IL 60304  
Attention: Carl Faming  
Telephone: (312) 461-5322  
Facsimile: (312) 750-3456  
Harris Trust & Savings Bank  
Chicago Branch  
ABA#: 071 000288  
For Further Credit to BMO Capital Markets Financing, Inc.  
Chicago Branch  
A/C# 1833201

Issuing Bank:

Bank of Montreal  
700 Louisiana, Suite 4400  
Houston, Texas 77002  
Attention: Joseph A. Bliss  
Telephone: (713) 546-9735  
Facsimile: (713) 223-4007  
Electronic Mail: joe.bliss@bmo.com



**BANK OF AMERICA, N.A.**

Address for Notices:

Bank of America, N.A.

910 Main Street, 67th Floor

Dallas, Texas 75202

Attention: Jeff H. Rathkamp

Telephone: (617) 434-7010

Facsimile: (617) 434-3652

Electronic Mail: jeffrey.h.rathkamp@bankofamerica.com

Back-up Name: Maria J. Soares

Telephone: (617) 434-7198

Facsimile: (617) 434-0201

Electronic Mail: maria.j.soares@bankofamerica.com

Lending Office:

Bank of America, N.A.

1201 Main Street, 6th Floor

Dallas, Texas 75202

Attention: Glenda Bromley

Telephone: (214) 508-8807

Facsimile: (214) 508-8419

Electronic Mail: glenda.bromley@bankofamerica.com

**COMERICA BANK**

Address for Notices:

Comerica Bank  
1601 Elm Street, 2nd Floor  
Dallas, Texas 75201

Attention: Peter L. Sefzik  
Telephone: (214) 969-6538  
Facsimile: (214) 969-6561  
Electronic Mail: plsefzik@comerica.com

Lending Office:

Comerica Bank  
Detroit, MI

Attention: Jeffrey L. Zelenka  
Telephone: (734) 632-3052  
Facsimile: (734) 632-2993  
Electronic Mail: jeffrey\_l\_zelenka@comerica.com

**FORTIS CAPITAL CORP.**

Address for Notices and Lending Offices:

Fortis Capital Corp.  
15455 North Dallas Parkway, Suite 1400  
Addison, Texas 75001  
Attention: Michele Jones  
Telephone: (214) 953-9303  
Facsimile: (214) 754-5982  
Electronic Mail: [michele.jones@us.fortis.com](mailto:michele.jones@us.fortis.com)

**UNION BANK OF CALIFORNIA, N.A.**

Address for Notices:

Union Bank of California, N.A.  
500 N. Akard, Suite 4200  
Dallas, Texas 75201

Attention: Sean Murphy  
Vice President  
Telephone: (214) 922-4200  
Direct: (214) 922-4208  
Facsimile: (214) 922-4209  
Electronic Mail: sean.murphy@uboc.com

Lending Office:

Union Bank of California, N.A.  
1980 Saturn Street, Mail Code V01-120  
Monterey Park, California 91755

Attention: Maria Suncin  
Telephone: (323) 720-2870  
Facsimile: (323) 720-2252 / 2251  
Electronic Mail: maria.suncin@uboc.com

**THE BANK OF NOVA SCOTIA**

Address for Notices:

The Bank of Nova Scotia  
Houston Representative Office  
1100 Louisiana, Suite 3000  
Houston, TX 77002  
Attention: Rick Hawthorne  
Telephone: (713) 759-3432  
Facsimile: (713) 752-2425  
Electronic Mail: Richard\_Hawthorne@scotiacapital.com

Lending Office:

The Bank of Nova Scotia  
Atlanta Agency  
Suite 2700, 600 Peachtree St. N.E.  
Atlanta, GA 30308

**BANK OF SCOTLAND**

Address for Notices:

Bank of Scotland  
565 Fifth Avenue  
New York, NY 10017  
Attention: Shirley Vargas  
Vice President  
Telephone: (212) 450-0875  
Facsimile: (212) 479-2807  
Electronic Mail: shirley\_vargas@bankofscotland.com

Lending Office:

Bank of Scotland  
565 Fifth Avenue  
New York, NY 10017

**COMPASS BANK**

Address for Notices:

Compass Bank  
24 Greenway Plaza, Suite 1400A  
Houston, TX 77046  
Attention: Dorothy Marchand  
Telephone: (713) 968-8272  
Facsimile: (713) 968-8292  
Electronic Mail: dorothy.marchand@compassbank.com

Lending Office:

Compass Bank  
24 Greenway Plaza, Suite 1400A  
Houston, TX 77046

**CALYON NEW YORK BRANCH**

Address for Notices:

Calyon New York Branch  
1301 Travis, Suite 2100  
Houston, TX 77002  
Attention: Tom Byargeon  
Telephone: (713) 890-8616  
Facsimile: (713) 890-8668  
Electronic Mail: [tom.byargeon@us.calyon.com](mailto:tom.byargeon@us.calyon.com)

Calyon New York Branch  
1301 Travis, Suite 2100  
Houston, TX 77002  
Attention: Salman Patoli  
Telephone: (713) 890-8631  
Facsimile: (713) 890-8668  
Electronic Mail: [salman.patoli@us.calyon.com](mailto:salman.patoli@us.calyon.com)

Lending Office:

Calyon New York Branch  
1301 Avenue of the Americas  
New York, New York 10019



**CAPITAL ONE, NATIONAL ASSOCIATION**

Address for Notices:

Capital One N.A.  
313 Carondelet St., 10th Floor  
New Orleans, LA 70130  
Attention: Nancy Moragas  
Telephone: (504) 533-2863  
Facsimile: (504) 533-5594  
Electronic Mail: [nancy.moragas@capitalonebank.com](mailto:nancy.moragas@capitalonebank.com)

Lending Office:

Capital One, National Association  
5718 Westheimer, 6th Floor – Energy Dept.  
Houston, Texas 77057  
Attention: Norma Platt  
Telephone: 713-435-5233  
Facsimile: 713-435-5106  
Electronic Mail: [norma.platt@capitalonebank.com](mailto:norma.platt@capitalonebank.com)

**THE ROYAL BANK OF SCOTLAND plc**

Address for Notices:

The Royal Bank of Scotland plc  
600 Travis Street, Suite 6500  
Houston, Texas 77002

Attention: Robert Poirrier  
Telephone: 713-221-2434  
Facsimile: 713-221-2428  
Electronic Mail: robert.poirrier@rbos.com

Lending Office:

101 Park Avenue  
New York, New York 10178

Attention: Punam Gambhir  
Telephone: (212) 401-3451  
Fax: (212) 401-1494

**NATIXIS**

Address for Notices:

Natixis  
Southwest Representative Office  
333 Clay Street, Suite 4340  
Houston, TX 77002  
Attention: Tanya McAllister  
Telephone: (713) 759-9401  
Facsimile: (713) 571-6165  
Electronic Mail: Tanya.mcallister@nyc.nxbp.com

With a copy to:

Natixis  
New York Branch  
645 5th Avenue, 20th Floor  
New York, NY 10022  
Attention: Stacey Caruth  
Facsimile: (212) 872-5160

Lending Office:

Natixis  
Southwest Representative Office  
333 Clay Street, Suite 4340  
Houston, TX 77002

**REGIONS BANK**

(successor by merger to AmSouth Bank)

Address for Notices:

Regions Bank  
210 E Capitol St.  
4th Floor Plaza  
Jackson, MS 39201  
Attention: Bill Philipp  
Telephone: (601) 354-8229  
Facsimile: (601) 354-8563  
Electronic Mail: bill.philipp@regions.com

Lending Office:

Regions Bank  
210 E Capitol St.  
4th Floor Plaza  
Jackson, MS 39201

**U.S. BANK NATIONAL ASSOCIATION**

Address for Notices:

U.S. Bank National Association  
950 17<sup>th</sup> Street, 8<sup>th</sup> Floor  
Attention: Daria Mahoney  
Telephone: 303-585-4216  
Facsimile: 303-585-4362  
Electronic Mail: [daria.mahoney@usbank.com](mailto:daria.mahoney@usbank.com)

Lending Office:

555 SW Oak – PD-OR-P7LS  
Portland, Oregon 97208  
Attention: Hanny Nawawi  
Telephone: 503-275-7894  
Facsimile: 503-275-8181

**KEYBANK NATIONAL ASSOCIATION**

Address for Notices:

KeyBank National Association  
8117 Preston Road, Suite #440  
Dallas, Texas 75225

Attention: Thomas Rajan  
Telephone: 214-414-2580  
Facsimile: 214-414-2610  
Electronic Mail: Thomas\_Rajan@keybank.com

Lending Office:

127 Public Square  
Cleveland, Ohio 44114

Attention: Vvette M. Dyson-Owens  
Telephone: 216-689-4358  
Facsimile: 216-689-5962  
Electronic Mail: yvette\_m\_dyson-owens@keybank.com

FORM OF NOTICE OF ADVANCE

Date: \_\_\_\_\_, \_\_\_\_\_

To: BANK OF MONTREAL, as Administrative Agent

Ladies and Gentlemen:

Reference is made to that certain Second Amended and Restated Credit Agreement, dated as of December 15, 2006 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the "Credit Agreement"; the terms defined therein being used herein as therein defined), among COMSTOCK RESOURCES, INC., a Nevada corporation ("Borrower"), the Lenders from time to time party thereto, BANK OF MONTREAL, as Administrative Agent and Issuing Bank.

The undersigned hereby requests (select one):

- A Borrowing of Loans
- A conversion or continuation of Loans

1. On \_\_\_\_\_ (a Business Day).

2. In the amount of \$ \_\_\_\_\_.

3. Comprised of \_\_\_\_\_.  
[Type of Loan requested]

4. For LIBO Rate Loans: with an Interest Period of \_\_\_\_\_ months.

There does not exist, as of the above date, and after giving effect to the advance requested in this notice for advance, any default under the Credit Agreement.

All conditions precedent to the advance requested hereby set forth in Section 4.2 of the Credit Agreement have been satisfied.

The Borrowing requested herein complies with the proviso to the first sentence of Section 2.1 of the Credit Agreement.

[The Borrower [will (or intends to)][will not] use [some or all][any] of the proceeds of the requested Loans to make an Investment of the type described in Section 7.2(g) of the Credit Agreement.][IF APPLICABLE – Borrower must comply with requirements of Regulation U.]

**COMSTOCK RESOURCES, INC.**

By:

Name: Roland O. Burns

Title: Chief Financial Officer

Exh A-1 — 2

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## FORM OF NOTE

§ \_\_\_\_\_

\_\_\_\_\_

FOR VALUE RECEIVED, the undersigned (the "Borrower"), hereby promises to pay to the order of \_\_\_\_\_ (the "Lender"), on the Maturity Date (as defined in the Credit Agreement referred to below) the principal amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_), or such lesser principal amount of Loans (as defined in such Credit Agreement) due and payable by the Borrower to the Lender on the Maturity Date under that certain Second Amended and Restated Credit Agreement, dated as of December 15, 2006 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the "Credit Agreement"; the terms defined therein being used herein as therein defined), among COMSTOCK RESOURCES, INC., a Nevada corporation ("Borrower"), the Lenders from time to time party thereto, BANK OF MONTREAL, as Administrative Agent and Issuing Bank.

The Borrower promises to pay interest on the unpaid principal amount of each Loan from the date of such Loan until such principal amount is paid in full, at such interest rates, and at such times as are specified in the Credit Agreement. All payments of principal and interest shall be made to the Administrative Agent for the account of the Lender in Dollars in immediately available funds at the Administrative Agent's Office. If any amount is not paid in full when due hereunder, such unpaid amount shall bear interest, to be paid upon demand, from the due date thereof until the date of actual payment (and before as well as after judgment) computed at the per annum rate set forth in the Credit Agreement.

This Note is one of the Notes referred to in the Credit Agreement, is entitled to the benefits thereof and is subject to optional and mandatory prepayment in whole or in part as provided therein. This Note is also entitled to the benefits of the Guarantees and is secured by certain collateral more particularly described in the Security Documents. Upon the occurrence of one or more of the Events of Default specified in the Credit Agreement, all amounts then remaining unpaid on this Note shall become, or may be declared to be, immediately due and payable all as provided in the Credit Agreement. Loans made by the Lender shall be evidenced by one or more loan accounts or records maintained by the Lender in the ordinary course of business. The Lender may also attach schedules to this Note and endorse thereon the date, amount and maturity of its Loans and payments with respect thereto.

This Note is an extension, renewal, and replacement of, and is given in substitution and exchange for, certain promissory notes evidencing Prior Indebtedness of the Borrower in the original aggregate principal amount of up to \$400,000,000 executed by the Borrower under that certain Amended and Restated Credit Agreement dated as of February 25, 2004 (the "Prior Credit Agreement"), among the Borrower, Bank of Montreal, as administrative agent, and certain lenders and other financial institutions that were, or thereafter became, parties thereto, as such Prior Credit Agreement was or may have been from time to time thereafter amended or modified, which was itself an extension, renewal, and replacement of, and was given in substitution and exchange for, certain promissory notes evidencing prior Indebtedness of the Borrower in the

original aggregate principal amount of up to \$350,000,000 executed by the Borrower under that certain Credit Agreement dated as of December 17, 2001, among the Borrower, Toronto Dominion (Texas), Inc., as administrative agent, and certain lenders and other financial institutions that were, or thereafter became, parties thereto, as such Credit Agreement was or may have been from time to time thereafter amended or modified, and the indebtedness evidenced hereby and thereby is a continuing indebtedness and nothing herein contained or implied shall be construed to deem such indebtedness or any accrued and unpaid interest thereon paid, satisfied, novated or terminated, or any collateral or security therefore released or terminated.

The Borrower, for itself, its successors and assigns, hereby waives diligence, presentment, protest and demand and notice of protest, demand, dishonor and non-payment of this Note.

THIS NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK (WITHOUT GIVING EFFECT TO THE PRINCIPLES THEREOF RELATING TO CONFLICTS OF LAW EXCEPT SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW).

**COMSTOCK RESOURCES, INC.**

By: \_\_\_\_\_  
Name: Roland O. Burns  
Title: Chief Financial Officer

**LOANS AND PAYMENTS WITH RESPECT THERETO**

Date	Type of Loan Made	Amount of Loan Made	End of Interest Period	Amount of Principal or Interest Paid This Date	Outstanding Principal Balance This Date	Notation Made By

## FORM OF COMPLIANCE CERTIFICATE

Financial Statement Date: \_\_\_\_\_, \_\_\_\_\_

To: BANK OF MONTREAL, as Administrative Agent

Ladies and Gentlemen:

Reference is made to that certain Second Amended and Restated Credit Agreement, dated as of December 15, 2006 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the "Credit Agreement"; the terms defined therein being used herein as therein defined), among COMSTOCK RESOURCES, INC., a Nevada corporation ("Borrower"), the Lenders from time to time party thereto, BANK OF MONTREAL, as Administrative Agent and Issuing Bank.

The undersigned Responsible Officer hereby certifies as of the date hereof that he/she is the \_\_\_\_\_ of the Borrower, and that, as such, he/she is authorized to execute and deliver this Certificate to the Administrative Agent on the behalf of the Borrower, and that:

*[Use following for fiscal year-end financial statements]*

1. Attached hereto as Schedule 1 are the year-end initial audited financial statements required by Section 6.1(a) of the Credit Agreement for the fiscal year of the Borrower ended as of the above date, together with the report and opinion of an independent certified public accountant required by such section.

*[Use following for fiscal quarter-end financial statements]*

5. Attached hereto as Schedule 1 are the unaudited financial statements required by Section 6.1(b) of the Credit Agreement for the fiscal quarter of the Borrower ended as of the above date. Such financial statements fairly present the financial condition, results of operations and cash flows of the Borrower and its Subsidiaries in accordance with GAAP as at such date and for such period, subject only to normal year-end audit adjustments and the absence of footnotes.

6. The undersigned has reviewed and is familiar with the terms of the Credit Agreement and has made, or has caused to be made under his/her supervision, a detailed review of the transactions and condition (financial or otherwise) of the Borrower during the accounting period covered by the attached financial statements.

7. A review of the activities of the Borrower during such fiscal period has been made under the supervision of the undersigned with a view to determining whether during such fiscal period the Borrower performed and observed all its Obligations under the Loan Documents, and

[select one:]

[to the best knowledge of the undersigned during such fiscal period, the Borrower performed and observed each covenant and condition of the Loan Documents applicable to it.]

—or—

[the following covenants or conditions have not been performed or observed and the following is a list of each such Default or Event of Default and its nature and status:]

8. The financial covenant analyses and information set forth on Schedule 2 attached hereto are true and accurate on and as of the date of this Certificate.

IN WITNESS WHEREOF, the undersigned has executed this Certificate as of \_\_\_\_\_, \_\_\_\_\_.

**COMSTOCK RESOURCES, INC.**

By: \_\_\_\_\_  
Name: Roland O. Burns  
Title: Chief Financial Officer

Exh C — 2

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## FORM OF LENDER ASSIGNMENT

Reference is made to that certain Second Amended and Restated Credit Agreement, dated as of December 15, 2006 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the "Credit Agreement"; the terms defined therein being used herein as therein defined), among COMSTOCK RESOURCES, INC., a Nevada corporation ("Borrower"), the Lenders from time to time party thereto, BANK OF MONTREAL, as Administrative Agent and Issuing Bank.

The assignor identified on the signature page hereto (the "Assignor") and the assignee identified on the signature page hereto (the "Assignee") agree as follows:

1. (a) Subject to paragraph 11, effective as of the date specified on Schedule 1 hereto (the "Effective Date"), the Assignor hereby irrevocably sells and assigns to the Assignee without recourse to the Assignor, and the Assignee hereby irrevocably purchases and assumes from the Assignor without recourse to the Assignor, the interest described on Schedule 1 hereto (the "Assigned Interest") in and to the Assignor's rights and obligations under the Credit Agreement.

(b) From and after the Effective Date, (i) the Assignee shall be a party under the Credit Agreement and will have all the rights and obligations of a Lender for all purposes under the Loan Documents to the extent of the Assigned Interest and be bound by the provisions thereof, and (ii) the Assignor shall relinquish its rights and be released from its obligations under the Credit Agreement to the extent of the Assigned Interest. The Assignor and/or the Assignee, as agreed by the Assignor and the Assignee, shall deliver, in immediately available funds, any applicable assignment fee required under Section 10.7.2(a) of the Credit Agreement.

2. On the Effective Date, the Assignee shall pay to the Assignor, in immediately available funds, an amount equal to the purchase price of the Assigned Interest as agreed upon by the Assignor and the Assignee.

3. From and after the Effective Date, the Administrative Agent shall make all payments under the Credit Agreement and the Notes, if any, in respect of the Assigned Interest (including all payments of principal, interest and fees with respect thereto) to the Assignee. The Assignor and the Assignee shall make all appropriate adjustments in payments under the Credit Agreement and such Notes, if any, for periods prior to the Effective Date directly between themselves.

4. The Assignor represents and warrants to the Assignee that:

(a) The Assignor is the legal and beneficial owner of the Assigned Interest, and the Assigned Interest is free and clear of any adverse claim;

(b) the Assigned Interest listed on Schedule 1 accurately and completely sets forth the Outstanding Amount of all Loans and L/C Obligations relating to the Assigned Interest as of the Effective Date;

(c) it has the power and authority and the legal right to make, deliver and perform, and has taken all necessary action, to authorize the execution, delivery and performance of this Lender Assignment, and any and all other documents delivered by it in connection herewith and to fulfill its obligations under, and to consummate the transactions contemplated by, this Lender Assignment and the Loan Documents, and no consent or authorization of, filing with, or other act by or in respect of any Governmental Authority, is required in connection in connection herewith or therewith; and

(d) this Lender Assignment constitutes the legal, valid and binding obligation of the Assignor.

The Assignor makes no representation or warranty and assumes no responsibility with respect to the financial condition of the Borrower or any of its Affiliates or the performance by the Borrower or any of its Affiliates of their respective obligations under the Loan Documents, and assumes no responsibility with respect to any statements, warranties or representations made under or in connection with any Loan Document or the execution, legality, validity, enforceability, genuineness, sufficiency or value of any Loan Document other than as expressly set forth above.

5. The Assignee represents and warrants to the Assignor and the Administrative Agent that:

(a) it is an Eligible Assignee;

(b) it has the full power and authority and the legal right to make, deliver and perform, and has taken all necessary action, to authorize the execution, delivery and performance of this Lender Assignment, and any and all other documents delivered by it in connection herewith and to fulfill its obligations under, and to consummate the transactions contemplated by, this Lender Assignment and the Loan Documents, and no consent or authorization of, filing with, or other act by or in respect of any Governmental Authority, is required in connection in connection herewith or therewith;

(c) this Lender Assignment constitutes the legal, valid and binding obligation of the Assignee;

(d) under applicable Laws no tax will be required to be withheld by the Administrative Agent or the Borrower with respect to any payments to be made to the Assignee hereunder or under any Loan Document, and unless otherwise indicated in the space opposite the Assignee's signature below, no tax forms described in Section 3.8 of the Credit Agreement are required to be delivered by the Assignee; and

(e) the Assignee has received a copy of the Credit Agreement, together with copies of the most recent financial statements of the Borrower delivered pursuant thereto,

and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Lender Assignment. The Assignee has independently and without reliance upon the Assignor or the Administrative Agent and based on such information as the Assignee has deemed appropriate, made its own credit analysis and decision to enter into this Lender Assignment. The Assignee will, independently and without reliance upon the Administrative Agent or any Lender, and based upon such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Credit Agreement.

6. The Assignee appoints and authorizes the Administrative Agent to take such action as agent on its behalf and to exercise such powers and discretion under the Credit Agreement, the other Loan Documents or any other instrument or document furnished pursuant hereto or thereto as are delegated to the Administrative Agent by the terms thereof, together with such powers as are incidental thereto.

7. The Assignee hereby requests that the Borrower provide a Note evidencing the Credit Extensions of the Assignee.

8. The Assignor and the Assignee agree to execute and deliver such other instruments, and take such other action, as either party may reasonably request in connection with the transactions contemplated by this Lender Assignment.

9. This Lender Assignment shall be binding upon and inure to the benefit of the parties and their respective successors and assigns; provided, however, that the Assignee shall not assign its rights or obligations hereunder without the prior written consent of the Assignor and any purported assignment, absent such consent, shall be void.

10. This Lender Assignment may be executed by facsimile signatures with the same force and effect as if manually signed and may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Lender Assignment shall be governed by and construed in accordance with the laws of the state specified in the Section of the Credit Agreement entitled "Governing Law."

11. The effectiveness of the assignment described herein is subject to:

(a) if such consent is required by the Credit Agreement, receipt by the Assignor and the Assignee of the consent of the Administrative Agent, the Issuing Bank and/or the Borrower to the assignment described herein. By delivering a duly executed and delivered copy of this Lender Assignment to the Administrative Agent, the Assignor and the Assignee hereby request any such required consent and request that the Administrative Agent register the Assignee as a Lender under the Credit Agreement effective as of the Effective Date; and

(b) receipt by the Administrative Agent of (or other arrangements acceptable to the Administrative Agent with respect to) any applicable assignment fee referred to in



Section 10.7.2(a) of the Credit Agreement and any tax forms required by Section 3.8 of the Credit Agreement.

By signing below, the Administrative Agent agrees to register the Assignee as a Lender under the Credit Agreement, effective as of the Effective Date with respect to the Assigned Interest, and will adjust the registered Percentage Share of the Assignor under the Credit Agreement to reflect the assignment of the Assigned Interest.

12. Attached hereto as Schedule 2 is all contact, address, account and other administrative information relating to the Assignee.

*IN WITNESS WHEREOF*, the parties hereto have caused this Lender Assignment to be executed as of the date first above written by their respective duly authorized officers.

**Assignor:**

*[Name of Assignor]*

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

o Tax forms required by Section 3.8 of the Credit Agreement included

**Assignee:**

*[Name of Assignee]*

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

*(Signatures continue)*

*In accordance with and subject to Section 10.7.2 of the Credit Agreement, the undersigned consent to the foregoing assignment as of the Effective Date:*

**COMSTOCK RESOURCES, INC.**, as Borrower

By: \_\_\_\_\_  
Name: Roland O. Burns  
Title: Chief Financial Officer

**BANK OF MONTREAL**,  
as Administrative Agent and Issuing Bank

By: \_\_\_\_\_  
Title: Managing Director

THE ASSIGNED INTEREST

Effective Date: \_\_\_\_\_

Assigned Commitment Amount	Type and amount of outstanding Obligations assigned	Assigned Percentage Share
\$ _____	[type] \$ _____	% _____
Schedule 1 — 1		

**ADMINISTRATIVE DETAILS**

*(Assignee to list names of credit contacts, addresses, phone and facsimile numbers, electronic mail addresses, account and payment information and include applicable tax form(s))*

FORM OF [AMENDED AND RESTATED] SUBSIDIARY GUARANTY

Exh E — 1

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FORM OF OPINION OF BORROWER'S COUNSEL

FORM OF NEW YORK COUNSEL OPINION OF BORROWER

FORMS OF TEXAS COUNSEL OPINION OF BORROWER



FORMS OF LOUISIANA COUNSEL OPINION OF BORROWER

FORMS OF OKLAHOMA COUNSEL OPINION OF BORROWER

Exh F-5 — 1

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FORMS OF MISSISSIPPI COUNSEL OPINION OF BORROWER

FORM OF [AMENDED AND RESTATED] SUBORDINATION AGREEMENT

Schedule 2 — 1

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FORM OF [AMENDED AND RESTATED] PLEDGE AGREEMENT AND  
IRREVOCABLE PROXY

Schedule 2 — 1

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FORM OF [AMENDED AND RESTATED] SECURITY AGREEMENT

Schedule 2 — 1

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## FORM OF ADDITIONAL LENDER CERTIFICATE

Bank of Montreal  
700 Louisiana, Suite 4400  
Houston, Texas 77002  
Attention: Administrative Agent

Gentlemen and Ladies:

This Additional Lender Certificate is delivered to you pursuant to Section 2.15 of that certain Second Amended and Restated Credit Agreement, dated as of December 15, 2006 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the "Credit Agreement"), among COMSTOCK RESOURCES, INC., a Nevada corporation ("Borrower"), the Lenders from time to time party thereto, BANK OF MONTREAL, as Administrative Agent and Issuing Bank. Unless otherwise defined herein or the context otherwise requires, terms used herein have the meanings provided in the Credit Agreement.

[Language for Existing Lender]

[Please be advised that the undersigned (a) has agreed to increase its Commitment Amount under the Credit Agreement effective as of \_\_\_\_\_ from \$\_\_\_\_\_ to \$\_\_\_\_\_, (b) hereby irrevocably purchases and assumes from each other Lender party to the Credit Agreement as of such effective date (without recourse to any such other Lender), so much of each such other Lender's rights and obligations under the Credit Agreement, Commitment Amount, outstanding Loans and participations in Letters of Credit, such that, after giving effect to such purchase, it shall have the Percentage Share determined by dividing its increased Commitment Amount (described above) by the aggregate amount of all Commitment Amounts of all existing and new Lenders (including itself) under the Credit Agreement, and (c) shall continue to be a party in all respect to the Credit Agreement and the other Loan Documents to which the Lenders are party.]

[Language for New Lender]

[Please be advised that the undersigned (a) has agreed to become a Lender under the Credit Agreement effective as of \_\_\_\_\_ with a Commitment Amount of \$\_\_\_\_\_, (b) hereby irrevocably purchases and assumes from each other Lender party to the Credit Agreement as of such effective date (without recourse to any such other Lender), so much of each such other Lender's rights and obligations under the Credit Agreement, Commitment Amount, outstanding Loans and participations in Letters of Credit, such that, after giving effect to such purchase, such New Lender shall have the Percentage Share determined by dividing its Commitment Amount (described above) by the aggregate amount of all Commitment Amounts of all existing and new Lenders (including itself) under the Credit Agreement, (c) shall be deemed to be a party in all respect to the Credit Agreement and the other Loan Documents to which the Lenders are party, (d) has received a copy of the Credit Agreement, together with

copies of the most recent financial statements of the Borrower delivered pursuant thereto, and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to execute and deliver this Additional Lender Certificate and become a party to the Credit Agreement, (e) has independently and without reliance upon the Administrative Agent or any other new or existing Lender, and based on such information as it has deemed appropriate, made its own credit analysis and decision to execute and deliver this Additional Lender Certificate and become a party to the Credit Agreement, (f) will, independently and without reliance upon the Administrative Agent or any other new or existing Lender, and based upon such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Credit Agreement, and (g) has delivered to the Administrative Agent any tax forms required by Section 3.8 of the Credit Agreement.

The undersigned appoints and authorizes the Administrative Agent to take such action as agent on its behalf and to exercise such powers and discretion under the Credit Agreement, the other Loan Documents or any other instrument or document furnished pursuant hereto or thereto as are delegated to the Administrative Agent by the terms thereof, together with such powers as are incidental thereto.]

Very truly yours,

[LENDER]  
as a Lender

By: \_\_\_\_\_  
Name:  
Title:



## SUBSIDIARIES OF COMSTOCK RESOURCES, INC.

Name	Incorporation	Business Name
Comstock Oil & Gas GP, LLC	Nevada	Comstock Oil & Gas GP, LLC
Comstock Oil & Gas Investments, LLC	Nevada	Comstock Oil & Gas Investments, LLC
Comstock Oil & Gas, LP <sup>(1)</sup>	Nevada	Comstock Oil & Gas, LP
Comstock Oil & Gas Holdings, Inc. <sup>(2)</sup>	Nevada	Comstock Oil & Gas Holdings, Inc.
Comstock Oil & Gas — Louisiana, LLC <sup>(3)</sup>	Nevada	Comstock Oil & Gas — Louisiana, LLC
Comstock Offshore, LLC <sup>(4)</sup>	Nevada	Comstock Offshore, LLC
Bois d'Arc Energy, Inc. <sup>(5)</sup>	Nevada	Bois d'Arc Energy, Inc.
Bois d'Arc Oil & Gas Company, LLC <sup>(6)</sup>	Nevada	Bois d'Arc Oil & Gas Company, LLC
Bois d'Arc Holdings, LLC <sup>(6)</sup>	Texas	Bois d'Arc Holdings, LLC
Bois d'Arc Offshore, Ltd. <sup>(7)</sup>	Nevada	Bois d'Arc Offshore, Ltd.
Bois d'Arc Properties, LP <sup>(8)</sup>	Nevada	Bois d'Arc Properties, LP

(1) Comstock Oil & Gas GP, LLC is the general partner and Comstock Oil & Gas Investments, LLC is the limited partner of this partnership

(2) 100% owned by Comstock Oil & Gas, LP

(3) Subsidiary of Comstock Oil & Gas Holdings, Inc.

(4) Subsidiary of Comstock Oil & Gas — Louisiana, LLC

(5) 49.4% owned by Comstock Resources, Inc.

(6) Subsidiary of Bois d'Arc Energy, Inc.

(7) Bois d'Arc Oil & Gas Company, LLC is the general partner and Bois d'Arc Energy, Inc. is the limited partner of this partnership

(8) Bois d'Arc Holdings, LLC is the general partner and Bois d'Arc Energy, Inc. is the limited partner of this partnership

**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We consent to the incorporation by reference in the Registration Statement Nos. 33-20981 and 33-88962 filed on Form S-8 and Nos. 333-111237, 333-112100 and 333-128813 filed on Form S-3 of Comstock Resources, Inc. and the related Prospectuses of our reports dated February 28, 2007 with respect to the consolidated financial statements of Comstock Resources, Inc., Comstock Resources, Inc.'s management's assessment of the effectiveness of internal control over financial reporting, and the effectiveness of internal control over financial reporting of Comstock Resources, Inc. included in this Annual Report (Form 10-K) for the year ended December 31, 2006.

/s/ ERNST & YOUNG LLP

Dallas, Texas  
February 28, 2007

**CONSENT OF INDEPENDENT PETROLEUM ENGINEERS**

We consent to the incorporation by reference in the Registration Statement Nos. 33-20981 and 33-88962 filed on Form S-8 and Nos. 333-111237, 333-112100 and 333-12881 filed on Form S-3 of Comstock Resources, Inc. and the related Prospectuses of the reference of our firm and to the reserve estimates as of December 31, 2006 and our report thereon in the Annual Report on Form 10-K for the year ended December 31, 2006 of Comstock Resources, Inc., filed with the Securities and Exchange Commission.

/s/ LEE KEELING AND ASSOCIATES, INC.

Tulsa, Oklahoma  
February 28, 2007

**Section 302 Certification**

I, M. Jay Allison, certify that:

1. I have reviewed this December 31, 2006 Form 10-K of Comstock Resources, Inc;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 28, 2007

/s/ M. JAY ALLISON  
President and Chief Executive Officer

**Section 302 Certification**

I, Roland O. Burns, certify that:

1. I have reviewed this December 31, 2006 Form 10-K of Comstock Resources, Inc;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 28, 2007

/s/ ROLAND O. BURNS  
Sr. Vice President and Chief Financial Officer

**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Annual Report of Comstock Resources, Inc. (the "Company") on Form 10-K for the year ending December 31, 2006 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, M. Jay Allison, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and result of operations of the Company.

February 28, 2007

/s/ M. JAY ALLISON

M. Jay Allison  
Chief Executive Officer

**CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Annual Report of Comstock Resources, Inc. (the "Company") on Form 10-K for the year ending December 31, 2006 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Roland O. Burns, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and result of operations of the Company.

February 28, 2007

/s/ ROLAND O. BURNS

Roland O. Burns  
Chief Financial Officer