

COMSTOCK RESOURCES INC

Form 424B5

February 17, 2004

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The information in this prospectus supplement is not complete and may be changed. We may not sell these securities until a final prospectus supplement is delivered. This prospectus supplement and the accompanying prospectus are not an offer to sell these securities, and we are not soliciting offers to buy these securities in any state where the offer and sale is not permitted.

Filed Pursuant to Rule 424(B)(5)  
Registration No. 333-111237

SUBJECT TO COMPLETION, DATED FEBRUARY 17, 2004

**PROSPECTUS SUPPLEMENT**

(To Prospectus dated January 13, 2004)

**\$150,000,000**

**Comstock Resources, Inc.**

**% Senior Notes due 2012**

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**The Company:**

We are an independent energy company engaged in the acquisition, development, production and exploration of oil and natural gas properties. Our oil and natural gas operations are concentrated in the Gulf of Mexico, East Texas/ North Louisiana, Southeast Texas and South Texas regions.

**The Offering:**

Use of Proceeds: We will use the net proceeds from this offering to fund our recently announced tender offer for our outstanding 11 1/4% Senior Notes due 2007. Any remaining net proceeds will be used to repay amounts borrowed under our bank credit facility.

**The Notes:**

Maturity: The notes will mature on \_\_\_\_\_, 2012.

Interest Payments: We will pay interest on the notes semi-annually in cash in arrears on \_\_\_\_\_ and \_\_\_\_\_ of each year, starting on \_\_\_\_\_, 2004.

Ranking: The notes and the guarantees will be our general unsecured senior obligations and will be effectively subordinated to all of our and our subsidiary guarantors' existing and future secured debt to the extent of the assets securing that secured debt.

Guarantees: The notes will initially be guaranteed by each of our principal operating subsidiaries and thereafter by each of our subsidiaries that guarantees or otherwise becomes liable with respect to our or our subsidiaries' other indebtedness.

Optional Redemption: The notes will initially be redeemable at any time on or after \_\_\_\_\_, 2008 at the redemption prices specified under Description of the Notes Optional Redemption. In addition, we may redeem up to 35% of the notes before \_\_\_\_\_, 2007 with the net proceeds from certain equity offerings.

The underwriters have agreed to purchase the notes from us at \_\_\_\_\_% of their principal amount for total proceeds to us of \$ \_\_\_\_\_ or \$ \_\_\_\_\_ for each \$1,000 principal amount of notes, before deducting expenses.

**This investment involves risks. See Risk Factors beginning on page S-14 of this prospectus supplement and page 7 of the accompanying prospectus.**

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**Offering Price:** \_\_\_\_\_% plus accrued interest if any, from \_\_\_\_\_, 2004.

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Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved these securities or determined if this prospectus supplement or the accompanying prospectus is accurate or complete. Any representation to the contrary is a criminal offense.

Banc of America Securities LLC expects to deliver the notes to purchasers on or about \_\_\_\_\_, 2004.

**Banc of America Securities LLC**  
*Sole Book-Running Manager*

**Harris Nesbitt**  
*Co-Lead Manager*

**Comerica Securities**

February , 2004

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You should rely only on the information incorporated by reference or provided in this prospectus supplement and the accompanying prospectus. We have not, and the underwriters have not, authorized anyone else to provide you with different information. We are offering the notes and seeking offers to buy the notes only in jurisdictions where offers and sales are permitted. You should not assume that the information in this prospectus supplement and the accompanying prospectus is accurate as of any date other than the date on the front of these documents regardless of the time of delivery of this prospectus supplement or any sale of the notes.

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ABOUT THIS PROSPECTUS SUPPLEMENT

The first part of this document is this prospectus supplement, which describes our business and the specific terms of this offering. The second part is the accompanying base prospectus, which we call the accompanying prospectus, and which gives more general information than this prospectus supplement, some of which may not apply to this offering. Generally, when we refer to prospectus, we are referring to both parts combined.

IF THE INFORMATION IN THIS PROSPECTUS SUPPLEMENT IS INCONSISTENT WITH THE INFORMATION IN THE ACCOMPANYING PROSPECTUS, YOU SHOULD RELY ON THE INFORMATION IN THIS PROSPECTUS SUPPLEMENT.

You should read this prospectus supplement and the accompanying prospectus carefully before you invest. Both documents contain information you should consider when making a decision to purchase the notes. In addition, we incorporate important business and financial information in this prospectus supplement and the accompanying prospectus by reference to other documents. You should read and consider the information in the documents to which we have referred you in the section captioned Where You Can Find More Information.

Unless the context requires otherwise or unless otherwise noted, all references to Comstock, we, us or our in this prospectus supplement are references to Comstock Resources, Inc. and its subsidiaries.

We have provided definitions for some of the natural gas and oil industry terms used in this prospectus supplement under Glossary of Certain Oil and Natural Gas Terms beginning on page S-87.

CAUTIONARY STATEMENT CONCERNING FORWARD-LOOKING STATEMENTS

The information contained in this prospectus supplement and the accompanying prospectus, including the documents incorporated by reference herein and our public releases include 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 and phrases. All statements, other than statements of historical facts, included in or incorporated by reference to this prospectus supplement or the accompanying prospectus, are forward-looking statements, including statements under the caption Risk Factors in the accompanying prospectus regarding:

budgeted capital expenditures;

increases in oil and natural gas production;

the number of anticipated wells to be drilled after the date hereof;

our financial position;

oil and natural gas reserve estimates;

business strategy; and

other plans and objectives for future operations.

Although we believe that the expectations reflected in these forward-looking statements are reasonable, we can give no assurance that these expectations will prove to be correct. Our actual results could differ materially from those anticipated in these forward-looking statements as a result of certain factors, including, among others:

the risks described in the sections captioned Risk Factors in this prospectus supplement and the accompanying prospectus;

the timing and success of our drilling activities;

the volatility of prices and supply of, and demand for, oil and natural gas;

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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 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 acquire or discover 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

continued hostilities in the Middle East and other sustained military campaigns and acts of terrorism or sabotage.

There are numerous uncertainties inherent in estimating quantities of proved oil and natural gas reserves and in projecting future rates of production and timing of development expenditures, including many factors beyond our control. Reserve engineering is a subjective process of estimating underground accumulations of oil and natural gas that cannot be precisely measured. Furthermore, the accuracy of any reserve estimate is a function of the quality of available data and of engineering and geological interpretation and judgment. As a result, estimates made by different engineers often vary from one to another. In addition, results of drilling, testing and production subsequent to the date of an estimate may justify revisions of the estimate and the revisions, if significant, would change the schedule of any further production and development drilling. Accordingly, reserve estimates are generally different from the quantities of oil and natural gas that are ultimately recovered. Additional important factors that could cause actual results to differ materially from our expectations are discussed in the sections captioned "Risk Factors" in this prospectus supplement and the accompanying prospectus and elsewhere in this prospectus supplement and the accompanying prospectus. Should one or more of these risks or uncertainties occur, or should underlying assumptions prove incorrect, our actual results and plans for 2004 and beyond could differ materially from those expressed in the forward-looking statements. All subsequent written and oral forward-looking statements attributable to us or persons acting on our behalf are expressly qualified in their entirety by such factors.

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## SUMMARY

*This summary is not complete and may not contain all of the information that may be important to you. You should read the entire prospectus supplement and accompanying prospectus carefully, including the financial statements and related notes, as well as the documents incorporated by reference, before making an investment decision.*

**Our Business**

We are an independent energy company engaged in the acquisition, development, production and exploration of oil and natural gas properties. Our oil and natural gas operations are concentrated in the Gulf of Mexico, East Texas/ North Louisiana, Southeast Texas and South Texas regions. In addition, we have properties in the Illinois Basin region in Kentucky and in the Mid-Continent regions located in the Texas panhandle, Oklahoma and Kansas. Our oil and natural gas properties are estimated to have proved reserves of 616.9 Bcfe with an estimated Present Value of Proved Reserves of \$1.7 billion as of December 31, 2003. Our proved oil and natural gas reserve base was 81% natural gas and 67% proved developed on a Bcfe basis as of December 31, 2003. We replaced 108% of our 2003 production of 44.0 Bcfe in 2003 through our development program. At the same time, we also reduced our long-term debt by \$60.0 million from \$366.0 million as of December 31, 2002 to \$306.0 million as of December 31, 2003.

Our proved reserves at December 31, 2003 and our 2003 average daily production are summarized below:

	Reserves at December 31, 2003				2003 Daily Production			
	Oil	Gas	Total	% of Total	Oil	Gas	Total	% of Total
	(MMBbls)	(Bcf)	(Bcfe)		(MBbls/d)	(MMcfd)	(MMcfd)	
Gulf of Mexico	14.7	127.7	216.1	35.0	3.2	21.8	40.7	33.8
East Texas/ North Louisiana	0.9	169.3	174.7	28.3	0.2	29.2	30.6	25.4
Southeast Texas	2.9	109.8	127.0	20.6	0.7	28.4	32.8	27.2
South Texas	0.4	44.8	47.1	7.6	0.1	9.0	9.9	8.2
Other Regions	0.3	50.2	52.0	8.5	0.2	5.6	6.6	5.4
<b>Total</b>	<b>19.2</b>	<b>501.8</b>	<b>616.9</b>	<b>100.0</b>	<b>4.4</b>	<b>94.0</b>	<b>120.6</b>	<b>100.0</b>

**Strengths**

*High Quality Properties.* Our operations are focused in four geographically concentrated areas, the Gulf of Mexico, East Texas/ North Louisiana, Southeast Texas and South Texas regions, which account for approximately 35%, 28%, 21% and 8% of our proved reserves at December 31, 2003, respectively. We have high price realizations relative to benchmark prices for natural gas and crude oil production. We also have favorable operating costs which result in high cash margins. Finally, our properties have an average reserve life of approximately 14 years and have extensive development and exploration potential.

*Successful Exploration and Development Program.* In 2003, we spent \$46.8 million on the exploitation and development of our oil and natural gas properties for development drilling, recompletions, workovers, abandonment and production facilities. Overall, we drilled 35 development wells, 22.0 net to us, with a 89% success rate. We also had a successful exploratory drilling program in 2003, spending a total of \$34.8 million to drill 18 wells, 7.4 net to us, with a 78% success rate. We spent an additional \$5.1 million in acquiring new acreage and seismic data in 2003 to support our exploration program.

*Successful Acquisitions.* We have had significant growth over the years as a result of acquisitions. Since 1991, we have added 740.1 Bcfe of proved oil and natural gas reserves from 30 acquisitions at an average cost of \$0.82 per Mcfe. Our application of strict economic and reserve risk criteria have enabled us to successfully evaluate and integrate acquisitions.



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*Efficient Operator.* We operate 61% of our proved oil and natural gas reserve base as of December 31, 2003. 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 on the properties. As an operator, we receive reimbursements for overhead from other working interest owners, which reduces our general and administrative expenses.

*High Price Realizations.* The majority of our wells are located in areas which can access attractive natural gas and crude oil markets. In addition, our natural gas production has a relatively high Btu content of approximately 1.07 Btu. Our crude oil production has a favorable API gravity of approximately 40 degrees. Due to these factors, we have relatively high price realizations compared to benchmark prices. In 2003 our average natural gas price was \$5.41 per Mcf, which represented a \$0.02 premium to the 2003 NYMEX average monthly settlement price. Also in 2003, our average crude oil price was \$30.70 per barrel, which represented a \$1.69 barrel premium to the average monthly West Texas Intermediate crude oil price for 2003 posted by Koch Industries, Inc.

*High Cash Margins.* As a result of our quality properties, higher price realizations and efficient operations, we have higher cash margins than most of our competitors. Consequently, our oil and natural gas reserves have a higher value per Mcfe than reserves that generate lower cash margins.

### ***Business Strategy***

*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 2003, we spent approximately \$28.3 million to drill 35 development wells, 22.0 net to us, of which 31 wells, 19.2 net to us, were successful, representing a success rate of 89%. In addition, we spent approximately \$18.5 million for new production facilities, leasehold costs and for recompletion, abandonment and workover activities. For 2004, we have budgeted \$37.0 million for development drilling and for recompletion, abandonment and workover activities.

*Pursue Exploration Opportunities.* We conduct exploration activities to grow our reserve base and to replace our production each year. In 2003, we spent approximately \$34.8 million to drill 18 exploratory wells, 7.4 net to us, of which 14 wells, 5.3 net to us, were successful, representing a success rate of 78%. We also spent \$5.1 million in acquiring new acreage and seismic data in 2003 to support our exploration program. We have budgeted \$73.0 million in 2004 for exploration activities which will be focused primarily in the Gulf of Mexico, Southeast Texas and South Texas regions.

*Maintain Low Cost Structure.* We seek to increase cash flow by carefully controlling operating costs and general and administrative expenses. Our average oil and gas operating costs per Mcfe were \$1.04 in 2003 and our general and administrative expenses per Mcfe averaged \$0.16 in 2003.

*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 740.1 Bcfe of proved oil and natural gas reserves from 30 acquisitions at a total cost of \$607.9 million, or \$0.82 per Mcfe. The acquisitions were acquired at an average of 58% of their Present Value of Proved Reserves in the year the acquisitions were completed. 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.

*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 \$110.0 million on development and exploration projects in 2004. We intend to primarily use operating cash flow to fund our drilling expenditures in 2004.

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We may also make additional property acquisitions in 2004 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.

### **Recent Developments**

#### ***Recent Financial Results***

On February 17, 2004, we reported our unaudited financial results for the year ended and three months ended December 31, 2003. For the year ended December 31, 2003, our oil and gas sales totaled \$235.1 million, which is a 65% increase over oil and gas sales in 2002 of \$142.1 million. Our net income from continuing operations in 2003 was \$53.4 million, or \$1.53 per share, as compared to net income from continuing operations, after preferred stock dividends, of \$11.0 million, or \$0.37 per share, in 2002. The reported results for the year ended December 31, 2003 include a gain of \$0.7 million (\$0.02 per share) relating to the cumulative effect of adopting a new accounting standard which changed our accounting for future abandonment costs of our oil and gas properties. Our income from continuing operations before income taxes, plus interest, depreciation, depletion and amortization expense, exploration expense and impairment of oil and gas properties and other non-cash items, or EBITDAX, was \$182.6 million in 2003, which is a 67% increase over EBITDAX in 2002 of \$109.1 million. For the three months ended December 31, 2003, our oil and gas sales were \$52.5 million, which is a 25% increase over oil and gas sales of \$42.0 million for the same period in 2002. Net income from continuing operations for the three months ended December 31, 2003 was \$5.7 million, or \$0.16 per share, as compared to net income from continuing operations of \$9.5 million, or \$0.29 per share, for the fourth quarter of 2002. Included in the fourth quarter results was an impairment charge of \$4.3 million on certain of our oil and gas properties. The fourth quarter 2002 results included other income of \$7.7 million related to refunds of severance taxes paid in prior years. EBITDAX for the fourth quarter of 2003 was \$38.5 million as compared to EBITDAX for the fourth quarter of 2002 which was \$38.7 million. For a discussion of EBITDAX and a reconciliation of EBITDAX to net income from continuing operations, please read Summary Financial Data.

#### ***New Bank Credit Facility***

We have received a commitment for a new \$400.0 million bank credit facility from Harris Nesbitt Corp., as arranger for Bank of Montreal. The new credit facility will provide a four-year revolving credit commitment. Borrowings under the new credit facility will be limited to a new borrowing base that will initially be set at \$310.0 million assuming the retirement of all of our existing 11 1/4% Senior Notes and the closing of this offering. Proceeds from the new credit facility will be used to pay a portion of the consideration due under the tender offer described below and/or to redeem our 11 1/4% Senior Notes in May 2004, and to refinance amounts outstanding under our current bank credit facility.

Indebtedness under the new credit facility will be secured by substantially all of our and our subsidiaries' assets. The new credit facility will be subject to borrowing base availability, which will be redetermined semiannually based on the banks' estimates of the future net cash flows of our oil and natural gas properties. 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 will be at the sole discretion of the administrative agent and the bank group. The revolving credit line will bear interest, based on the utilization of the borrowing base, at our option at either (1) LIBOR plus 1.25% to 1.75% or (2) the base rate (which is the higher of the prime rate or the federal funds rate) plus 0% to 0.50%. A commitment fee of 0.375% is payable on the unused borrowing base. The new credit facility will contain covenants similar to our present bank credit facility that, among other things, restrict the payment of cash dividends, limit the amount of consolidated debt we may incur and limit our ability to make certain loans and investments. Financial covenants will include the maintenance of a current ratio and maintenance of a minimum tangible net worth, but will not include an interest coverage ratio.

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*Tender Offer for Our 11 1/4% Senior Notes*

On February 10, 2004, we commenced a cash tender offer to purchase any and all of our outstanding 11 1/4% Senior Notes at a total purchase price of \$1,073.47 per \$1,000 in principal amount of the notes, which amount includes a consent payment of \$30.00 per \$1,000 in principal amount of notes. Noteholders who validly tender their notes and validly deliver their consents on or prior to February 24, 2004 will be entitled to the full purchase price. Noteholders who validly tender their notes after this date, but on or prior to the final expiration date of March 9, 2004 will be entitled to receive the purchase price less the consent payment of \$30.00 per 1,000 in principal amount of notes, or a payment of \$1,043.47 per \$1,000 in principal amount of the notes. In addition, accrued and unpaid interest on such notes up to, but not including, the day of payment for notes accepted for purchase will be paid. The total amount of funds required to purchase all of the outstanding 11 1/4% Senior Notes pursuant to the tender offer, to make the related consent payments and to pay all fees and expenses in connection therewith is expected to be approximately \$236.2 million assuming all outstanding notes are validly tendered (excluding payment of accrued and unpaid interest). The completion of the tender offer is not a condition to the closing of this offering. Concurrently with this tender offer, we are seeking the consent from these noteholders to certain proposed amendments to the indenture governing the notes that would eliminate substantially all of the restrictive covenants. The closing of the tender offer is subject to the satisfaction (or waiver by us) in each case in our sole discretion of certain conditions, including securing financing for the tender offer and certain other conditions.

**Table of Contents****The Offering**

*The following summary is provided solely for your convenience. This summary is not intended to be complete. You should read the full text and more specific details contained elsewhere in this offering memorandum. For a more detailed description of the notes, see Description of the Notes.*

Issuer	Comstock Resources, Inc.
Securities Offered	\$150.0 million in principal amount of senior notes.
Maturity	, 2012.
Interest	Annual Rate: % Payment frequency: every six months on and . First Payment: , 2004.
Optional Redemption	We may redeem the notes, in whole or in part, at any time on or after , 2008 at the redemption prices described in the section Description of the Notes Redemption, plus accrued interest, if any.  In addition, on or before , 2007 we may redeem up to 35% of the notes with the net cash proceeds from certain equity offerings at the redemption price listed in Description of the Notes Redemption. However, we may only make such redemptions if at least 65% of the aggregate principal amount of notes initially issued under the indenture remain outstanding immediately after the occurrence of such redemption.
Change of Control	If we experience a Change in Control Triggering Event (as defined under Description of the Notes ), we must offer to purchase the notes at 101% of their face amount, plus accrued interest, if any. We may not have sufficient funds at the time of any change of control triggering event to make any required debt repayment (including repurchases of the notes).
Guarantees	The payment of principal and interest on the notes will be unconditionally guaranteed on a senior basis jointly and severally initially by each of our principal operating subsidiaries and thereafter by each of our subsidiaries that guarantees or otherwise becomes liable with respect to other indebtedness of Comstock and certain of our subsidiaries. Such guarantees will rank equally with all other unsecured senior indebtedness of the subsidiary guarantors.
Ranking	The notes will rank equally with all our existing and future unsecured senior indebtedness. The notes will be junior to all of our secured indebtedness, including indebtedness under our bank credit facility, and to all liabilities of our subsidiaries that are not subsidiary guarantors.  As of September 30, 2003, after giving effect to this offering and the use of proceeds therefrom, we and the subsidiary guarantors would have had approximately \$181.0 million of secured indebtedness outstanding to which the notes and the subsidiary guarantees would have been effectively subordinated, and approximately \$129.0 million of additional secured indebtedness would have been available for borrowing under the new credit facility.

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Although the above amounts assume that 100% of the outstanding 11 1/4% Senior Notes are tendered in the tender offer, the notes offered hereby would rank equally with any of the 11 1/4% Senior Notes which remain outstanding after the tender offer.

Certain Covenants

The terms of the notes will restrict our ability and the ability of certain of our subsidiaries to:

incur additional indebtedness or issue disqualified capital stock;

pay dividends or make distributions in respect of capital stock;

repurchase or redeem capital stock;

make certain investments and other restricted payments;

create liens;

enter into transactions with stockholders or affiliates;

engage in sale-leaseback transactions;

sell assets;

issue or sell preferred stock of certain subsidiaries; and

engage in mergers or consolidations.

These covenants contain important exceptions. For more details, see Description of the Notes.

Covenant Suspension

At any time when the notes are rated investment grade by both Moody's and S&P and no default or event of default has occurred and is continuing under the indenture, we and our subsidiaries will not be subject to many of the foregoing covenants. See Description of the Notes Covenant Suspension.

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**Risk Factors**

An investment in the notes involves certain risks that a potential investor should carefully evaluate prior to making an investment in the notes. Please read sections captioned "Risk Factors" beginning on page S-14 of this prospectus supplement and page 7 of the accompanying prospectus.

**Use of Proceeds**

The net proceeds from this offering, after deducting underwriting discounts and estimated expenses of the offering, will be approximately \$146.2 million. We intend to use the net proceeds from this offering to fund the pending tender offer of our 11 1/4% Senior Notes. Any remaining proceeds will be used to repay amounts borrowed under our current bank credit facility. To the extent any funds remain after these purposes, we intend to invest the proceeds in short-term government securities or money market funds until such time as we can redeem all of the 11 1/4% Senior Notes that are not tendered in the tender offer.

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The historical financial data presented in the table below as of and for the nine-month period ended September 30, 2003 and each of the years in the five-year period ended December 31, 2002 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. Our consolidated financial statements as of and for the four years ending December 31 have been restated. For a further discussion of the restatement, see Management's Discussion and Analysis of Financial Condition and Results of Operations Years ended December 31, 2002, 2001 and 2000 Restatement of Previously Issued Financial Statements, and our audited consolidated financial statements and notes thereto, including Note 12.

	Year Ended December 31,					Nine Months Ended September 30,	
	1998	1999	2000	2001	2002	2002	2003
	(restated)	(restated)	(restated)	(restated)		(unaudited)	
	(\$ in thousands)						
<b>Statement of Operations Data:</b>							
Oil and gas sales	\$ 91,373	\$ 88,833	\$ 168,084	\$ 166,118	\$ 142,085	\$ 100,044	\$ 182,603
Operating expenses:							
Oil and gas operating (1)	23,971	23,117	29,277	31,855	33,499	24,526	33,708
Exploration	8,901	2,248	3,505	6,611	5,479	3,392	3,366
Depreciation, depletion and amortization	50,301	44,801	44,472	48,790	54,405	39,791	44,867
Impairment	16,942			1,400			
General and administrative, net	1,617	2,399	3,537	4,351	5,113	2,942	4,983
Total operating expenses	101,732	72,565	80,791	93,007	98,496	70,651	86,924
Income (loss) from operations	(10,359)	16,268	87,293	73,111	43,589	29,393	95,679
Other income (expenses):							
Interest income	201	134	230	196	62	90	59
Interest expense	(16,977)	(23,361)	(24,611)	(20,737)	(30,002)	(23,307)	(22,648)
Gain (loss) from derivatives				243	(2,326)	(2,294)	(3)
Other income	73	1,907	122	272	8,027	237	167
	(16,703)	(21,320)	(24,259)	(20,026)	(24,239)	(25,274)	(22,425)
Income from continuing operations before income taxes	(27,062)	(5,052)	63,034	53,085	19,350	4,119	73,254
Income tax benefit (expense)	9,471	1,769	(22,061)	(18,579)	(6,773)	(1,442)	(25,639)
Net income (loss) from continuing operations	(17,591)	(3,283)	40,973	34,506	12,577	2,677	47,615
Cumulative effect of change in accounting principle							675
Discontinued operations including loss on disposal, net of income taxes	33	197	227	396	(1,072)	(1,072)	
Net income (loss)	(17,558)	(3,086)	41,200	34,902	11,505	1,605	48,290
Preferred stock dividends		(1,853)	(2,471)	(1,604)	(1,604)	(1,199)	(573)
Net income (loss) attributable to common stock	\$ (17,558)	\$ (4,939)	\$ 38,729	\$ 33,298	\$ 9,901	\$ 406	\$ 47,717

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

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	Year Ended December 31,					Nine Months Ended September 30,	
	1998	1999	2000	2001	2002	2002	2003
	(restated)	(restated)	(restated)	(restated)		(unaudited)	
	(\$ in thousands)						
<b>Other Financial Data:</b>							
EBITDAX (1)	\$ 66,059	\$ 65,228	\$ 135,589	\$ 130,357	\$ 109,117	\$ 70,420	\$ 144,135
EBITDAX / Interest Expense	3.89x	2.79x	5.51x	6.29x	3.64x		
Total debt / EBITDAX	4.21x	3.90x	1.73x	2.86x	3.36x		
Capital expenditures	\$ 67,022	\$ 34,981	\$ 83,911	\$ 252,551	\$ 83,381	\$ 57,784	\$ 62,159
Net cash flows from operating activities	40,726	38,516	105,073	108,636	84,437	54,217	119,109
Net cash flows from investing activities	(67,387)	(35,203)	(83,878)	(188,147)	(79,903)	(54,306)	(62,159)
Net cash flows from financing activities	17,333	(841)	(21,738)	78,528	(8,974)	(2,459)	(52,860)

(1) EBITDAX means income (loss) from continuing operations before income taxes, plus interest, depreciation, depletion and amortization, exploration expense, impairment of oil and gas properties and other non-cash items.

EBITDAX is not intended to represent net income as defined by generally accepted accounting principles in the United States, or GAAP, and such information should not be considered as an alternative to net income, cash flow from operations or any other measure of performance prescribed by generally accepted accounting principles in the United States. We utilize EBITDAX because management believes that investors find it to be a useful tool to perform more meaningful comparisons of past, present and future operating results and as a means to evaluate the results of core ongoing operations. We provide a reconciliation of EBITDAX to net income from continuing operations below.

However, because EBITDAX excludes depreciation, depletion and amortization, exploration expense and impairment of oil and gas properties it does not measure the capital we require to maintain or preserve our fixed assets. In addition, because EBITDAX does not reflect interest expense, it does not take into account the total amount of interest we pay on outstanding debt nor does it show trends in interest costs due to changes in our borrowings or changes in interest rates. EBITDAX, as defined by us, may not be comparable to EBITDAX as reported by other companies that do not define EBITDAX exactly as we define the term. Because we use EBITDAX to evaluate our financial performance, we reconcile it to net income from continuing operations, which is the most comparable financial measure calculated and presented in accordance with GAAP. EBITDAX does not represent cash generated from operating activities determined in accordance with GAAP, and should not be considered as an alternative to income from operations or net income determined in accordance with GAAP as an indicator of performance or as an alternative to cash flows from operating activities as an indicator of liquidity.

	Year Ended December 31,					Nine Months Ended September 30,	
	1998	1999	2000	2001	2002	2002	2003
	(restated)	(restated)	(restated)	(restated)		(unaudited)	
	(\$ in thousands)						
<b>Reconciliation of Net Income from Continuing Operations to EBITDAX:</b>							
EBITDAX							
Net income (loss) from continuing operations	\$ (17,591)	\$ (3,283)	\$ 40,973	\$ 34,506	\$ 12,577	\$ 2,677	\$ 47,615
Interest expense	16,977	23,361	24,611	20,737	30,002	23,307	22,648
Income tax expense (benefit)	(9,471)	(1,769)	22,061	18,579	6,773	1,442	25,639
Depreciation, depletion and amortization	50,301	44,801	44,472	48,790	54,405	39,791	44,867
Exploration expense	8,901	2,248	3,505	6,611	5,479	3,392	3,366
	16,942			1,400			

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Impairment of oil and gas  
properties

Other non-cash items		(130)	(33)	(266)	(119)	(189)	
EBITDAX	\$ 66,059	\$65,228	\$ 135,589	\$ 130,357	\$ 109,117	\$ 70,420	\$ 144,135

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	As of December 31,					As of September 30,	
	1998	1999	2000	2001	2002	2002	2003
	(restated)	(restated)	(restated)	(restated)		(unaudited)	
	(\$ in thousands)						
<b>Balance Sheet Data:</b>							
Cash and cash equivalents	\$ 5,176	\$ 7,648	\$ 7,105	\$ 6,122	\$ 1,682	\$ 3,574	\$ 5,772
Property and equipment, net	403,652	394,497	434,065	636,274	664,208	648,054	683,824
Total assets	429,307	433,956	489,082	680,769	711,053	685,380	740,515
Total debt	278,104	254,131	234,101	372,464	366,272	372,002	311,002
Redeemable convertible preferred stock		30,000	17,573	17,573	17,573	17,573	
Stockholders' equity	109,273	106,512	161,735	195,668	208,427	217,995	280,103

	Year Ended December 31,					Nine Months Ended September 30,	
	1998	1999	2000	2001	2002	2002	2003
	(restated)	(restated)	(restated)	(restated)		(unaudited)	
<b>Net Production Data:</b>							
Oil (MBbl)	2,524	2,097	1,792	1,510	1,303	972	1,174
Natural gas (MMcf)	26,279	23,574	26,799	27,859	33,171	25,053	25,912
Natural gas equivalent (MMcfe)	41,427	36,160	37,548	36,918	40,986	30,882	32,954
<b>Average Sales Price:</b>							
Oil (Bbls)	\$ 12.79	\$ 17.36	\$ 30.04	\$ 25.46	\$ 24.95	\$ 24.16	\$ 30.79
Natural gas (Mcf)	2.25	2.22	4.26	4.58	3.30	3.06	5.65
Average equivalent price (per Mcfe)	2.21	2.46	4.48	4.50	3.47	3.24	5.54
<b>Expenses (\$ per Mcfe):</b>							
Oil and gas operating (1)	\$ 0.58	\$ 0.64	\$ 0.78	\$ 0.86	\$ 0.82	\$ 0.79	\$ 1.02
General and administrative	0.04	0.07	0.09	0.12	0.12	0.10	0.15
Depreciation, depletion and amortization (2)	1.21	1.21	1.14	1.28	1.29	1.28	1.35
Cash Margin (3)	1.59	1.75	3.61	3.52	2.53	2.35	4.37

- (1) Includes lease operating costs and production and ad valorem taxes.
- (2) Represents depreciation, depletion and amortization of oil and gas properties only.
- (3) Represents average equivalent price per Mcfe less oil and gas operating expenses per Mcfe and general and administrative expenses per Mcfe.

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	As of December 31,					
	1998	1999	2000	2001	2002	2003
<b>Oil and Natural Gas Reserves:</b>						
Net oil reserves (MBbls):						
Proved developed	16,585	14,379	12,290	12,212	13,937	13,206
Proved undeveloped	3,660	5,088	5,161	5,136	6,912	5,983
<b>Total</b>	<b>20,245</b>	<b>19,467</b>	<b>17,451</b>	<b>17,348</b>	<b>20,849</b>	<b>19,189</b>
Net natural gas reserves (MMcf):						
Proved developed	182,955	184,123	200,349	315,779	319,155	332,668
Proved undeveloped	67,447	73,998	97,486	146,306	169,629	169,110
<b>Total</b>	<b>250,402</b>	<b>258,121</b>	<b>297,835</b>	<b>462,085</b>	<b>488,784</b>	<b>501,778</b>
Total estimated net proved reserves (MMcfe):	371,872	374,923	402,541	566,173	613,879	616,909
Estimated future net revenues before taxes						
	\$481,181	\$794,209	\$2,935,868	\$956,458	\$2,252,041	\$2,864,718
Present Value of Proved Reserves						
(1)(2)	305,309	515,059	1,768,849	540,679	1,280,293	1,709,075
Standardized measure of discounted future net cash flows (3)						
	304,993	468,713	1,288,764	447,273	921,115	1,197,665

- (1) The December 31, 2003 amount was calculated using a period-end oil price of \$31.19 per barrel and a period-end natural gas price of \$6.44 per Mcf.
- (2) The Present Value of Proved Reserves represent the future net cash flows attributable to our reserves before income taxes, discounted at 10% per year.
- (3) 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%.

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RISK FACTORS

*In deciding whether to purchase the notes, you should carefully consider the risks described below and in the Risk Factors section on page 7 of the accompanying prospectus, any of which could cause our operating results and financial condition to be materially adversely affected, as well as other information and data included in this prospectus supplement and the accompanying prospectus.*

**Risks Related to This Offering**

***Our substantial indebtedness could limit our flexibility, adversely affect our financial health and prevent us from making payments on the notes.***

We have, and after this offering will continue to have, a substantial amount of indebtedness. As of September 30, 2003, after giving effect to this offering and the use of proceeds therefrom, we and the subsidiary guarantors would have had approximately \$181.0 million of secured indebtedness outstanding to which the notes and the subsidiary guarantees would have been effectively subordinated, and approximately \$129.0 million of additional secured indebtedness would have been available for borrowing under the new credit facility.

Our substantial indebtedness could have important consequences to you. For example, it could:

make it difficult for us to satisfy our obligations with respect to the notes;

make us more vulnerable to general adverse economic and industry conditions;

require us to dedicate a substantial portion of our cash flow from operations to payments on our indebtedness, thereby reducing the availability of our cash flow for operations and other purposes;

limit our flexibility in planning for, or reacting to, changes in our business and the industry in which we operate; and

place us at a competitive disadvantage compared to competitors that may have proportionately less indebtedness.

In addition, our ability to make scheduled payments or to refinance our obligations depends on our successful financial and operating performance. We cannot assure you that our operating performance will generate sufficient cash flow or that our capital resources will be sufficient for payment of our indebtedness obligations in the future. Our financial and operating performance, cash flow and capital resources depend upon prevailing economic conditions and certain financial, business and other factors, many of which are beyond our control.

If our cash flow and capital resources are insufficient to fund our debt service obligations, we may be forced to sell material assets or operations, obtain additional capital or restructure our debt. In the event that we are required to dispose of material assets or operations or restructure our debt to meet our debt service and other obligations, we cannot assure you as to the terms of any such transaction or how quickly any such transaction could be completed, if at all.

We may incur substantial additional indebtedness in the future, including under our new credit facility. Our incurrence of additional indebtedness would intensify the risks described above.

***The instruments governing our indebtedness will contain various covenants limiting the discretion of our management in operating our business.***

The indenture governing the notes and our new credit facility will contain various restrictive covenants that limit our management's discretion in operating our business. In particular, these agreements will limit our ability to, among other things:

incur additional indebtedness, guarantee obligations or issue disqualified capital stock;

pay dividends or distributions on our capital stock or redeem, repurchase or retire our capital stock;

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- make investments or other restricted payments;
- grant liens on assets;
- enter into transactions with stockholders or affiliates;
- engage in sale-leaseback transactions;
- sell assets;
- issue or sell preferred stock of certain subsidiaries; and
- merge or consolidate.

In addition, our new credit facility will also require us to maintain a minimum current ratio and a minimum tangible net worth.

If we fail to comply with the restrictions in the indenture governing the notes or our new credit facility or any other subsequent financing agreements, a default may allow the creditors, if the agreements so provide, to accelerate the related indebtedness as well as any other indebtedness to which a cross-acceleration or cross-default provision applies. In addition, lenders may be able to terminate any commitments they had made to make available further funds.

***We may be unable to purchase your notes upon a change of control.***

Upon the occurrence of specified change of control events, we will be required to offer to purchase your notes. We may not have sufficient financial resources to purchase all of the notes that holders tender to us upon a change of control offer, or might be prohibited from doing so under our new credit facility or our other indebtedness. The occurrence of a change of control also could constitute an event of default under our new credit facility or our other indebtedness. See Description of the Notes Certain Covenants Change of Control.

***The notes and the guarantees are effectively subordinated to all of our and our subsidiary guarantors secured indebtedness and all indebtedness of our non-guarantor subsidiaries.***

The notes will not be secured. The borrowings under our new credit facility will be secured by liens on all of our and our subsidiary guarantors assets. If we or any of these subsidiary guarantors declare bankruptcy, liquidate or dissolve, or if payment under the credit facility or any of our other secured indebtedness is accelerated, our secured lenders would be entitled to exercise the remedies available to a secured lender under applicable law and will have a claim on those assets before the holders of the notes. As a result, the notes are effectively subordinated to our and our subsidiaries secured indebtedness to the extent of the value of the assets securing that indebtedness, and the holders of the notes would in all likelihood recover ratably less than the lenders of our and our subsidiaries secured indebtedness in the event of our bankruptcy, liquidation or dissolution. As of September 30, 2003, after giving effect to this offering and the use of proceeds therefrom, we and the subsidiary guarantors would have had approximately \$181.0 million of secured indebtedness outstanding to which the notes and the subsidiary guarantees would have been effectively subordinated, and approximately \$129.0 million of additional secured indebtedness would have been available for borrowing under the new credit facility.

In addition, the notes will be structurally subordinated to all of the liabilities of our subsidiaries that do not guarantee the notes. In the event of a bankruptcy, liquidation or dissolution of any of the non-guarantor subsidiaries, holders of their indebtedness, their trade creditors and holders of their preferred equity will generally be entitled to payment on their claims from assets of those subsidiaries before any assets are made available for distribution to us.

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***Federal and state statutes allow courts, under specific circumstances, to void the guarantees and require noteholders to return payments received from the guarantors.***

Creditors of any business are protected by fraudulent conveyance laws which differ among various jurisdictions, and these laws may apply to the issuance of the guarantees by our subsidiary guarantors. The guarantee may be voided by a court, or subordinated to the claims of other creditors, if, among other things:

the indebtedness evidenced by the guarantees was incurred by a subsidiary guarantor with actual intent to hinder, delay or defraud any present or future creditor of such subsidiary guarantor; or

our subsidiary guarantors did not receive fair consideration or reasonably equivalent value for issuing the guarantees, and the applicable subsidiary guarantors:

- (1) were insolvent, or were rendered insolvent by reason of issuing the applicable guarantee,
- (2) were engaged or about to engage in a business or transaction for which the remaining assets of the applicable subsidiary guarantor constituted unreasonably small capital, or
- (3) intended to incur, or believed that we or they would incur, indebtedness beyond our or their ability to pay as they matured.

In addition, any payment by such subsidiary guarantor pursuant to any guarantee could be voided and required to be returned to such subsidiary guarantor, or to a fund for the benefit of creditors of such subsidiary guarantor.

The measures of insolvency for purposes of these fraudulent transfer laws will vary depending upon the law applied in any proceeding to determine whether a fraudulent transfer has occurred. Generally, however, a subsidiary guarantor would be considered insolvent if:

the sum of such subsidiary guarantor's debts, including contingent liabilities, were greater than the fair saleable value of all of such subsidiary guarantor's assets;

the present fair saleable value of such subsidiary guarantor's assets were less than the amount that would be required to pay such subsidiary guarantor's probable liability on existing debts, including contingent liabilities, as they become absolute and mature; or

any subsidiary guarantor could not pay debts as they become due.

Based upon financial and other information, we believe that the guarantees are being incurred for proper purposes and in good faith and that each subsidiary guarantor is solvent and will continue to be solvent after this offering is completed, will have sufficient capital for carrying on its business after such issuance and will be able to pay its indebtedness as they mature. We cannot assure you, however, that a court reviewing these matters would agree with us. A legal challenge to a guarantee on fraudulent conveyance grounds may focus on the benefits, if any, realized by us or the subsidiary guarantors as a result of our issuance of the guarantees.

***Your ability to resell the notes may be limited by a number of factors and the prices for the notes may be volatile.***

The notes will be a new class of securities for which there currently is no established market, and we cannot assure you that any active or liquid trading market will develop for these notes, if any. We do not intend to apply for listing of the notes on any securities exchange or on any automated dealer quotation system. Although we have been informed by the underwriters that they currently intend to make a market in the notes, they are not obligated to do so and any market-making may be discontinued at any time without notice. See Underwriting. If a market for the notes were to develop, the notes could trade at prices that

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may be higher or lower than reflected by their initial offering price, depending on many factors, including among other things:

- changes in the overall market for non-investment grade securities;
- changes in our financial performance or prospects;
- the prospects for companies in our industry generally;
- the number of holders of the notes;
- the interest of securities dealers in making a market for the notes; and
- prevailing interest rates.

In addition, the market for non-investment grade indebtedness has been historically subject to disruptions that have caused substantial volatility in the prices of securities similar to the notes offered hereby. The market for the notes, if any, may be subject to similar disruptions. Any such disruption could adversely affect the value of your notes.

***If the notes receive an investment grade rating, many of the covenants in the indenture governing the notes will be suspended, thereby reducing some of the protections for noteholders in the indenture.***

If at any time the notes receive investment grade ratings from both Standard & Poor's Rating Services and Moody's Investor Services, Inc., subject to certain additional conditions, many of the covenants in the indenture governing the notes, applicable to us and our restricted subsidiaries, including the limitations on indebtedness and disqualified capital stock and restricted payments, will be suspended. While these covenants will be reinstated if we fail to maintain investment grade ratings on the notes or in the event of a continuing default or event of default thereunder, during the suspension period noteholders will not have the protection of these covenants and we will have greater flexibility to incur indebtedness and make restricted payments.



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USE OF PROCEEDS

The net proceeds from this offering, after deducting underwriting discounts and estimated expenses of the offering, will be approximately \$146.2 million. We intend to use the net proceeds from this offering to fund the pending tender offer of our 11 1/4% Senior Notes. Any remaining proceeds will be used to repay amounts borrowed under our current bank credit facility. To the extent any funds remain after these purposes, we intend to invest the proceeds in short-term government securities or money market funds until May 1, 2004 when we can redeem all of the 11 1/4% Senior Notes that are not tendered in the tender offer.

As of December 31, 2003, the borrowing base under our current bank credit facility was \$260.0 million. As of December 31, 2003, the total outstanding principal balance under the current bank credit facility was \$86.0 million at a weighted average interest rate of 2.6%. The current bank credit facility matures on January 2, 2005.

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## CAPITALIZATION

The following table sets forth our consolidated capitalization as of September 30, 2003 (1) on a historical basis and (2) on a pro forma as adjusted basis to reflect (a) this notes offering and the application of the estimated net proceeds therefrom as described under Use of Proceeds , (b) the entering into our new credit facility and (c) the completion of the tender offer by us of our 11 1/4% Senior Notes (assuming 100% acceptance of the tender offer). This information should be read in conjunction with the Consolidated Financial Statements and Management's Discussion and Analysis of Financial Condition and Results of Operations.

	As of September 30, 2003	
	Historical	Pro Forma As Adjusted
	(\$ in thousands)	
Cash and cash equivalents:	\$ 5,772	\$ 5,772
Long-term debt:		
Current Credit Facility	\$ 91,000	\$
New Bank Credit Facility		181,000
11 1/4% Senior Notes due 2007 (1)	220,000	
New Senior Notes due 2012 offered hereby (2)		150,000
Other	2	2
Total long-term debt	311,002	331,002
Stockholders' equity:		
Common stock, par value \$0.50 per share, 33,667,561 shares outstanding	16,834	16,834
Additional paid-in capital	155,159	155,159
Retained earnings (3)	109,380	96,402
Accumulated other comprehensive loss	(22)	(22)
Deferred compensation	(1,248)	(1,248)
Total stockholders' equity	280,103	267,125
Total capitalization	\$591,105	\$598,127

(1) Reflects borrowings under the new credit facility which will be used to finance the tender offer for our 11 1/4% Senior Notes.

(2) Reflects the issuance of \$150.0 million principal amount of the notes offered hereby.

(3) Retained earnings is reduced by \$13.0 million for the after-tax loss on the early extinguishment of the 11 1/4% Senior Notes.

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MANAGEMENT'S DISCUSSION AND ANALYSIS OF  
FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following discussion should be read in conjunction with the consolidated financial statements and notes thereto included in this report and in our quarterly report filed on Form 10-Q for the nine months ended September 30, 2003 and in our annual report filed on Form 10-K for the year ended December 31, 2002.

**Nine Months Ended September 30, 2003 and 2002****Results of Operations**

The following table reflects certain summary operating data for the periods presented.

	Nine Months Ended September 30,	
	2002	2003
<b>Net Production Data:</b>		
Oil (MBbls)	972	1,174
Natural gas (MMcf)	25,053	25,912
Natural gas equivalent (MMcfe)	30,884	32,954
<b>Average Sales Price:</b>		
Oil (per Bbl)	\$ 24.16	\$ 30.79
Natural gas (per Mcf)	3.06	5.65
Average equivalent price (per Mcfe)	3.24	5.54
<b>Expenses (\$ per Mcfe):</b>		
Oil and gas operating (1)	\$ 0.79	\$ 1.02
General and administrative	0.10	0.15
Depreciation, depletion and amortization (2)	1.28	1.35
<b>Cash Margin (\$ per Mcfe) (3)</b>	<b>\$ 2.35</b>	<b>\$ 4.37</b>

- (1) Includes lease operating costs and production and ad valorem taxes.
- (2) Represents depreciation, depletion and amortization of oil and gas properties only.
- (3) Represents average equivalent price per Mcfe less oil and gas operating expenses per Mcfe and general and administrative expenses per Mcfe. Cash margin per Mcfe is presented because management believes it to be useful to investors in analyzing our operations.

*Nine Months Ended September 30, 2003 Compared to Nine Months Ended September 30, 2002.* For the nine months ended September 30, 2003, our oil and gas sales increased \$82.6 million (83%) to \$182.6 million from \$100.0 million for the nine months ended September 30, 2002. The increase is primarily attributable to higher realized natural gas prices, which increased by 85% in 2003, and higher realized crude oil prices, which increased by 27% in 2003. In the first nine months of 2003, production on an equivalent basis, increased by 7% from production in the same period in 2002.

Oil and gas operating costs for the nine months ended September 30, 2003 increased \$9.2 million (37%) to \$33.7 million from \$24.5 million for the nine months ended September 30, 2002. Oil and gas operating expenses per equivalent Mcf produced increased \$0.23 to \$1.02 for nine months ended September 30, 2003 from \$0.79 for the same period in 2002. The increase is also primarily due to the 7% higher production and the increased production and ad valorem taxes resulting from of the significantly higher oil and gas prices in 2003.

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For the nine months ended September 30, 2003, we had exploration expense totaling \$3.4 million as compared to \$3.4 million in the same period in 2002. The 2003 provision primarily relates to four exploratory dry holes and expenditures relating to the acquisition of seismic data in 2003.

For the nine months ended September 30, 2003, depreciation, depletion and amortization ( DD&A ) increased \$5.1 million (13%) to \$44.9 million from \$39.8 million for the nine months ended September 30,

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2002. The increase is due to the 7% increase in our production and our higher average amortization rate. DD&A per equivalent Mcf increased by \$0.07 to \$1.35 for the nine months ended September 30, 2003 from \$1.28 for the nine months ended September 30, 2002.

For the first nine months of 2003, general and administrative expenses, which are reported net of overhead reimbursements, increased to \$5.0 million from \$2.9 million for the nine months ended September 30, 2002. The increase is due primarily to the opening of an offshore operations office in Houston, Texas as well as an increase in personnel costs in 2003.

Interest expense for the nine months ended September 30, 2003 decreased \$0.7 million (3%) to \$22.6 million from \$23.3 million for the nine months ended September 30, 2002. The decrease is attributable to a decrease in interest related to our bank credit facility which was partially offset by the issuance of the additional 11 1/4% Senior Notes in March 2002. Our average outstanding borrowings under the bank credit facility decreased to \$128.1 million in the nine months ended September 30, 2003 as compared to \$176.5 million in the same period in 2002. The average interest rate under the bank credit facility also decreased to 3.1% in the first nine months of 2003 as compared to 3.8% in the first nine months of 2002.

Net income for the nine months ended September 30, 2003 was \$47.7 million, as compared to net income of \$0.4 million for the nine months ended September 30, 2002. Net income per common share for the nine months ended September 30, 2003 was \$1.38 as compared to net income of \$0.01 for the nine months ended September 30, 2002.

Net income for the nine months ended September 30, 2003 included \$0.7 million in income (\$0.02 per share) related to the cumulative effect of a change in our accounting for future abandonment cost for our oil and gas properties.

In 2002, we sold certain marginal oil and gas properties. The operating results of these properties in 2002 including the loss on disposal of \$1.1 million (\$0.04 per share) have been reflected as discontinued operations.

**Years Ended December 31, 2002, 2001 and 2000****Restatement of Previously Issued Financial Statements**

Subsequent to the issuance of our Annual Report for the year ended December 31, 2001, we determined that certain outstanding advances made by us to our partner under our joint exploration venture in the Gulf of Mexico for seismic data acquisition should have been charged to exploration expense rather than reflected on the balance sheet as an asset. As a result of changing our accounting treatment for the advances used for seismic data acquisition, we determined that our financial statements for 1998, 1999, 2000 and 2001 should be restated. The effect of the restatement is a reduction to previously reported net income by \$0.4 million, \$0.3 million, \$0.2 million and \$1.6 million for the years 1998, 1999, 2000 and 2001, respectively, as a result of the additional exploration expense in each year. These changes primarily affect the timing of our recognition of exploration expense. As reimbursements are received for the advances we have made, our future exploration expense will be reduced. In addition, we have reclassified our Series 1999 Preferred Stock from stockholder's equity at December 31, 2001 to temporary equity. The adjustments to previously reported net income relating to the restatement are summarized in the following table.

	Year Ended December 31,			
	1998	1999	2000	2001
	(\$ in thousands)			
Net income (loss) attributable to common stock as previously reported	\$(17,168)	\$(4,669)	\$38,932	\$34,854
Adjustment to exploration expense	(600)	(416)	(313)	(2,396)
Income tax effect	210	146	110	840
Net income (loss) attributable to common stock as restated	\$(17,558)	\$(4,939)	\$38,729	\$33,298

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The following balance sheet accounts as of December 31, 2001 were affected by the restatement.

	Year Ended December 31, 2001	
	Previously Reported	Restated
	(\$ in thousands)	
Unevaluated oil and gas properties...	\$ 13,416	\$ 11,609
Oil and gas properties	901,206	900,711
Net property and equipment	638,576	636,274
Total assets	683,071	680,769
Accounts payable and accrued expenses	37,389	38,812
Total current liabilities	38,416	39,839
Deferred taxes payable	47,911	46,607
Retained earnings	54,183	51,762
Redeemable preferred stock		17,573
Total stockholders' equity	215,662	195,668
Total liabilities and stockholders' equity	683,071	680,769

The following presents the impact of the restatement on the operating results and cash flows for the years ended December 31, 2000 and 2001.

	Year Ended December 31, 2000		Year Ended December 31, 2001	
	Previously Reported(1)	Restated	Previously Reported(1)	Restated
	(\$ in thousands, except per share amounts)			
Exploration expense	\$ 3,192	\$ 3,505	\$ 4,215	\$ 6,611
Total operating expenses	80,478	80,791	90,611	93,007
Income from continuing operations before income taxes	63,347	63,034	55,481	53,085
Income tax expense	(22,171)	(22,061)	(19,419)	(18,579)
Net income from continuing operations	41,176	40,973	36,062	34,506
Net income	41,403	41,200	36,458	34,902
Net income attributable to common stock	38,932	38,729	34,854	33,298
Net income per share from continuing operations:				
Basic	\$ 1.48	\$ 1.46	\$ 1.20	\$ 1.13
Diluted	\$ 1.21	\$ 1.20	\$ 1.06	\$ 1.00
Net income per share:				
Basic	\$ 1.48	\$ 1.47	\$ 1.20	\$ 1.15
Diluted	\$ 1.21	\$ 1.20	\$ 1.06	\$ 1.01
Net cash provided by operating activities	\$104,556	\$105,073	\$ 110,090	\$ 108,636
Net cash used for investing activities	\$ (83,361)	\$ (83,878)	\$ (189,601)	\$ (188,147)

(1) Previously reported amounts have been adjusted for the effects of discontinued operations.

**Table of Contents****Results of Operations**

Our operating data for the last three years is summarized below:

	Year Ended December 31,		
	2000	2001	2002
<b>Net Production Data:</b>			
Oil (MBbls)	1,792	1,510	1,303
Natural gas (MMcf)	26,799	27,859	33,171
Natural gas equivalent (MMcfe)	37,548	36,918	40,986
<b>Average Sales Price:</b>			
Oil (MBbls)	\$ 30.04	\$ 25.46	\$ 24.95
Natural gas (MMcf)	4.26	4.58	3.30
Average equivalent price (per Mcfe)	4.48	4.50	3.47
<b>Expenses (\$ per Mcfe):</b>			
Oil and gas operating (1)	\$ 0.78	\$ 0.86	\$ 0.82
General and administrative	0.09	0.12	0.12
Depreciation, depletion and amortization (2)	1.14	1.28	1.29
<b>Cash Margin (\$ per Mcfe) (3)</b>	<b>\$ 3.61</b>	<b>\$ 3.52</b>	<b>\$ 2.53</b>

- (1) Includes lease operating costs and production and ad valorem taxes.
- (2) Represents depreciation, depletion and amortization of oil and gas properties only.
- (3) Represents average equivalent price per Mcfe less oil and gas operating expenses per Mcfe and general and administrative expenses per Mcfe.

*Year Ended December 31, 2002 Compared to Year Ended December 31, 2001.* Our oil and gas sales decreased \$24.0 million or 14% in 2002 to \$142.1 million from \$166.1 million in 2001. The decrease in sales is mostly due to the lower natural gas prices in 2002. Our average natural gas price decreased by 28% and our average oil price decreased by 2%. On an equivalent unit basis, our average price received for our production in 2002 was \$3.47 per Mcfe, which was 23% lower than our average price in 2001 of \$4.50 per Mcfe. Our average natural gas price in 2002 was \$0.04 higher as a result of gains from hedging activities. Without the hedging gains, our natural gas price would have averaged \$3.26 in 2002. The lower prices were partially offset by an 11% increase in production. Our natural gas production was up 19% while our oil production fell by 14%. The natural gas production increase is related to our acquisition of DevX Energy, Inc. which we completed in December 2001. The oil production decrease was due to normal depletion of our oil properties.

Our oil and gas operating expenses, which includes production taxes, increased \$1.6 million or 5%, to \$33.5 million in 2002 from \$31.9 million in 2001. The increase is due to the higher production level in 2002. Our oil and gas operating expenses per equivalent Mcf produced decreased by \$0.04 to \$0.82 in 2002 from \$0.86 for 2001. The decrease in per unit lifting costs is primarily related to lower production taxes resulting from the lower oil and natural gas prices in 2002.

In 2002, we had \$5.5 million in exploration expense, which primarily related to the write-off of four exploratory dry holes. Exploration expense for 2001 was \$6.6 million (as restated) which related to the write-off of three dry holes and the expensing of \$2.4 million in advances made by us to our joint venture partner for seismic data acquisition.

Our depreciation, depletion and amortization increased \$5.6 million (12%) to \$54.4 million in 2002 from \$48.8 million in 2001. The increase is attributable to our higher production level in 2002. Our depreciation, depletion and amortization per equivalent Mcf produced increased to \$1.29 in 2002 from \$1.28 in 2001.

Our general and administrative expenses, which are reported net of overhead reimbursements that we receive, increased \$762,000 or 18%, to \$5.1 million in 2002 from \$4.4 million in 2001. The increase was





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primarily due to an increase in the number of employees and higher compensation paid to our employees in 2002.

Our interest expense increased \$9.3 million or 45% to \$30.0 million in 2002 from \$20.7 million for 2001. The increase is due to the higher debt level we had as a result of the acquisition of DevX Energy, Inc. in December 2001. In addition, in March 2002 we issued an additional \$75.0 million of our 11 1/4% Senior Notes which refinanced amounts that were borrowed under our bank credit facility. In 2002, we averaged \$172.0 million outstanding under our bank credit facility at a weighted average interest of 3.6%. In 2001, our average outstanding balance was \$65.6 million under the bank credit facility with a weighted average interest rate of 5.6%.

Our other income in 2002 increased to \$8.0 million from \$272,000 in 2001. Included in other income in 2002 was \$7.7 million related to refunds of severance taxes paid in prior years.

For 2002 we reported net income from continuing operations of \$11.0 million, after deducting preferred stock dividends of \$1.6 million. These results compared to net income in 2001 of \$32.9 million (as restated), after deducting preferred stock dividends of \$1.6 million. Our income from continuing operations per share for 2002 was \$0.37 on diluted weighted average shares outstanding of 33.9 million as compared to net income from continuing operations per share of \$1.00 (as restated) for 2001 on diluted weighted average shares outstanding of 34.6 million. In April 2002 and July 2002, we sold certain oil and gas properties, which resulted in a loss of \$1.8 million. The operating results of these properties have been reflected as discontinued operations in the consolidated financial statements including the losses on disposal.

*Year Ended December 31, 2001 Compared to Year Ended December 31, 2000.* Our oil and gas sales decreased \$2.0 million or 1% in 2001 to \$166.1 million from \$168.1 million in 2000. The slight decrease in sales is due to a 2% decrease in our oil and natural gas production in 2001. Our oil production in 2001 decreased by 16% and natural gas production increased by 4%. Our average oil price in 2001 decreased by 15% which was offset by a 8% increase to our average natural gas price. On an equivalent unit basis, our average price received for our production in 2001 was \$4.50 per Mcfe, 1% higher than our average price in 2000 of \$4.48 per Mcfe.

Our oil and gas operating expenses, which includes production taxes, increased \$2.6 million or 9%, to \$31.9 million in 2001 from \$29.3 million in 2000. Our oil and gas operating expenses per equivalent Mcf produced increased by \$0.08 to \$0.86 in 2001 from \$0.78 for 2000. The increase is due to higher field level operating costs including additional treating fees paid in 2001 to process our Btu rich natural gas.

In 2001, we had \$6.6 million (as restated) in exploration expense which represents the write-off of three offshore exploratory dry holes and the expensing of \$2.4 million in advances made by us to our joint venture partner for seismic data acquisition. Exploration expense for 2000 was \$3.5 million (as restated) which primarily related to the write-off of five dry holes.

Our depreciation, depletion and amortization increased \$4.3 to \$48.8 million in 2001 from \$44.5 million in 2000. The increase is attributable to higher capitalized costs on our properties which increased our amortization rate in 2001. Our depreciation, depletion and amortization per equivalent Mcf produced increased to \$1.28 in 2001 from \$1.14 in 2000.

Our general and administrative expenses, which are reported net of overhead reimbursements that we receive, increased \$814,000 or 23%, to \$4.4 million in 2001 from \$3.5 million in 2000. The increase was primarily due to an increase in the number of employees and higher compensation paid to our employees in 2001.

Our interest expense decreased \$3.9 million or 16% to \$20.7 million in 2001 from \$24.6 million for 2000. The decrease is due to lower average borrowings outstanding under our bank credit facility as well as a lower average interest rate under the bank credit facility. In 2001, we had a \$65.6 million average outstanding balance under the bank credit facility at a weighted average interest of 5.6%. In 2000, our average outstanding balance was \$104.2 million under the bank credit facility with a weighted average interest rate 6.9%.

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We reported net income from continuing operations of \$32.9 million (as restated), after deducting preferred stock dividends of \$1.6 million, in 2001. These results compared to net income from continuing operations of \$38.5 million (as restated), after deducting preferred stock dividends of \$2.5 million, in 2000. Our income from continuing operations per share for 2001 was \$1.00 (as restated) on diluted weighted average shares outstanding of 34.6 million as compared to net income from continuing operations per share of \$1.20 (as restated) for 2000 on diluted weighted average shares outstanding of 34.2 million.

**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 2002, our net cash flow provided by operating activities totaled \$84.4 million. Our other primary funding source in 2002 were proceeds from the sale of \$75.0 million of our senior notes and borrowings of \$31.0 million under our bank credit facility. For the nine months ended September 30, 2003, our net cash flow provided by operating activities totaled \$119.1 million and we had total borrowings of \$16.4 million.

Our primary needs 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. In 2002, we incurred capital expenditures of \$83.4 million for development and exploration activities and for the acquisitions. We also repaid \$112.9 million of our long-term debt. In the first nine months of 2003, we incurred capital expenditures of \$62.2 million primarily for development and exploration activities and we made principal payments of \$70.7 million to reduce our outstanding debt.

Our annual capital expenditure activity is summarized in the following table.

	Year Ended December 31,			Nine Months Ended September 30,	
	2000	2001	2002	2002	2003
(\$ in thousands)					
Acquisitions of proved oil and gas properties	\$ 9,684	\$ 160,794	\$ 11,435	\$ 1,758	\$ 684
Acquisitions of unproved oil and gas properties	5,863	7,113	4,268	7,124	3,710
Developmental leasehold costs	1,618	974	98	114	430
Workovers and recompletions	10,252	5,563	7,414	6,222	7,977
Offshore production facilities	1,629	907	4,867	3,560	3,258
Development drilling	35,047	43,646	22,893	16,040	15,097
Exploratory drilling	19,202	33,382	31,074	22,838	29,399
Other	616	172	1,332	128	1,604
<b>Total</b>	<b>\$ 83,911</b>	<b>\$ 252,551</b>	<b>\$ 83,381</b>	<b>\$ 57,784</b>	<b>\$ 62,159</b>

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 spent \$73.6 million, \$91.6 million and \$70.6 million on development and exploration activities in 2000, 2001 and 2002, respectively. We spent \$60.6 million and \$57.7 million on development and exploration activities in the nine months ended September 30, 2003 and 2002, respectively. We expect to use internally generated cash flow to fund development and exploration activity. Our operating cash flow is highly dependent on oil and natural gas prices, especially natural gas prices.

We spent \$9.7 million, \$160.8 million and \$11.4 million on acquisition activities in 2000, 2001 and 2002, respectively. We intend to use borrowings under our bank credit facility, or other debt or equity financings to the extent available, to finance significant 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

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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 entered into a \$350.0 million revolving credit facility on December 17, 2001 with Toronto Dominion (Texas), Inc. as administrative agent. The current bank credit facility is a three year revolving credit line with a current borrowing base of \$260.0 million. Indebtedness under the current bank credit facility is secured by substantially all of our assets. All of our subsidiaries are guarantors of this indebtedness. The current 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 gas properties. 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. The current bank credit facility bears interest, based on the utilization of the borrowing base, at our option at either (i) LIBOR plus 1.5% to 2.375% or (ii) the corporate base rate (generally the federal funds rate plus 0.5%) plus 0.5% to 1.375%. The current bank credit facility matures on January 2, 2005 and contains covenants that, among other things, restrict our ability to pay cash dividends, limit the amount of our consolidated debt and limit our ability to make certain loans and investments. Financial covenants include the maintenance of a current ratio, maintenance of tangible net worth and maintenance of an interest coverage ratio. We are in the process of finalizing a new credit facility which would replace our current bank credit facility. See Description of Other Indebtedness.

On March 7, 2002, we closed the sale in a private placement of \$75.0 million of our 11 1/4% Senior Notes at a net price of 97.25% after the placements agents discount. As a result of this transaction, \$220.0 million of aggregate principal amount of our 11 1/4% Senior Notes are outstanding. The net proceeds were used to reduce amounts outstanding under our current bank credit facility. These notes are our unsecured obligations and are guaranteed by all of our subsidiaries. On July 19, 2002, we filed a registration statement on Form S-4 to register the \$75.0 million of these notes for resale. This registration statement was declared effective by the SEC on August 5, 2002.

In April and June 2003, holders of our Series 1999 Convertible Preferred Stock converted their preferred shares into 4,393,275 shares of our common stock. This conversion reduced our annual preferred stock dividend requirement by \$1.6 million and increased our common stockholders equity by \$17.6 million.

We believe that our cash flow from operations and available borrowings under the bank credit facility 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.

## **Federal Taxation**

At December 31, 2002, we had federal income tax net operating loss carryforwards of approximately \$123.0 million. We have established a \$23.0 million valuation allowance against part of the net operating loss carryforwards acquired from DevX Energy, Inc. due to a change in control limitation which will prevent us from fully realizing these carryforwards. The carryforwards expire from 2018 through 2022. The value 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. We are also 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 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 gas properties as well as exploration

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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.

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. There are numerous uncertainties inherent in estimating oil and natural gas reserves and their values, including many factors beyond our control. Reserve engineering is a subjective process of estimating underground accumulations of oil and natural gas that cannot be measured in an exact manner. The accuracy of any reserve estimate is a function of the quality of available data and of engineering and geological interpretation and judgment. As a result, estimates of different engineers may vary. In addition, estimates of reserves are subject to revision based on the results of drilling, testing and production subsequent to the date of such estimate. Accordingly, reserve estimates are often different from the quantities of oil and gas reserves that are ultimately recovered. The estimates of our proved oil and gas reserves used in preparation of our financial statements were determined by an independent petroleum engineering consulting firm and were prepared in accordance with the rules promulgated by the SEC and the Financial Accounting Standards Board (the "FASB"). 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 current 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, 2002, we used an initial oil price of \$30.00 per barrel and an initial natural gas price of \$5.00 per Mcf. Such prices were reduced to \$25.00 per barrel for oil and \$4.00 per Mcf for gas in the second year and escalated each year thereafter to a maximum price of \$40.00 per barrel for oil and \$5.00 per Mcf for 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.

## **New Accounting Standards**

In August 2001, the FASB issued Statement of Financial Accounting Standards No. 143 ("SFAS 143") Accounting for Asset Retirement Obligations, which we adopted effective January 1, 2003. This statement requires us to record a liability in the period in which an asset retirement obligation ("ARO") is incurred. Upon recognition of an ARO liability, additional asset cost would be capitalized to equal the amount of the liability. Upon the initial adoption of SFAS 143, we recognized a liability for any existing AROs not already provided for in our reserve for future abandonment costs. We also recognized additional capitalized cost related to the additional liability and accumulated depreciation on the additional capitalized cost.

Under SFAS 143, we estimate that our total ARO for our oil and natural gas properties is approximately \$15.2 million which was \$1.5 million less than the liability that we had provided for in our reserve for future abandonment as of December 31, 2002. The impact of adopting SFAS 143, which was recorded as the cumulative effect of an accounting change was an increase to net income of approximately \$0.7 million, net of tax.

In June 2002, the FASB issued Statement of Financial Accounting Standards 146, Accounting for Costs Associated with Exit or Disposal Activities ("SFAS 146"). The Statement establishes accounting and reporting standards that are effective for exit or disposal activities beginning after December 31, 2002 which require that a liability be recognized for an exit or disposal activity when that liability is incurred.

In January 2003, the FASB issued Interpretation ("FIN") No. 45, Guarantors Accounting and Disclosure Requirement for Guarantees, including Indirect Guarantees of Indebtedness of Others. FIN 45 requires an entity to recognize a liability for the obligations it has undertaken in issuing a guarantee. This liability would be recorded at the inception of a guarantee and would be measured at fair value. Certain guarantees are excluded from the measurement and disclosure provisions while certain other guarantees are excluded from the measurement provisions of the interpretation. The measurement provisions of this statement

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apply prospectively to guarantees issued or modified after December 31, 2002. The disclosure provisions of the statement apply to financial statements for periods ending after December 15, 2002. The adoption of the statement did not have a material effect on our financial statements when adopted.

In January 2003, the FASB issued Interpretation No. 46, Consolidation of Variable Interest Entities. FIN 46 requires an entity to consolidate a variable interest entity if it is designated as the primary beneficiary of that entity even if the entity does not have a majority of voting interests. A variable interest entity is generally defined as an entity where its equity is unable to finance its activities or where the owners of the entity lack the risk and rewards of ownership. The provisions of this statement apply at inception for any entity created after January 31, 2003. For an entity created before February 1, 2003, the provisions of this interpretation must be applied at the beginning of the first interim or annual period beginning after December 15, 2003. Comstock is not the primary beneficiary of any variable interest entities, and accordingly, the adoption of FIN 46 is not expected to have a material effect on our financial statements when adopted.

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## BUSINESS

We are an independent energy company engaged in the acquisition, development, production and exploration of oil and natural gas properties. Our oil and natural gas operations are concentrated in the Gulf of Mexico, East Texas/ North Louisiana, Southeast Texas and South Texas regions. In addition, we have properties in the Illinois Basin region in Kentucky and in the Mid-Continent regions located in the Texas panhandle, Oklahoma and Kansas. Our oil and natural gas properties are estimated to have proved reserves of 616.9 Bcfe with an estimated Present Value of Proved Reserves of \$1.7 billion as of December 31, 2003. Our proved oil and natural gas reserve base was 81% natural gas and 67% proved developed on a Bcfe basis as of December 31, 2003. We replaced 108% of our 2003 production of 44.0 Bcfe in 2003 through our development program. At the same time, we also reduced our total debt by \$60.0 million from \$366.0 million as of December 31, 2002 to \$306.0 million as of December 31, 2003.

Our proved reserves at December 31, 2003 and our 2003 average daily production are summarized below.

	Reserves at December 31, 2003				2003 Daily Production			
	Oil	Gas	Total	% of Total	Oil	Gas	Total	% of Total
	(MMBbls)	(Bcf)	(Bcfe)		(MBbls/d)	(MMcfd)	(MMcfd)	
Gulf of Mexico	14.7	127.7	216.1	35.0	3.2	21.8	40.7	33.8
East Texas/ North Louisiana	0.9	169.3	174.7	28.3	0.2	29.2	30.6	25.4
Southeast Texas	2.9	109.8	127.0	20.6	0.7	28.4	32.8	27.2
South Texas	0.4	44.8	47.1	7.6	0.1	9.0	9.9	8.2
Other Regions	0.3	50.2	52.0	8.5	0.2	5.6	6.6	5.4
<b>Total</b>	<b>19.2</b>	<b>501.8</b>	<b>616.9</b>	<b>100.0</b>	<b>4.4</b>	<b>94.0</b>	<b>120.6</b>	<b>100.0</b>

**Strengths**

*High Quality Properties.* Our operations are focused in four geographically concentrated areas, the Gulf of Mexico, East Texas/ North Louisiana, Southeast Texas and South Texas regions, which account for approximately 35%, 28%, 21% and 8% of our proved reserves at December 31, 2003, respectively. We have high price realizations relative to benchmark prices for natural gas and crude oil production. We also have favorable operating costs which result in high cash margins. Finally, our properties have an average reserve life of approximately 14 years and have extensive development and exploration potential.

*Successful Exploration and Development Program.* In 2003, we spent \$46.8 million on the exploitation and development of our oil and natural gas properties for development drilling, recompletions, workovers, abandonment and production facilities. Overall, we drilled 35 development wells, 22.0 net to us, with a 89% success rate. We also had a successful exploratory drilling program in 2003, spending a total of \$34.8 million to drill 18 wells, 7.4 net to us, with a 78% success rate. We spent an additional \$5.1 million in acquiring new acreage and seismic data in 2003 to support our exploration program.

*Successful Acquisitions.* We have had significant growth over the years as a result of acquisitions. Since 1991, we have added 740.1 Bcfe of proved oil and natural gas reserves from 30 acquisitions at an average cost of \$0.82 per Mcfe. Our application of strict economic and reserve risk criteria have enabled us to successfully evaluate and integrate acquisitions.

*Efficient Operator.* We operate 61% of our proved oil and natural gas reserve base as of December 31, 2003. 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 on the properties. As an operator, we receive reimbursements for overhead from other working interest owners, which reduces our general and administrative expenses.

*High Price Realizations.* The majority of our wells are located in areas which can access attractive natural gas and crude oil markets. In addition, our natural gas production has a relatively high Btu content of approximately 1.07 Btu. Our crude oil production has a favorable API gravity of approximately 40 degrees.



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Due to these factors, we have relatively high price realizations compared to benchmark prices. In 2003 our average natural gas price was \$5.41 per Mcf, which represented a \$0.02 premium to the 2003 NYMEX average monthly settlement price. Also in 2003, our average crude oil price was \$30.70 per barrel, which represented a \$1.69 barrel premium to the average monthly West Texas Intermediate crude oil price for 2003 posted by Koch Industries, Inc.

*High Cash Margins.* As a result of our quality properties, higher price realizations and efficient operations, we have higher cash margins than most of our competitors. Consequently, our oil and natural gas reserves have a higher value per Mcfe than reserves that generate lower cash margins.

### **Business Strategy**

*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 2003, we spent approximately \$28.3 million to drill 35 development wells, 22.0 net to us, of which 31 wells, 19.2 net to us, were successful, representing a success rate of 89%. In addition, we spent approximately \$18.5 million for new production facilities, leasehold costs and for recompletion, abandonment and workover activities. For 2004, we have budgeted \$37.0 million for development drilling and for recompletion, abandonment and workover activities.

*Pursue Exploration Opportunities.* We conduct exploration activities to grow our reserve base and to replace our production each year. In 2003, we spent approximately \$34.8 million to drill 18 exploratory wells, 7.4 net to us, of which 14 wells, 5.3 net to us, were successful, representing a success rate of 78%. We also spent \$5.1 million in acquiring new acreage and seismic data in 2003 to support our exploration program. We have budgeted \$73.0 million in 2004 for exploration activities which will be focused primarily in the Gulf of Mexico, Southeast Texas and South Texas regions.

*Maintain Low Cost Structure.* We seek to increase cash flow by carefully controlling operating costs and general and administrative expenses. Our average oil and gas operating costs per Mcfe were \$1.04 in 2003 and our general and administrative expenses per Mcfe averaged \$0.16 in 2003.

*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 740.1 Bcfe of proved oil and natural gas reserves from 30 acquisitions at a total cost of \$607.9 million, or \$0.82 per Mcfe. The acquisitions were acquired at an average of 58% of their Present Value of Proved Reserves in the year the acquisitions were completed. 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.

*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 \$110.0 million on development and exploration projects in 2004. We intend to primarily use operating cash flow to fund our drilling expenditures in 2004. We may also make additional property acquisitions in 2004 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.



**Table of Contents****Primary Operating Areas**

Our activities are concentrated in four primary operating areas: Gulf of Mexico, East Texas/ North Louisiana, Southeast Texas and South Texas. The following table summarizes the estimated proved oil and natural gas reserves for our 20 largest fields as of December 31, 2003.

	Net Oil	Net Gas	Total	%	Present Value of Proved Reserves	%
	(MBbls)	(MMcf)	(MMcfe)		(\$ in thousands)	
<b>Gulf of Mexico</b>						
Ship Shoal	8,550	53,604	104,903		\$ 326,843	
South Timbalier/ South Pelto	3,517	58,822	79,925		298,024	
Main Pass	1,531	1,556	10,739		27,560	
Vermilion/ South Marsh Island		9,354	9,354		40,623	
East White Point	693	1,560	5,717		12,585	
Other	444	2,756	5,423		16,168	
	<u>14,735</u>	<u>127,652</u>	<u>216,061</u>	35.0	<u>721,803</u>	42.2
<b>East Texas/ North Louisiana</b>						
Gilmer	232	53,734	55,125		132,524	
Beckville	110	44,357	45,014		101,395	
Logansport	37	16,885	17,105		47,469	
Waskom	196	12,181	13,356		33,234	
Blocker	36	10,215	10,431		21,911	
Longwood	84	7,016	7,521		22,424	
Box Church	3	6,064	6,079		14,686	
Lisbon	51	4,205	4,508		13,703	
Other	150	14,630	15,532		40,319	
	<u>899</u>	<u>169,287</u>	<u>174,671</u>	28.3	<u>427,665</u>	25.0
<b>Southeast Texas</b>						
Double A Wells	2,674	100,848	116,894		318,778	
Sugar Creek	85	8,150	8,659		18,474	
Other	120	764	1,482		4,500	
	<u>2,879</u>	<u>109,762</u>	<u>127,035</u>	20.6	<u>341,752</u>	20.0
<b>South Texas</b>						
J. C. Martin		16,148	16,148		40,999	
North Markham	178	12,506	13,573		41,065	
Lopeno	15	4,591	4,683		9,143	
Other	198	11,541	12,728		31,758	
	<u>391</u>	<u>44,786</u>	<u>47,132</u>	7.6	<u>122,965</u>	7.2
<b>Illinois Basin</b>						
New Albany Shale Gas		32,029	32,029	5.2	48,749	2.9
<b>Mid-Continent</b>						
Glick	8	5,079	5,128		11,039	
Other	98	10,642	11,230		27,159	

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	<u>106</u>	<u>15,721</u>	<u>16,358</u>	2.7	<u>38,198</u>	2.2
<b>Other Areas</b>	<u>179</u>	<u>2,541</u>	<u>3,623</u>	0.6	<u>7,943</u>	0.5
Total	<u>19,189</u>	<u>501,778</u>	<u>616,909</u>	100.0	<u>\$1,709,075</u>	100.0

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**Table of Contents*****Gulf of Mexico***

Our Gulf of Mexico operating region includes properties located offshore of Louisiana and Texas, in state and federal waters of the Gulf of Mexico. We own interests in 98 producing wells, 50.1 net to us, in ten field areas, the largest of which are the Ship Shoal area (Ship Shoal Blocks 66, 67, 68, 69, 92, 93, 99, 107, 109, 110, 112, 113, 114, 117, 118, 119, 120, 135 and 146 and South Pelto Block 1), the South Timbalier/ South Pelto area (South Timbalier Blocks 9, 11, 15, 16, 30, 34, 50, 52 and South Pelto Blocks 5, 15, 22 and 25) and the Main Pass Area (Main Pass Blocks 21, 41, 43, 55 and 58). In addition we have 13 wells, 5.3 net to us, that have been drilled and are awaiting connection to production facilities in the Gulf of Mexico. We have 216.1 Bcfe of oil and natural gas reserves in the Gulf of Mexico region which represents 35% of our reserve base. We operate 40 of the wells that we own in this region. Production from the region averaged 21.8 MMcf of natural gas per day and 3,151 barrels of oil per day during 2003. We spent \$14.2 million in this region in 2003 drilling seven development wells, 3.4 net to us, and \$25.8 million drilling eleven exploratory wells, 4.0 net to us. We also spent \$14.0 million for production facilities, recompletions, abandonment and workovers and \$1.7 million on acquiring exploration acreage and seismic data. In 2004, we plan to spend \$67.0 million for development and exploration activities in this region.

*Ship Shoal.* The Ship Shoal area is located in Louisiana state waters and in federal waters, offshore of Terrebonne Parish. In the this area, oil and natural gas are produced from numerous Miocene sands occurring at depths from 5,800 to 13,500 feet, and in water depths from 10 to 60 feet. We own interests in 46 wells in this area, 31.2 net to us, in Ship Shoal Blocks 66, 67, 68, 69, 92, 93, 99, 107, 109, 110, 112, 113, 114, 117, 118, 119, 120, 135 and 146 and in South Pelto Block 1. We operate 32 of these wells. Our properties in the Ship Shoal area have estimated proved reserves of 104.9 Bcfe, which is 17% of our total reserves. Production from the Ship Shoal area net to our interest averaged 8.4 MMcf of natural gas per day and 2,145 barrels of oil per day during 2003. In 2003, we drilled eight wells, 3.9 net to us, at Ship Shoal.

*South Timbalier/ South Pelto.* We own interests in 22 producing wells, 6.7 net to us, in Louisiana state waters and in federal waters in the South Timbalier/ South Pelto area located offshore of Terrebonne and Lafourche Parishes in water depths ranging from 20 to 60 feet. We have estimated proved reserves totaling 79.9 Bcfe attributable to this area which is 13% of our total reserves. Production attributable to our interest averaged 11.1 MMcf of natural gas per day and 472 barrels of oil per day in 2003. These wells produce from numerous sands of Pliocene to Upper Miocene age, at depths ranging from 2,000 to 12,000 feet as well as the geopressured Miocene section at a depths below 18,000 feet. We drilled six wells, 1.8 net to us, in the South Timbalier/ South Pelto area in 2003.

*Main Pass.* Main Pass Block 21 is located in Louisiana state waters, offshore of Plaquemimes Parish in water with a depth of approximately 12 feet. Our wells in this area produce from multiple Miocene sands at depths that range from 4,400 to 7,700 feet. We are the operator and own interests in six wells, 5.6 net to us at Main Pass Block 21. We also own nonoperated interests in eight producing wells, 1.2 net to us, at Main Pass Blocks 41, 43, 55 and 58 in federal waters with an average depth of 50 feet. Proved reserves for the total Main Pass area were 10.7 Bcfe, which is 2% of our total reserves at December 31, 2003. Production attributable to our interest from the Main Pass Area was approximately 1.0 MMcf of natural gas per day and 468 barrels of oil per day in 2003.

***East Texas/ North Louisiana***

Approximately 28% or 174.7 Bcfe of our proved reserves are located in East Texas and North Louisiana where we own interests in 422 producing wells, 232.3 net to us, in 21 field areas. We operate 243 of these wells. The largest of our fields in this region are the Gilmer, Beckville, Logansport and Waskom fields. Production from this region averaged 29.2 MMcf of natural gas per day and 237 barrels of oil per day during 2003. 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 2003 we spent \$3.6 million drilling five wells, 2.4 net

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to us, and \$1.9 million on workovers and recompletions in this region. We have budgeted approximately \$7.0 million in 2004 for development activities in this region.

*Gilmer.* We own interests in 72 natural gas wells, 27.4 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 feet to 12,000 feet. Proved reserves attributable to our interests in the Gilmer field are 55.1 Bcfe which represents 9% of our total reserve base. During 2003, production attributable to our interest from this field averaged 9.6 MMcf of natural gas per day and 110 barrels of oil per day.

*Beckville.* Our properties in the Beckville field, located in Panola and Rusk Counties, Texas, have proved reserves of 45.0 Bcfe which represents approximately 7% of our total reserves. We operate 72 wells in this field and own interests in three additional wells for a total of 75 wells, 55.3 net to us. During 2003, production attributable to our interest from this field averaged 6.3 MMcf of natural gas per day and eight barrels of oil per day. The Beckville 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 17.1 Bcfe in the Logansport field represents approximately 3% of our total reserves. We own interests in 81 wells, 40.2 net to us, and operate 50 of these wells. During 2003, net daily production attributable to our interest from this field averaged 3.1 MMcf of natural gas and twelve barrels of oil.

*Waskom.* The Waskom field, located in Harrison and Panola Counties in Texas, represented approximately 2% (13.4 Bcfe) of our proved reserves as of December 31, 2003. We own interests in 52 wells in this field, 26.0 net to us, and operate 28 wells in this field. During 2003, net daily production attributable to our interest averaged 0.9 MMcf of natural gas and 16 barrels of oil. The Waskom field produces from the Cotton Valley formation at depths ranging from 9,000 to 10,000 feet.

### ***Southeast Texas***

Approximately 21% or 127.0 Bcfe of our proved reserves are located in Southeast Texas, where we own interests in 88 producing wells, 50.9 net to us, and operate 61 of these wells. Net daily production rates from the area averaged 28.4 MMcf of natural gas and 738 barrels of oil during 2003. We spent \$8.0 million in the Southeast Texas region in 2003 drilling three wells, 1.7 net to us and for other development activity. In 2004, we plan to spend \$20.0 million for development and exploration activities in this region. Substantially all of the reserves in this region are in the Double A Wells field area in Polk County, Texas.

*Double A Wells.* The Double A Wells field is our largest field area with total estimated proved reserves of 116.9 Bcfe, which is 19% of our total reserves. We own interests in and operate 59 producing wells, 29.7 net to us, in this field in Polk County, Texas. Net daily production from Double A Wells area averaged 27.3 MMcf of natural gas and 701 barrels of oil during 2003. These wells typically produce from the Woodbine formation at an average depth of 14,300 feet. In 1999, we began a redevelopment program in this field based on our interpretation of 3-D seismic data and drilled 19 successful wells from 1999 to 2001. In 2002 we found additional productive Woodbine Sand to the south with two successful exploratory wells. In 2003, we drilled two additional delineation wells to further extend the discovery made in 2002. We are currently in the process of acquiring new 3-D seismic data to continue our exploration efforts.

### ***South Texas***

Approximately 8% or 47.1 Bcfe of our proved reserves are located in South Texas, where we own interests in 263 producing wells, 59.6 net to us. We own interests in eleven fields in the region. The largest of which are the J.C. Martin and the North Markham fields. Net daily production rates from the area averaged 9.0 MMcf of natural gas and 149 barrels of oil during 2003. We spent \$13.1 million in this region in 2003 to drill 13 wells, 4.5 net to us and for other development activity. In 2004, we plan to spend approximately \$15.0 million primarily for development and exploration activity in this region.

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*J.C. Martin.* Our largest field in South Texas is the J.C. Martin field which is located in the structurally complex and highly prolific Wilcox Lobo trend in Zapata County, Texas on the Mexican border. We own interests in 81 wells in this field, 13.0 net to us, with proved reserves of 16.1 Bcfe or 3% of our total reserves. During 2003, net daily production attributable to our interest from this field averaged 4.3 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.

*North Markham.* The North Markham/ North Bay City field is located in Matagorda County, Texas. We own interests in and operate 19 producing wells, 19.0 net to us, in the Ohio-Sun Unit. We purchased these interests in December 2002 and are in the process redeveloping this field. The field's estimated proved reserves of 13.6 Bcfe represent 2% of our total 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 2003, net daily production attributable to our interests from this field average 67 barrels of oil per day.

## **Acquisition Activities**

### *Acquisition Strategy*

We have concentrated our acquisition activity in the Gulf of Mexico, East Texas/ North Louisiana, Southeast Texas and South Texas regions. Using a strategy that capitalizes on our knowledge of and experience in these regions, we seek to selectively pursue acquisition opportunities where we can evaluate the assets to be acquired in detail prior to completion of the transaction. We evaluate a large number of prospective properties according to certain internal criteria, including established production and the properties' future development and exploration potential, low operating costs and the ability for us to obtain operating control.

### *Major Property Acquisitions*

As a result of our acquisitions, we have added 740.1 Bcfe of proved oil and natural gas reserves since 1991. Our largest acquisitions are the following:

*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, Ball Ranch and Lopeno fields in South Texas. We also acquired interests in the New Albany Shale Gas field in Kentucky, the Glick field in Kansas and the N.E. Moorewood field in Oklahoma in this transaction. DevX's properties had 1.2 MMBbls of oil reserves and 156.5 Bcf of natural gas reserves at the time of the acquisition.

*Boisd Arc Acquisition.* In December 1997, we 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 Boisd 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 became the operator of most of the wells in the field. The net proved reserves acquired in this acquisition were estimated at 5.9 MMBbls of oil and 100.4 Bcf of natural gas.

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*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, Logansport, Waskom, and Longwood fields. The net proved reserves acquired in this acquisition were estimated at 0.8 MMBbls 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 Present Value of Proved Reserves as of December 31, 2003:

	Oil (MBbls)	Gas (MMcf)	Total (MMcfe)	Present Value of Proved Reserves
				(\$ in thousands)
Proved Developed Producing	6,180	215,680	252,757	\$ 651,416
Proved Developed Non-producing	7,026	116,988	159,147	460,675
Proved Undeveloped	5,983	169,110	205,005	596,984
	<u>19,189</u>	<u>501,778</u>	<u>616,909</u>	<u>\$ 1,709,075</u>

There are numerous uncertainties inherent in estimating oil and natural gas reserves and their values, including many factors beyond the control of the producer. The reserve data set forth above represents estimates only. Reserve engineering is a subjective process of estimating underground accumulations of oil and natural gas that cannot be measured in an exact manner. The accuracy of any reserve estimate is a function of the quality of available data and of engineering and geological interpretation and judgment. As a result, estimates of different engineers may vary. In addition, estimates of reserves are subject to revision based on the results of drilling, testing and production subsequent to the date of such estimate. Accordingly, reserve estimates are often different from the quantities of oil and gas reserves that are ultimately recovered.

In general, the volume of production from oil and natural gas properties declines as reserves are depleted. Except to the extent we acquire properties containing proved reserves or conduct successful exploration and development activities, our proved reserves will decline as reserves are produced. Our future oil and natural gas production is highly dependent upon the level of success in acquiring or finding additional reserves.

The Present Value of Proved Reserves was determined based on the market prices for oil and natural gas on December 31, 2003. The market price for our oil production on December 31, 2003, after basis adjustments, was \$31.19 per barrel as compared to \$30.07 per barrel on December 31, 2002. The market price received for our natural gas production on December 31, 2003, after basis adjustments, was \$6.44 per Mcf as compared to \$5.04 per Mcf on December 31, 2002.

**Table of Contents****Drilling Activity Summary**

During the three-year period ended December 31, 2003, we drilled development and exploratory wells as set forth in the table below.

	Year Ended December 31,					
	2001		2002		2003	
	Gross	Net	Gross	Net	Gross	Net
<b>Development Wells:</b>						
Oil	2.0	0.7				
Gas	29.0	16.3	26.0	10.7	31.0	19.2
Dry	4.0	1.8	1.0	1.0	4.0	2.8
	<u>35.0</u>	<u>18.8</u>	<u>27.0</u>	<u>11.7</u>	<u>35.0</u>	<u>22.0</u>
<b>Exploratory Wells:</b>						
Oil	1.0	0.3	2.0	0.8	1.0	0.3
Gas	13.0	4.5	13.0	4.5	13.0	5.0
Dry	3.0	1.1	5.0	2.3	4.0	2.1
	<u>17.0</u>	<u>5.9</u>	<u>20.0</u>	<u>7.6</u>	<u>18.0</u>	<u>7.4</u>
<b>Total Wells</b>	<b>52.0</b>	<b>24.7</b>	<b>47.0</b>	<b>19.3</b>	<b>53.0</b>	<b>29.4</b>

Wells drilled in 2003 presented above exclude four pilot wells, 1.8 net to us, drilled in New Mexico to test a potential coalbed methane project. These wells are still being evaluated.

**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, 2003.

	Oil		Gas	
	Gross	Net	Gross	Net
Kansas			12.0	4.5
Kentucky			91.0	81.4
Louisiana	7.0	2.4	175.0	78.9
Mississippi	1.0	0.1	1.0	0.2
Offshore Gulf of Mexico	43.0	24.8	46.0	21.9
Oklahoma	3.0	0.5	130.0	15.8
Texas	69.0	43.9	558.0	225.4
Wyoming			30.0	2.1
	<u>123.0</u>	<u>71.1</u>	<u>1,043.0</u>	<u>430.2</u>
<b>Total Wells</b>	<b>123.0</b>	<b>71.1</b>	<b>1,043.0</b>	<b>430.2</b>

We operate 463 of the 1,166 producing wells presented in the above table.





**Table of Contents****Acreage**

The following table summarizes our developed and undeveloped leasehold acreage at December 31, 2003. We have excluded acreage in which our interest is limited to a royalty or overriding royalty interest.

	Developed		Undeveloped	
	Gross	Net	Gross	Net
Colorado	320	80		
Kansas	6,400	4,064		
Kentucky	15,725	12,624	7,402	6,954
Louisiana	74,710	55,045	6,745	1,095
Mississippi	1,360	210		
New Mexico			156,005	68,642
Offshore Gulf of Mexico	113,001	56,219	141,310	55,339
Oklahoma	37,440	5,336		
Texas	223,720	139,310	64,649	31,396
Wyoming	13,440	927		
<b>Total</b>	<b>486,116</b>	<b>273,815</b>	<b>376,111</b>	<b>163,426</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 facility. 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.

All of our oil production is sold at the well site at prices tied to the spot oil markets. Substantially all of our natural gas production is sold either on the spot natural gas market under short-term contracts at prevailing spot market prices, or under long-term contracts based on current spot market prices. Our most significant purchaser is Shell Trading (US) Company ( Shell ). Substantially all of our Gulf of Mexico and Double A Field oil production was sold to Shell. Total oil sales in 2003 to Shell accounted for approximately 18% of our total 2003 oil and gas sales. BP Energy Company ( BP ) is our most significant natural gas purchaser. Total natural gas sales in 2003 to BP accounted for approximately 14% of our total 2003 oil and gas sales. Natural gas sales to Houston Pipe Line Company, a subsidiary of American Electric Power Company, Inc. accounted for approximately 10% of our total 2003 oil and gas sales.

**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.

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### **Regulation**

Our operations are regulated by certain federal and state agencies. In particular, oil and natural gas production and related operations are or have been subject to price controls, taxes and other laws relating to the oil and natural gas industry. We cannot predict how existing laws and regulations may be interpreted by enforcement agencies or court rulings, whether additional laws and regulations will be adopted, or the effect such changes may have on our business or financial condition.

Our sales of natural gas are not regulated and are made at market prices. However, the Federal Energy Regulatory Commission regulates interstate and certain intrastate natural gas transportation rates and service conditions, which affect the marketing of natural gas produced by us, as well as the revenues received by us for sales of such production. Since the mid-1980s, the Federal Energy Regulatory Commission has issued a series of orders, culminating in Order Nos. 636, 636-A and 636-B, that have significantly altered the marketing and transportation of natural gas. These regulations mandated a fundamental restructuring of interstate pipeline sales and transportation service, including the unbundling by interstate pipelines of the sales, transportation, storage and other components of the city-gate sales services such pipelines previously performed. One of the Federal Energy Regulatory Commission purposes in issuing these regulations was to increase competition within all phases of the natural gas industry. Generally, these regulatory orders have eliminated or substantially reduced the interstate pipelines' traditional role as wholesalers of natural gas and have substantially increased competition and volatility in natural gas markets.

Our sales of oil and natural gas liquids are not regulated and are made at market prices. The price we receive from the sale of these products is affected by the cost of transporting the products to market.

Our oil and natural gas exploration, production and related operations are subject to extensive rules and regulations promulgated by federal, state and local agencies. Failure to comply with such rules and regulations can result in substantial penalties. The regulatory burden on the oil and gas industry increases our cost of doing business and affects our profitability. Because such rules and regulations are frequently amended or reinterpreted, we are unable to predict the future cost or impact of complying with such laws.

Most of the states in which we operate require permits for drilling operations, drilling bonds and the filing of reports concerning operations and impose other requirements relating to the exploration and production of oil and gas. These 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 gas wells and the regulation of spacing, plugging and abandonment of such wells. The statutes and regulations of certain states limit the rate at which oil and gas can be produced from our properties.

We are required to comply with various federal and state regulations regarding plugging and abandonment of oil and natural gas wells. We provide reserves for the estimated costs of plugging and abandoning our wells, to the extent such costs exceed the estimated salvage value of the wells, on a unit of production basis.

### **Environmental Regulation**

Various federal, state and local laws and regulations governing the discharge of materials into the environment, or otherwise relating to the protection of the environment, health and safety, affect our operations and costs. These laws and regulations sometimes require governmental authorization before conducting certain activities, limit or prohibit other activities because of protected areas or species, create the possibility of substantial liabilities for pollution related to our operations or properties and provide penalties for noncompliance. In particular, our drilling and production operations, our activities in connection with storage and transportation of crude oil and other liquid hydrocarbons and its use of facilities for treating, processing or otherwise handling hydrocarbons and related exploration and production wastes are subject to stringent environmental regulation. As with the industry in general, compliance with existing and anticipated regulations increases our overall cost of business. While these regulations affect our capital expenditures and earnings, we believe that such regulations do not affect our competitive position in the industry because our

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competitors are similarly affected by environmental regulatory programs. Environmental regulations have historically been subject to frequent change and, therefore, we cannot predict with certainty the future costs or other future impacts of environmental regulations on our future operations. A discharge of hydrocarbons or hazardous substances into the environment could subject us to substantial expense, including the cost to comply with applicable regulations that require a response to the discharge, such as containment or cleanup, claims by neighboring landowners or other third parties for personal injury, property damage or their response costs and penalties assessed, or other claims sought, by regulatory agencies for response cost or for natural resource damages.

The following are examples of some environmental laws that potentially impact us and our operations.

### ***Water***

The Oil Pollution Act was enacted in 1990 and amends provisions of the Federal Water Pollution Control Act of 1972 and other statutes as they pertain to the prevention of and response to major oil spills. The Oil Pollution Act subjects owners of facilities to strict, joint and potentially unlimited liability for removal costs and certain other consequences of an oil spill along shorelines or that enters navigable waters. In the event of an oil spill into such waters, substantial liabilities could be imposed upon us. Recent regulations developed under the Oil Pollution Act require companies that own offshore facilities, including us, to demonstrate oil spill financial responsibility for removal costs and damage caused by oil discharge. States in which we operate have also enacted similar laws. Regulations are currently being developed under the Oil Pollution Act and similar state laws that may also impose additional regulatory burdens upon us.

The Federal Water Pollution Control Act imposes restrictions and strict controls regarding the discharge of produced waters, other oil and gas wastes, any form of pollutant, and, in some instances, storm water runoff, into waters of the United States. The Federal Water Pollution Control Act provides for civil, criminal and administrative penalties for any unauthorized discharges and, along with the Oil Pollution Act, imposes substantial potential liability for the costs of removal, remediation or damages resulting from an unauthorized discharge. State laws for the control of water pollution also provide civil, criminal and administrative penalties and liabilities in the case of an unauthorized discharge into state waters. The cost of compliance with the Oil Pollution Act and the Federal Water Pollution Control Act have not historically been material to our operations, but there can be no assurance that changes in federal, state or local water pollution control programs will not materially adversely affect us in the future. Although no assurances can be given, we believe that compliance with existing permits and compliance with foreseeable new permit requirements will not have a material adverse effect on our financial condition or results of operations.

### ***Air Emissions***

The Federal Clean Air Act and comparable state programs require many industrial operations in the United States to incur capital expenditures in order to meet air emissions control standards developed by the United States Environmental Protection Agency (the EPA) and state environmental agencies. Although no assurances can be given, we believe that compliance with the Federal Clean Air Act and comparable state laws will not have a material adverse effect on our financial condition or results of operations.

### ***Solid Waste***

We generate non-hazardous solid wastes that are subject to the requirements of the Federal Resource Conservation and Recovery Act and comparable state statutes. The EPA and the states in which we operate are considering the adoption of stricter disposal standards for the type of non-hazardous wastes generated by us. The Resource Conservation and Recovery Act also governs the generation, management, and disposal of hazardous wastes. At present, we are not required to comply with a substantial portion of the requirements under this law because our operations generate minimal quantities of hazardous wastes. However, it is possible that additional wastes, which could include wastes currently generated during our operations, could in the future be designated as hazardous wastes. Hazardous wastes are subject to more rigorous and costly

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disposal and management requirements than are non-hazardous wastes. Such changes in the regulations may result in additional capital expenditures or operating expenses by us.

***Superfund***

The Comprehensive Environmental Response, Compensation, and Liability Act also known as Superfund, imposes liability, without regard to fault or the legality of the original act, on certain classes of persons in connection with the release of a hazardous substance into the environment. These persons include the current owner or operator of any site where a release historically occurred and companies that disposed or arranged for the disposal of the hazardous substances found at the site. Superfund also authorizes the EPA and, in some instances, third parties to act in response to threats to the public health or the environment and to seek to recover from the responsible classes of persons the costs they incur. In the course of its ordinary operations, we may have managed substances that may fall within Superfund's definition of a hazardous substance. Therefore, we may be jointly and severally liable under the Superfund for all or part of the costs required to clean up sites where we disposed of or arranged for the disposal of these substances. This potential liability extends to properties that we previously owned or operated, as well as to properties owned and operated by others at which disposal of our hazardous substances occurred.

We currently own or lease numerous properties that for many years have been used for the exploration and production of oil and gas. Although we believe we have utilized operating and disposal practices that were standard in the industry at the time, hydrocarbons or other wastes may have been disposed of or released by us on or under the properties owned or leased by us. In addition, many of these properties have been previously owned or operated by third parties who may have disposed of or released hydrocarbons or other wastes at these properties. Under Superfund and analogous state laws, we could be subject to certain liabilities and obligations, such as being required to remove or remediate previously disposed wastes, including wastes disposed of or released by prior owners or operators, to clean up contaminated property, including contaminated groundwater, or to perform remedial plugging operations to prevent future contamination.

**Office and Operations Facilities**

We lease office space in Frisco, Texas covering 20,046 square feet at a monthly rate of \$34,706, which increases to \$39,717 beginning June 2004. The lease expires on May 31, 2006. In addition to our leased office space in Frisco, Texas, we lease 2,329 square feet of office space in Houston, Texas at a monthly rate of \$3,299 beginning April 1, 2003. This lease expires on March 31, 2007. We also own production offices and pipe yard facilities near Marshall and Livingston, Texas, near Logansport, Louisiana and near Guston, Kentucky.

**Employees**

As of December 31, 2003, we had 68 employees and utilized contract employees for certain of our field operations. We consider our employee relations to be satisfactory.

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## MANAGEMENT

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

Name	Age	Position with Company
M. Jay Allison	48	President, Chief Executive Officer and Chairman of the Board of Directors
Roland O. Burns	43	Senior Vice President, Chief Financial Officer, Secretary, Treasurer and Director
Mack D. Good	53	Vice President of Operations
Stephen E. Neukom	54	Vice President of Marketing
Richard G. Powers	49	Vice President of Land
Daniel K. Presley	43	Vice President of Accounting and Controller
Michael W. Taylor	50	Vice President of Corporate Development
David K. Lockett	49	Director
Cecil E. Martin, Jr.	62	Director
David W. Sledge	47	Director

**Executive Officers**

*M. Jay Allison* has been one of our directors since 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. In 1983, Mr. Allison co-founded a private independent oil and gas company, Midwood Petroleum, Inc., which was active in the acquisition and development of oil and gas properties from 1983 to 1987. He received B.B.A., M.S. and J.D. degrees from Baylor University in 1978, 1980 and 1981, respectively. Mr. Allison currently serves on the Board of Regents for Baylor University.

*Roland O. Burns* has been our senior vice president since 1994, chief financial officer and treasurer since 1990 and our secretary since 1991. Mr. Burns was elected one of our directors in June 1999. 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.

*Mack D. Good* was appointed our vice president of operations in March 1999. From August 1997 until his promotion, 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.

*Richard G. Powers* joined us as Land Manager in October 1994 and has been our vice president of land since December 1997. Mr. Powers has over 20 years of experience as a petroleum landman. Prior to joining us, Mr. Powers was employed for 10 years as land manager for Bridge Oil (U.S.A.), Inc. and its predecessor Pinoak Petroleum, Inc. Mr. Powers received a B.B.A. degree in 1976 from Texas Christian University.

*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

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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 has a B.B.A. from Texas A&M University.

*Michael W. Taylor* has been our vice president of corporate development since December 1997 and has served us in various capacities since September 1994. Mr. Taylor has 28 years of experience in the oil and gas business. For 15 years prior to joining us, he had been an independent oil and gas producer and petroleum consultant. Before that time, he worked in various engineering and executive capacities for a major oil company, a small independent producer and an international oil and gas consulting company. Mr. Taylor is a Registered Professional Engineer in the State of Texas and he received a B.S. degree in Petroleum Engineering from Texas A&M University in 1974.

## **Outside Directors**

*David K. Lockett* was appointed to our board of directors in 2001. Mr. Lockett is currently a vice president of Dell Computer Corp. and heads up Dell's Small and Medium Business group. Mr. Lockett has been employed by Dell Computer Corp. for the last ten years and has spent the past twenty five years in the technology industry. Mr. Lockett received a B.B.A. degree from Texas A&M University in 1976.

*Cecil E. Martin, Jr.* has been one of our directors since 1988. Mr. Martin has been an independent commercial real estate developer since 1991. From 1973 to 1991 he served as Chairman of a public accounting firm in Richmond, Virginia. Mr. Martin holds a B.B.A. degree from Old Dominion University and is a Certified Public Accountant.

*David W. Sledge* was elected to our board of directors in 1996. Since 1996, he has been investing in oil and gas exploration activities. Mr. Sledge served as President of Gene Sledge Drilling Corporation, a privately held contract drilling company based in Midland, Texas until its sale in October 1996. Mr. Sledge served Gene Sledge Drilling Corporation in various capacities from 1979 to 1996. 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. He received a B.B.A. degree from Baylor University in 1979.

## 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.

## DESCRIPTION OF OTHER INDEBTEDNESS

As of December 31, 2003, the borrowing base under the current bank credit facility was \$260.0 million. As of December 31, 2003, the total outstanding principal balance under the current bank credit facility was \$86.0 million at a weighted average interest rate of 2.6%. The current bank credit facility matures on January 2, 2005.

Indebtedness under the current bank credit facility is secured by substantially all of our and our subsidiaries' assets. The current 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 gas properties. 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. The current bank credit facility bears interest, based on the utilization of the borrowing base, at our option at either (1) LIBOR plus 1.5% or 2.375% or (2) the base rate plus 0.5% to 1.375%. The current bank credit facility matures on January 2, 2005. The current bank credit facility contains covenants that, among other things, restrict the payment of cash dividends, limit the amount of consolidated debt and limit our ability to make certain loans and investments. Financial covenants include the maintenance of a current ratio, maintenance of tangible net worth and maintenance of an interest coverage ratio.

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We have received a commitment for a new \$400.0 million bank credit facility from Harris Nesbitt Corp., as arranger for Bank of Montreal. The new credit facility will provide a four-year revolving credit commitment. Borrowings under the new credit facility will be limited to a new borrowing base, which will initially be set at \$310.0 million assuming the retirement of all existing 11 1/4% Senior Notes and the closing of this offering. Proceeds from the new credit facility will be used to pay a portion of the consideration due under the tender offer and/or to redeem our 11 1/4% Senior Notes on May 1, 2004, and to refinance amounts outstanding under our current bank credit facility. The new credit facility would replace our current bank credit facility.

Indebtedness under the new credit facility will be secured by substantially all of our and our subsidiaries' assets. The new credit facility will be subject to borrowing base availability, which will be redetermined semiannually based on the banks' estimates of the future net cash flows of our oil and natural gas properties. 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 will be at the sole discretion of the administrative agent and the bank group. The revolving credit line will bear interest, based on the utilization of the borrowing base, at our option at either (1) LIBOR plus 1.25% to 1.75% or (2) the base rate (which is the higher of the prime rate or the federal funds rate) plus 0% to 0.50%. A commitment fee of 0.375% is payable on the unused borrowing base. The new credit facility will contain covenants similar to our present bank credit facility that, among other things, restrict the payment of cash dividends, limit the amount of consolidated debt and limit our ability to make certain loans and investments. Financial covenants will include the maintenance of a current ratio and maintenance of tangible net worth, but will not include an interest coverage ratio.

Closing of the new credit facility will be subject to, among other things, the following conditions: the closing of this notes offering, the successful completion of due diligence by the lenders and other customary conditions. We will also be required to indemnify the lenders, their respective affiliates and certain other persons for any liability they incur in connection with the new credit facility.

Harris Nesbitt Corp., an affiliate of Bank of Montreal, is co-lead underwriter of this offering and is a co-dealer manager and solicitation agent of the tender offer for our 11 1/4% Senior Notes. From time to time, Bank of Montreal and/or its affiliates may also provide other miscellaneous banking services. An affiliate of Banc of America Securities LLC, the sole book-running manager of this offering, is expected to be one of the lenders under the new credit facility. Another one of the underwriters, Comerica Securities, Inc., is also expected to be one of the lenders under the new credit facility. Each of the lenders will receive certain fees and reimbursement of reasonable expenses in connection with the closing of the new credit facility.

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## DESCRIPTION OF THE NOTES

The notes will be issued pursuant to an indenture to be dated as of the closing date of this offering (the *Indenture*) by and among Comstock, as issuer, the Subsidiary Guarantors and The Bank of New York Trust Company, N.A., as trustee (the *Trustee*). The terms of the notes include those stated in the Indenture and those made part of the Indenture by reference to the Trust Indenture Act of 1939. The notes are subject to all such terms, and Holders of notes are referred to the Indenture and the Trust Indenture Act for a statement thereof. A copy of the Indenture is available upon request from Comstock. The statements under this caption relating to the notes and the Indenture are summaries and do not purport to be complete, and where reference is made to particular provisions of the Indenture, such provisions, including the definitions of certain terms, are qualified in their entirety by such reference. The definitions of certain terms used in the following summary are set forth below under *Certain Definitions*. Capitalized terms not otherwise defined below under *Certain Definitions* or elsewhere in this prospectus have the meanings given to them in the Indenture.

**General**

\$150.0 million in aggregate principal amount of the notes will be issued on the closing date of this offering. Subject to compliance with the covenant described in *Certain Covenants* *Limitation on Indebtedness and Disqualified Capital Stock*, Comstock may issue an unlimited amount of additional debt securities under the Indenture from time to time after this offering. Comstock may create and issue additional debt securities with the same terms as the notes so that such additional debt securities would form a single series with the notes, and would be treated as such for all purposes of the Indenture, including, without limitation, waivers, amendments, redemptions and offers to purchase. The notes will mature on \_\_\_\_\_, 2012. The notes will bear interest at \_\_\_\_\_% from \_\_\_\_\_, 2004, or from the most recent interest payment date to which interest has been paid, payable semiannually in cash on \_\_\_\_\_ and \_\_\_\_\_ of each year, commencing \_\_\_\_\_, 2004, to the Persons in whose name the notes are registered in the note register at the close of business on \_\_\_\_\_ or \_\_\_\_\_ next preceding such interest payment date. Interest is computed on the basis of a 360-day year comprised of twelve 30-day months.

Principal of, premium, if any, and interest on the notes will be payable at the office or agency of Comstock in New York City maintained for such purpose, and the notes may be surrendered for transfer or exchange at the corporate trust office of the Trustee. In addition, in the event the notes do not remain in book-entry form, interest may be paid, at the option of Comstock, by check mailed to the Holders of the notes at their respective addresses as shown on the note register, subject to the right of any Holder of notes in the principal amount of \$500,000 or more to request payment by wire transfer. No service charge will be made for any transfer, exchange or redemption of the notes, but Comstock or the Trustee may require payment of a sum sufficient to cover any tax or other governmental charge that may be payable in connection therewith. The notes will be issued only in registered form, without coupons, in denominations of \$1,000 and integral multiples thereof.

The obligations of Comstock under the notes will be jointly and severally guaranteed by the Subsidiary Guarantors. See *Subsidiary Guarantees of Notes*.

**Redemption**

*Optional Redemption.* The notes will be redeemable at the option of Comstock, in whole or in part, at any time on or after \_\_\_\_\_, 2008, upon not less than 30 or more than 60 days' notice, at the redemption prices (expressed as percentages of principal amount) set forth below, plus accrued and unpaid interest, if any, to the date of redemption (subject to the right of Holders of record on the relevant record date to receive



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interest due on an interest payment date that is on or prior to the date of redemption), if redeemed during the 12-month period beginning on , of the years indicated below:

Year	Redemption Price
2008	%
2009	%
2010 and thereafter	100.00%

In the event that less than all of the notes are to be redeemed, the particular notes (or any portion thereof that is an integral multiple of \$1,000) to be redeemed shall be selected not less than 30 nor more than 60 days prior to the date of redemption by the Trustee, from the outstanding notes not previously called for redemption, pro rata, by lot or by any other method the Trustee shall deem fair and appropriate.

Notwithstanding the foregoing, prior to , 2007 Comstock may, at any time or from time to time, redeem up to 35% of the aggregate principal amount of notes originally issued at a redemption price of % of the principal amount thereof, plus accrued and unpaid interest, if any, to the date of redemption, with the Net Cash Proceeds of one or more Public Equity Offerings, provided that at least 65% of the aggregate principal amount of notes originally issued remains outstanding immediately after such redemption and that such redemption occurs within 60 days following the closing of any such Public Equity Offering.

*Offers to Purchase.* As described below, (i) upon the occurrence of a Change of Control Triggering Event, Comstock will be obligated to make an offer to purchase all of the notes at a purchase price equal to 101% of the principal amount thereof, together with accrued and unpaid interest, if any, to the date of purchase and (ii) upon certain sales or other dispositions of assets, Comstock may be obligated to make offers to purchase the notes with a portion of the Net Available Cash of such sales or other dispositions at a purchase price equal to 100% of the principal amount thereof, together with accrued and unpaid interest, if any, to the date of purchase. See Certain Covenants Change of Control and Limitation on Asset Sales.

**Sinking Fund**

There will be no sinking fund payments for the notes.

**Ranking**

The Indebtedness evidenced by the notes and the Subsidiary Guarantees will be unsecured and will rank *pari passu* in right of payment with all Senior Indebtedness of Comstock and the Subsidiary Guarantors, as the case may be, and senior in right of payment to all subordinated Indebtedness of Comstock and the Subsidiary Guarantors, as the case may be. The notes, however, will be effectively subordinated to secured Indebtedness of Comstock and its Subsidiaries to the extent of the value of the assets securing such Indebtedness, including Indebtedness under the Bank Credit Facility, which is secured by a lien on substantially all of the assets of Comstock (including assets of the Subsidiary Guarantors).

As of September 30, 2003, and prior to this offering, Comstock and its Restricted Subsidiaries had \$311.0 million in principal amount of Senior Indebtedness outstanding, including \$91.0 million of secured Indebtedness. Comstock and its Restricted Subsidiaries had no subordinated Indebtedness outstanding as of such date. Upon completion of this offering and assuming full subscription to our tender offer for our 11 1/4% Senior Notes and the ultimate application of the net proceeds from this offering to fund the tender offer for such senior notes and to repay amounts borrowed under Comstock's existing bank credit facility as described under Use of Proceeds, Comstock and its Restricted Subsidiaries will have approximately \$181.0 million in principal amount of Senior Indebtedness outstanding, all of which will be secured Indebtedness, and will continue to have no subordinated Indebtedness outstanding. Subject to certain limitations, Comstock and its Subsidiaries may incur additional Indebtedness in the future.

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A substantial portion of Comstock's operations is conducted through its Subsidiaries. Claims of creditors of such Subsidiaries that are not Subsidiary Guarantors, including trade creditors and creditors holding Indebtedness or guarantees issued by such Subsidiaries, and claims of preferred stockholders of such Subsidiaries will have priority with respect to the assets and earnings of such Subsidiaries over the claims of Comstock's creditors, including Holders of the notes. Accordingly, the notes will be effectively subordinated to creditors (including trade creditors) and preferred stockholders, if any, of Comstock's Subsidiaries that are not Subsidiary Guarantors.

Although the Indenture limits the incurrence of Indebtedness and Disqualified Capital Stock of the Restricted Subsidiaries and the issuance or sale of Preferred Stock of the Restricted Subsidiaries, such limitations are subject to a number of significant qualifications. In addition, the Indenture does not impose any limitations on the incurrence by the Restricted Subsidiaries of liabilities that are not considered Indebtedness, Disqualified Capital Stock or Preferred Stock under the Indenture. Please read **Certain Covenants** **Limitation on Indebtedness and Disqualified Capital Stock** and **Limitation on Liens**. Moreover, the Indenture does not impose any limitation on the incurrence by any Unrestricted Subsidiary of Indebtedness or Disqualified Capital Stock, or the issuance or sale of Preferred Stock of any Unrestricted Subsidiary.

### **Subsidiary Guarantees of Notes**

Each Subsidiary Guarantor will unconditionally guarantee, jointly and severally, to each Holder and the Trustee, the full and prompt performance of Comstock's obligations under the Indenture and the notes, including the payment of principal of, premium, if any, and interest on the notes pursuant to its Subsidiary Guarantee. The initial Subsidiary Guarantors are currently all of Comstock's principal operating subsidiaries. In addition to the initial Subsidiary Guarantors, Comstock is obligated under the Indenture to cause each Restricted Subsidiary that guarantees the payment of, assumes or in any other manner becomes liable (whether directly or indirectly) with respect to any Indebtedness of Comstock or any other Restricted Subsidiary of Comstock, including, without limitation, Indebtedness under the Bank Credit Facility, to execute and deliver a supplement to the Indenture pursuant to which such Restricted Subsidiary will guarantee the payment of the notes on the same terms and conditions as the Subsidiary Guarantees by the initial Subsidiary Guarantors. Please read **Certain Covenants** **Limitation on Guarantees by Restricted Subsidiaries**.

The obligations of each Subsidiary Guarantor will be limited to the maximum amount as will, after giving effect to all other contingent and fixed liabilities of such Subsidiary Guarantor and after giving effect to any collections from or payments made by or on behalf of any other Subsidiary Guarantor in respect of the obligations of such other Subsidiary Guarantor under its Subsidiary Guarantee or pursuant to its contribution obligations under the Indenture, result in the obligations of such Subsidiary Guarantor under its Subsidiary Guarantee not constituting a fraudulent conveyance or fraudulent transfer under federal or state law. Each Subsidiary Guarantor that makes a payment or distribution under a Subsidiary Guarantee shall be entitled to a contribution from each other Subsidiary Guarantor in a pro rata amount based on the Adjusted Net Assets of each Subsidiary Guarantor.

Each Subsidiary Guarantor may consolidate with or merge into or sell or otherwise dispose of all or substantially all of its properties and assets to Comstock or another Subsidiary Guarantor without limitation, except to the extent any such transaction is subject to the **Merger, Consolidation and Sale of Assets** covenant of the Indenture. Each Subsidiary Guarantor may consolidate with or merge into or sell all or substantially all of its properties and assets to a Person other than Comstock or another Subsidiary Guarantor (whether or not affiliated with the Subsidiary Guarantor), provided that (i) if the surviving Person is not the Subsidiary Guarantor, the surviving Person agrees to assume such Subsidiary Guarantor's Subsidiary Guarantee and all its obligations pursuant to the Indenture (except to the extent the following paragraph would result in the release of such Subsidiary Guarantee) and (ii) such transaction does not (a) violate any of the covenants described below under **Certain Covenants** or (b) result in a Default or Event of Default immediately thereafter that is continuing.

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Upon the sale or other disposition (by merger or otherwise) of a Subsidiary Guarantor (or all or substantially all of its properties and assets) to a Person other than Comstock or another Subsidiary Guarantor and pursuant to a transaction that is otherwise in compliance with the Indenture (including as described in the foregoing paragraph), such Subsidiary Guarantor shall be deemed released from its Subsidiary Guarantee and the related obligations set forth in the Indenture; *provided, however*, that any such release shall occur only to the extent that all obligations of such Subsidiary Guarantor under all of its guarantees of, and under all of its pledges of assets or other security interests which secure, other Indebtedness of Comstock or any Restricted Subsidiary shall also be released upon such sale or other disposition.

In addition, in the event that any Subsidiary Guarantor ceases to guarantee payment of, or in any other manner to remain liable (whether directly or indirectly) with respect to any and all other Indebtedness of Comstock or any other Restricted Subsidiary of Comstock, including, without limitation, Indebtedness under the Bank Credit Facility, such Subsidiary Guarantor shall also be released from its Subsidiary Guarantee and the related obligations set forth in the Indenture for so long as it remains not liable with respect to all such other Indebtedness.

Each Subsidiary Guarantor that is designated as an Unrestricted Subsidiary in accordance with the Indenture shall be released from its Subsidiary Guarantee and related obligations set forth in the Indenture for so long as it remains an Unrestricted Subsidiary.

**Covenant Suspension**

During any period that the notes have a rating equal to or higher than BBB- by S&P and Baa3 by Moody's (*Investment Grade Ratings*) and no Default or Event of Default has occurred and is continuing, Comstock and the Restricted Subsidiaries will not be subject to the following covenants (collectively, the *Suspended Covenants*):

Limitation on Indebtedness and Disqualified Capital Stock

Limitation on Restricted Payments

Limitation on Transactions with Affiliates

Limitation on Asset Sales

Limitation on Guarantees by Restricted Subsidiaries

clause (iii) of *Merger, Consolidation and Sale of Assets*

In the event that Comstock and the Restricted Subsidiaries are not subject to the *Suspended Covenants* for any period of time as a result of the preceding paragraph and either S&P or Moody's subsequently withdraws its rating or downgrades its rating of the notes below the applicable *Investment Grade Rating*, or a Default or Event of Default occurs and is continuing, then Comstock and its Restricted Subsidiaries will thereafter again be subject to the *Suspended Covenants*, and compliance with the *Suspended Covenants* with respect to Restricted Payments made after the time of such withdrawal, downgrade, Default or Event of Default will be calculated in accordance with the covenant described under *Limitation on Restricted Payments* as though such covenant had been in effect during the entire period of time from the date of the Indenture.

**Certain Covenants**

The Indenture contains, among others, the covenants described below.

*Limitation on Indebtedness and Disqualified Capital Stock.* Comstock will not, and will not permit any of its Restricted Subsidiaries to, create, incur, issue, assume, guarantee or in any manner become directly or indirectly liable for the payment of (collectively, *incur*) any Indebtedness (including any Acquired Indebtedness), except for Permitted Indebtedness, and Comstock will not, and will not permit any of its Restricted Subsidiaries to, issue any Disqualified Capital Stock (except for the issuance by Comstock of Disqualified Capital Stock (A) which is redeemable at Comstock's option in cash or Qualified Capital Stock

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and (B) the dividends on which are payable at Comstock's option in cash or Qualified Capital Stock); *provided however*, that Comstock and its Restricted Subsidiaries that are Subsidiary Guarantors may incur Indebtedness or issue shares of Disqualified Capital Stock if (i) at the time of such event and after giving effect thereto on a pro forma basis the Consolidated Fixed Charge Coverage Ratio for the four full quarters immediately preceding such event, taken as one period, would have been equal to or greater than 2.5 to 1.0 and (ii) no Default or Event of Default shall have occurred and be continuing at the time such additional Indebtedness is incurred or such Disqualified Capital Stock is issued or would occur as a consequence of the incurrence of the additional Indebtedness or the issuance of the Disqualified Capital Stock.

For purposes of determining compliance with this covenant, in the event that an item of Indebtedness meets the criteria of one or more of the categories of Permitted Indebtedness described in clauses (i) through (xi) of such definition or is entitled to be incurred (whether incurred under the Bank Credit Facility or otherwise) pursuant to the proviso of the foregoing sentence, Comstock may, in its sole discretion, classify such item of Indebtedness in any manner that complies with this covenant and such item of Indebtedness will be treated as having been incurred pursuant to only one of such clauses of the definition of Permitted Indebtedness or the proviso of the foregoing sentence and an item of Indebtedness may be divided and classified in more than one of the types of Indebtedness permitted hereunder.

*Limitation on Restricted Payments.* Comstock will not, and will not permit any Restricted Subsidiary to, directly or indirectly:

(i) declare or pay any dividend on, or make any other distribution to holders of, any shares of Capital Stock of Comstock or any Restricted Subsidiary (other than dividends or distributions payable solely in shares of Qualified Capital Stock of Comstock or such Restricted Subsidiary or in options, warrants or other rights to purchase Qualified Capital Stock of Comstock or such Restricted Subsidiary);

(ii) purchase, redeem or otherwise acquire or retire for value any Capital Stock of Comstock or any Affiliate thereof (other than any Wholly Owned Restricted Subsidiary of Comstock) or any options, warrants or other rights to acquire such Capital Stock (other than the purchase, redemption, acquisition or retirement of any Disqualified Capital Stock of Comstock solely in shares of Qualified Capital Stock of Comstock);

(iii) make any principal payment on or repurchase, redeem, defease or otherwise acquire or retire for value, prior to any scheduled principal payment, scheduled sinking fund payment or maturity, any Subordinated Indebtedness, except in any case out of the net cash proceeds of Permitted Refinancing Indebtedness; or

(iv) make any Restricted Investment;  
(such payments or other actions described in clauses (i) through (iv) being collectively referred to as Restricted Payments ), unless at the time of and after giving effect to the proposed Restricted Payment (the amount of any such Restricted Payment, if other than cash, shall be the amount determined by the Board of Directors of Comstock, whose determination shall be conclusive and evidenced by a Board Resolution):

(1) no Default or Event of Default shall have occurred and be continuing;

(2) Comstock could incur \$1.00 of additional Indebtedness (other than Permitted Indebtedness) in accordance with the Limitation on Indebtedness and Disqualified Capital Stock covenant; and

(3) the aggregate amount of all Restricted Payments declared or made after the date of the Indenture shall not exceed the sum (without duplication) of the following:

(A) 50% of the Consolidated Net Income of Comstock accrued on a cumulative basis during the period beginning on the first day of the month in which the Indenture is signed and ending on the last day of Comstock's last fiscal quarter ending prior to the date of such proposed Restricted Payment (or, if such Consolidated Net Income is a loss, minus 100% of such loss); plus

(B) the aggregate Net Cash Proceeds, or the Fair Market Value of assets and property other than cash, received after the date of the Indenture by Comstock from the issuance or sale (other

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than to any of its Restricted Subsidiaries) of shares of Qualified Capital Stock of Comstock or any options, warrants or rights to purchase such shares of Qualified Capital Stock of Comstock; plus

(C) the aggregate Net Cash Proceeds, or the Fair Market Value of assets and property other than cash, received after the date of the Indenture by Comstock (other than from any of its Restricted Subsidiaries) upon the exercise of any options, warrants or rights to purchase shares of Qualified Capital Stock of Comstock; plus

(D) the aggregate Net Cash Proceeds received after the date of the Indenture by Comstock from the issuance or sale (other than to any of its Restricted Subsidiaries) of Indebtedness or shares of Disqualified Capital Stock that have been converted into or exchanged for Qualified Capital Stock of Comstock, together with the aggregate cash received by Comstock at the time of such conversion or exchange; plus

(E) to the extent not otherwise included in Consolidated Net Income, the net reduction in Investments in Unrestricted Subsidiaries resulting from dividends, repayments of loans or advances, or other transfers of assets, in each case to Comstock or a Restricted Subsidiary after the date of the Indenture from any Unrestricted Subsidiary or from the redesignation of an Unrestricted Subsidiary as a Restricted Subsidiary (valued in each case as provided in the definition of Investment ), not to exceed in the case of any Unrestricted Subsidiary the total amount of Investments (other than Permitted Investments) in such Unrestricted Subsidiary made by Comstock and its Restricted Subsidiaries in such Unrestricted Subsidiary after the date of the Indenture.

Notwithstanding paragraph (a) above, Comstock and its Restricted Subsidiaries may take the following actions so long as (in the case of clauses (iii), (iv), (v) and (vii) below) no Default or Event of Default shall have occurred and be continuing:

(i) the payment of any dividend on any Capital Stock of Comstock within 60 days after the date of declaration thereof, if at such declaration date such declaration complied with the provisions of paragraph (a) above (and such payment shall be deemed to have been paid on such date of declaration for purposes of any calculation required by the provisions of paragraph (a) above);

(ii) the payment of any dividend payable from a Restricted Subsidiary to Comstock or any other Restricted Subsidiary of Comstock;

(iii) the repurchase, redemption or other acquisition or retirement of any shares of any class of Capital Stock of Comstock or any Restricted Subsidiary, in exchange for, or out of the aggregate Net Cash Proceeds from, a substantially concurrent issuance and sale (other than to a Restricted Subsidiary) of shares of Qualified Capital Stock of Comstock;

(iv) the purchase, redemption, repayment, defeasance or other acquisition or retirement for value of any Subordinated Indebtedness in exchange for, or out of the aggregate Net Cash Proceeds from, a substantially concurrent issuance and sale (other than to a Restricted Subsidiary) of shares of Qualified Capital Stock of Comstock;

(v) the purchase, redemption, repayment, defeasance or other acquisition or retirement for value of Subordinated Indebtedness (other than Disqualified Capital Stock) in exchange for, or out of the aggregate net cash proceeds of, a substantially concurrent incurrence (other than to a Restricted Subsidiary) of Subordinated Indebtedness of Comstock so long as (A) the principal amount of such new Indebtedness does not exceed the principal amount (or, if such Subordinated Indebtedness being refinanced provides for an amount less than the principal amount thereof to be due and payable upon a declaration of acceleration thereof, such lesser amount as of the date of determination) of the Subordinated Indebtedness being so purchased, redeemed, repaid, defeased, acquired or retired, plus the amount of any premium required to be paid in connection with such refinancing pursuant to the terms of the Indebtedness refinanced or the amount of any premium reasonably determined by Comstock as necessary to accomplish such refinancing, plus the amount of expenses of Comstock incurred in connection with such refinancing, (B) such new Indebtedness is subordinated to the notes at least to the

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same extent as such Subordinated Indebtedness so purchased, redeemed, repaid, defeased, acquired or retired, and (C) such new Indebtedness has an Average Life to Stated Maturity that is longer than the Average Life to Stated Maturity of the notes and such new Indebtedness has a Stated Maturity for its final scheduled principal payment that is at least 91 days later than the Stated Maturity for the final scheduled principal payment of the notes;

(vi) loans made to officers, directors or employees of Comstock or any Restricted Subsidiary approved by the Board of Directors in an aggregate amount not to exceed \$1.0 million outstanding at any one time, the proceeds of which are used solely (A) to purchase common stock of Comstock in connection with a restricted stock or employee stock purchase plan, or to exercise stock options received pursuant to an employee or director stock option plan or other incentive plan, in a principal amount not to exceed the exercise price of such stock options or (B) to refinance loans, together with accrued interest thereon, made pursuant to item (A) of this clause (vi); and

(vii) other Restricted Payments in an aggregate amount not to exceed \$10.0 million.

The actions described in clauses (i), (iii), (iv) and (vi) of this paragraph (b) shall be Restricted Payments that shall be permitted to be made in accordance with this paragraph (b) but shall reduce the amount that would otherwise be available for Restricted Payments under clause (3) of paragraph (a) (provided that any dividend paid pursuant to clause (i) of this paragraph (b) shall reduce the amount that would otherwise be available under clause (3) of paragraph (a) when declared, but not also when subsequently paid pursuant to such clause (i)), and the actions described in clauses (ii), (v) and (vii) of this paragraph (b) shall be permitted to be taken in accordance with this paragraph and shall not reduce the amount that would otherwise be available for Restricted Payments under clause (3) of paragraph (a).

*Limitation on Issuances and Sales of Preferred Stock of Restricted Subsidiaries.* Comstock (i) will not permit any Restricted Subsidiary to issue or sell any Preferred Stock to any Person other than Comstock or one of its Wholly Owned Restricted Subsidiaries and (ii) will not permit any Person other than Comstock or one of its Wholly Owned Restricted Subsidiaries to own any Preferred Stock of any Restricted Subsidiary, except, in each case, for (a) the Preferred Stock of a Restricted Subsidiary owned by a Person at the time such Restricted Subsidiary became a Restricted Subsidiary or acquired by such Person in connection with the formation of such Restricted Subsidiary, or transfers thereof, or (b) a sale of Preferred Stock in connection with the sale of all the Capital Stock of a Restricted Subsidiary owned by Comstock or its Subsidiaries effected in accordance with the provisions of the Indenture described under *Limitation on Asset Sales*.

*Limitation on Transactions with Affiliates.* Comstock will not, and will not permit any Restricted Subsidiary to, directly or indirectly, enter into or suffer to exist any transaction or series of related transactions (including, without limitation, the sale, purchase, exchange or lease of assets or property or the rendering of any services) with, or for the benefit of, any Affiliate of Comstock (other than Comstock or a Wholly Owned Restricted Subsidiary), unless (a) such transaction or series of related transactions is on terms that are no less favorable to Comstock or such Restricted Subsidiary, as the case may be, than those that would be available in a comparable arm's length transaction with unrelated third parties, (b) with respect to any one transaction or series of related transactions involving aggregate payments in excess of \$5.0 million, Comstock delivers an Officers' Certificate to the Trustee certifying that such transaction or series of transactions complies with clause (a) above and that such transaction or series of transactions has been approved by a majority of the Disinterested Directors of Comstock, and (c) with respect to any one transaction or series of related transactions involving aggregate payments in excess of \$20.0 million, the Officers' Certificate referred to in clause (b) above also certifies that Comstock has obtained a written opinion from an independent nationally recognized investment banking firm or appraisal firm specializing or having a specialty in the type and subject matter of the transaction or series of related transactions at issue, which opinion shall be to the effect set forth in clause (a) above or shall state that such transaction or series of

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related transactions is fair from a financial point of view to Comstock or such Restricted Subsidiary; *provided, however*, that the foregoing restriction shall not apply to:

(i) loans or advances to officers, directors and employees of Comstock or any Restricted Subsidiary made in the ordinary course of business in an aggregate amount not to exceed \$1.0 million outstanding at any one time;

(ii) indemnities of officers, directors, employees and other agents of Comstock or any Restricted Subsidiary permitted by corporate charter or other organizational document, bylaw or statutory provisions;

(iii) the payment of reasonable and customary fees to directors of Comstock or any of its Restricted Subsidiaries who are not employees of Comstock or any Affiliate;

(iv) Comstock's employee compensation and other benefit arrangements;

(v) transactions exclusively between or among Comstock and any of the Restricted Subsidiaries or exclusively between or among such Restricted Subsidiaries, provided such transactions are not otherwise prohibited by the Indenture; and

(vi) any Restricted Payment permitted to be paid pursuant to the terms of the Indenture described under **Limitation on Restricted Payments**.

*Limitation on Liens.* Comstock will not, and will not permit any Restricted Subsidiary to, directly or indirectly, create, incur, assume, affirm or suffer to exist or become effective any Lien of any kind, except for Permitted Liens, upon any of their respective property or assets, whether now owned or acquired after the date of the Indenture, or any income, profits or proceeds therefrom, or assign or convey any right to receive income thereon, unless (a) in the case of any Lien securing Subordinated Indebtedness, the notes are secured by a lien on such property, assets or proceeds that is senior in priority to such Lien and (b) in the case of any other Lien, the notes are directly secured equally and ratably with the obligation or liability secured by such Lien. The incurrence of additional secured Indebtedness by Comstock and its Restricted Subsidiaries is subject to further limitations on the incurrence of Indebtedness as described under **Limitation on Indebtedness and Disqualified Capital Stock**.

*Limitation on Asset Sales.* Comstock will not, and will not permit any Restricted Subsidiary to, consummate any Asset Sale unless (i) Comstock or such Restricted Subsidiary, as the case may be, receives consideration at the time of such Asset Sale at least equal to the Fair Market Value of the assets and property subject to such Asset Sale and (ii) all of the consideration paid to Comstock or such Restricted Subsidiary in connection with such Asset Sale is in the form of cash, Cash Equivalents, Liquid Securities, Exchanged Properties or the assumption by the purchaser of liabilities of Comstock (other than liabilities of Comstock that are by their terms subordinated to the notes) or liabilities of any Subsidiary Guarantor that made such Asset Sale (other than liabilities of a Subsidiary Guarantor that are by their terms subordinated to such Subsidiary Guarantor's Subsidiary Guarantee), in each case as a result of which Comstock and its remaining Restricted Subsidiaries are no longer liable for such liabilities ( **Permitted Consideration** ); *provided, however*, that Comstock and its Restricted Subsidiaries shall be permitted to receive assets and property other than Permitted Consideration, so long as the aggregate Fair Market Value of all such assets and property other than Permitted Consideration received from Asset Sales and held by Comstock or any Restricted Subsidiary at any one time shall not exceed 10% of Adjusted Consolidated Net Tangible Assets.

The Net Available Cash from Asset Sales by Comstock or a Restricted Subsidiary may be applied by Comstock or such Restricted Subsidiary, to the extent Comstock or such Restricted Subsidiary elects (or is required by the terms of any Senior Indebtedness of Comstock or a Restricted Subsidiary), to

repay Indebtedness of Comstock under the Bank Credit Facility;

reinvest in Additional Assets (including by means of an Investment in Additional Assets by a Restricted Subsidiary with Net Available Cash received by Comstock or another Restricted Subsidiary); or

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purchase notes or purchase both notes and one or more series or issues of other Senior Indebtedness on a pro rata basis (excluding notes and Senior Indebtedness owned by Comstock or an Affiliate of Comstock).

Any Net Available Cash from an Asset Sale not applied in accordance with the preceding paragraph within 365 days from the date of such Asset Sale shall constitute Excess Proceeds. When the aggregate amount of Excess Proceeds exceeds \$10.0 million, Comstock will be required to make an offer to purchase notes having an aggregate principal amount equal to the aggregate amount of Excess Proceeds (the Prepayment Offer ) at a purchase price equal to 100% of the principal amount of such notes plus accrued and unpaid interest, if any, to the Purchase Date (as defined) in accordance with the procedures (including prorating in the event of over subscription) set forth in the Indenture. If the aggregate principal amount of notes tendered by Holders thereof exceeds the amount of available Excess Proceeds, then such Excess Proceeds will be allocated pro rata according to the principal amount of the notes tendered and the Trustee will select the notes to be purchased in accordance with the Indenture. To the extent that any portion of the amount of Excess Proceeds remains after compliance with the second sentence of this paragraph and provided that all Holders of notes have been given the opportunity to tender their notes for purchase as described in the following paragraph in accordance with the Indenture, Comstock and its Restricted Subsidiaries may use such remaining amount for purposes permitted by the Indenture and the amount of Excess Proceeds will be reset to zero.

Within 30 days after the 365th day following the date of an Asset Sale, Comstock shall, if it is obligated to make an offer to purchase the notes pursuant to the preceding paragraph, send a written Prepayment Offer notice, by first-class mail, to the Holders of the notes (the Prepayment Offer Notice ), accompanied by such information regarding Comstock and its Subsidiaries as Comstock believes will enable such Holders of the notes to make an informed decision with respect to the Prepayment Offer. The Prepayment Offer Notice will state, among other things:

that Comstock is offering to purchase notes pursuant to the provisions of the Indenture;

that any note (or any portion thereof) accepted for payment (and duly paid on the Purchase Date) pursuant to the Prepayment Offer shall cease to accrue interest on the Purchase Date;

that any notes (or portions thereof) not properly tendered will continue to accrue interest;

the purchase price and purchase date, which shall be, subject to any contrary requirements of applicable law, no less than 30 days nor more than 60 days after the date the Prepayment Offer Notice is mailed (the Purchase Date );

the aggregate principal amount of notes to be purchased;

a description of the procedure which Holders of notes must follow in order to tender their notes and the procedures that Holders of notes must follow in order to withdraw an election to tender their notes for payment; and

all other instructions and materials necessary to enable Holders to tender notes pursuant to the Prepayment Offer.

Comstock will comply, to the extent applicable, with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws or regulations thereunder to the extent such laws and regulations are applicable in connection with the purchase of notes as described above. To the extent that the provisions of any securities laws or regulations conflict with the provisions relating to the Prepayment Offer, Comstock will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations described above by virtue thereof.

*Limitation on Guarantees by Restricted Subsidiaries.* Comstock will not cause or permit any Restricted Subsidiary to guarantee, assume or in any other manner become liable (whether directly or indirectly) with respect to any Indebtedness of Comstock or any other Restricted Subsidiary unless such Restricted Subsidiary



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simultaneously executes and delivers a supplemental indenture to the Indenture providing for a Subsidiary Guarantee of the notes on the same terms as the guarantee of such Indebtedness, except that

(i) such Subsidiary Guarantee need not be secured unless required pursuant to Limitation on Liens, and

(ii) if such Indebtedness is by its terms expressly subordinated to the notes or the Subordinated Guarantees, any such guarantee, assumption or other liability of such Restricted Subsidiary with respect to such Indebtedness shall be subordinated to such Restricted Subsidiary's Subsidiary Guarantee at least to the same extent as such Subordinated Indebtedness is subordinated to the notes or the Subsidiary Guarantees, *provided, however*, that this clause (ii) will not be applicable to any guarantee of any Restricted Subsidiary that (a) existed at the time such Person became a Subsidiary of Comstock and (b) was not incurred in connection with, or in contemplation of, such Person becoming a Subsidiary of Comstock.

*Limitation on Dividends and Other Payment Restrictions Affecting Restricted Subsidiaries.* Comstock will not, and will not permit any Restricted Subsidiary to, directly or indirectly, create or suffer to exist or allow to become effective any consensual encumbrance or restriction of any kind on the ability of any Restricted Subsidiary:

to pay dividends, in cash or otherwise, or make any other distributions on its Capital Stock, or make payments on any Indebtedness owed, to Comstock or any other Restricted Subsidiary;

to make loans or advances to Comstock or any other Restricted Subsidiary; or

to transfer any of its property or assets to Comstock or any other Restricted Subsidiary

(any such restrictions being collectively referred to herein as a Payment Restriction ), except for such encumbrances or restrictions existing under or by reason of: (i) customary provisions restricting subletting or assignment of any lease governing a leasehold interest of Comstock or any Restricted Subsidiary, or customary restrictions in licenses relating to the property covered thereby and entered into in the ordinary course of business, (ii) any instrument governing Indebtedness of a Person acquired by Comstock or any Restricted Subsidiary at the time of such acquisition, which encumbrance or restriction is not applicable to any other Person, other than the Person, or the property or assets of the Person, so acquired, provided that such indebtedness was not incurred in anticipation of such acquisition, (iii) any instrument governing Indebtedness or Disqualified Capital Stock of a Restricted Subsidiary that is not a Subsidiary Guarantor, *provided* that such Indebtedness or Disqualified Capital Stock is permitted under the covenant described in Limitation on Indebtedness and Disqualified Capital Stock or (iv) the Bank Credit Facility as in effect on the date of the Indenture or any agreement that amends, modifies, supplements, restates, extends, renews, refinances or replaces the Bank Credit Facility, *provided* that the terms and conditions of any Payment Restrictions thereunder are not materially less favorable to the Holders of the notes than those under the Bank Credit Facility as in effect on the date of the Indenture.

*Limitation on Sale and Leaseback Transactions.* Comstock will not, and will not permit any of its Restricted Subsidiaries to, enter into any Sale/ Leaseback Transaction unless (i) Comstock or such Restricted Subsidiary, as the case may be, would be able to incur Indebtedness in an amount equal to the Attributable Indebtedness with respect to such Sale/ Leaseback Transaction or (ii) Comstock or such Restricted Subsidiary receives proceeds from such Sale/ Leaseback Transaction at least equal to the fair market value thereof (as determined in good faith by Comstock's Board of Directors, whose determination in good faith, evidenced by a resolution of such Board shall be conclusive) and such proceeds are applied in the same manner and to the same extent as Net Available Cash and Excess Proceeds from an Asset Sale.

*Change of Control.* Upon the occurrence of a Change of Control Triggering Event, Comstock shall be obligated to make an offer to purchase all of the then outstanding notes (a Change of Control Offer ), and shall purchase, on a Business Day (the Change of Control Purchase Date ) not more than 60 nor less than 30 days following such Change of Control Triggering Event, all of the then outstanding notes validly tendered pursuant to such Change of Control Offer, at a purchase price (the Change of Control Purchase Price )

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equal to 101% of the principal amount thereof plus accrued and unpaid interest to the Change of Control Purchase Date. The Change of Control Offer is required to remain open for at least 20 Business Days and until the close of business on the fifth Business Day prior to the Change of Control Purchase Date.

In order to effect such Change of Control Offer, Comstock shall, not later than the 30th day after the Change of Control Triggering Event, give to the Trustee and each Holder a notice of the Change of Control Offer, which notice shall govern the terms of the Change of Control Offer and shall state, among other things, the procedures that Holders must follow to accept the Change of Control Offer.

The current bank credit facility contains, and any future credit agreements or other agreements relating to Senior Indebtedness or other obligations of Comstock (including the new Bank Credit Facility) may contain, prohibitions or restrictions on Comstock's ability to effect a Change of Control Offer. In the event a Change of Control Triggering Event occurs at a time when such prohibitions or restrictions are in effect, Comstock could seek the consent of its lenders to the repurchase of notes or could attempt to refinance the borrowings or renegotiate the agreements that contain such prohibitions. If Comstock does not obtain such a consent or repay such borrowings or change such agreements, Comstock will be effectively prohibited from repurchasing notes. Failure by Comstock to purchase the notes when required would result in an Event of Default. See Events of Default. There can be no assurance that Comstock would have adequate resources to repay or refinance all Indebtedness and other obligations owing under the Bank Credit Facility and such other agreements and to fund the purchase of the notes upon a Change of Control Triggering Event.

Comstock will not be required to make a Change of Control Offer upon a Change of Control Triggering Event if another Person makes the Change of Control Offer at the same purchase price, at the same times and otherwise in substantial compliance with the requirements applicable to a Change of Control Offer to be made by Comstock and purchases all notes validly tendered and not withdrawn under such Change of Control Offer.

The definition of Change of Control includes a phrase relating to the disposition of all or substantially all of the properties and assets of Comstock and its Restricted Subsidiaries, taken as a whole. Although there is a developing body of case law interpreting the phrase substantially all, there is no precise established definition of the phrase under applicable law. Accordingly, the ability of a Holder of the notes to require Comstock to purchase such notes as a result of a disposition of less than all of the properties and assets of Comstock and its Restricted Subsidiaries, taken as a whole, to another Person may be uncertain.

Comstock intends to comply with Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder, if applicable, in the event that a Change of Control Triggering Event occurs and Comstock is required to purchase notes as described above. The existence of a Holder's right to require, subject to certain conditions, Comstock to repurchase its notes upon a Change of Control Triggering Event may deter a third party from acquiring Comstock in a transaction that constitutes, or results in, a Change of Control.

*Reports.* Comstock (and the Subsidiary Guarantors, if applicable) will file on a timely basis with the Securities and Exchange Commission, to the extent such filings are accepted by the Commission and whether or not Comstock has a class of securities registered under the Exchange Act, the annual reports, quarterly reports and other documents that Comstock would be required to file if it were subject to Section 13 or 15 of the Exchange Act. Comstock (and the Subsidiary Guarantors, if applicable) will also be required (a) to file with the Trustee (with exhibits), and provide to each Holder of notes (without exhibits), without cost to such Holder, copies of such reports and documents within 15 days after the date on which Comstock (and the Subsidiary Guarantors, if applicable) file such reports and documents with the Commission or the date on which Comstock (and the Subsidiary Guarantors, if applicable) would be required to file such reports and documents if Comstock (and the Subsidiary Guarantors, if applicable) were so required and (b) if filing such reports and documents with the Commission is not accepted by the Commission or is prohibited under the Exchange Act, to supply at its cost copies of such reports and documents (including any exhibits thereto) to any Holder of notes promptly upon written request. Comstock is obligated to make available, upon request, to any Holder of notes the information required by Rule 144A(d)(4) under the Securities Act, during any period in which Comstock is not subject to Section 13 or 15(d) of the Exchange Act.

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*Future Designation of Restricted and Unrestricted Subsidiaries.* The foregoing covenants (including calculation of financial ratios and the determination of limitations on the incurrence of Indebtedness and Liens) may be affected by the designation by Comstock of any existing or future Subsidiary of Comstock as an Unrestricted Subsidiary. The definition of Unrestricted Subsidiary set forth under the caption Certain Definitions describes the circumstances under which a Subsidiary of Comstock may be designated as an Unrestricted Subsidiary by the Board of Directors of Comstock.

### **Merger, Consolidation and Sale of Assets**

Comstock will not, in any single transaction or series of related transactions, merge or consolidate with or into any other Person, or sell, assign, convey, transfer, lease or otherwise dispose of all or substantially all of the properties and assets of Comstock and its Restricted Subsidiaries on a consolidated basis to any Person or group of Affiliated Persons, and Comstock will not permit any of its Restricted Subsidiaries to enter into any such transaction or series of related transactions if such transaction or series of transactions, in the aggregate, would result in the sale, assignment, conveyance, transfer, lease or other disposition of all or substantially all of the properties and assets of Comstock and its Restricted Subsidiaries on a consolidated basis to any other Person or group of Affiliated Persons, unless at the time and after giving effect thereto:

(i) either (a) if the transaction is a merger or consolidation, Comstock shall be the surviving Person of such merger or consolidation, or (b) the Person (if other than Comstock) formed by such consolidation or into which Comstock is merged or to which the properties and assets of Comstock or its Restricted Subsidiaries, as the case may be, are sold, assigned, conveyed, transferred, leased or otherwise disposed of (any such surviving Person or transferee Person being the Surviving Entity ) shall be a corporation organized and existing under the laws of the United States of America, any state thereof or the District of Columbia and shall, in either case, expressly assume by a supplemental indenture to the Indenture executed and delivered to the Trustee, in form satisfactory to the Trustee, all the obligations of Comstock under the notes and the Indenture, and, in each case, the Indenture shall remain in full force and effect;

(ii) immediately after giving effect to such transaction or series of related transactions on a pro forma basis (and treating any Indebtedness not previously an obligation of Comstock or any of its Restricted Subsidiaries which becomes an obligation of Comstock or any of its Restricted Subsidiaries in connection with or as a result of such transaction as having been incurred at the time of such transaction), no Default or Event of Default shall have occurred and be continuing;

(iii) except in the case of the consolidation or merger of Comstock with or into a Restricted Subsidiary or any Restricted Subsidiary with or into Comstock or another Restricted Subsidiary, immediately before and immediately after giving effect to such transaction or transactions on a pro forma basis (assuming that the transaction or transactions occurred on the first day of the period of four fiscal quarters ending immediately prior to the consummation of such transaction or transactions, with the appropriate adjustments with respect to the transaction or transactions being included in such pro forma calculation), Comstock (or the Surviving Entity if Comstock is not the continuing obligor under the Indenture) could incur \$1.00 of additional Indebtedness (other than Permitted Indebtedness) pursuant to the Limitation on Indebtedness and Disqualified Capital Stock covenant;

(iv) if Comstock is not the continuing obligor under the Indenture, then each Subsidiary Guarantor, unless it is the Surviving Entity, shall have by supplemental indenture to the Indenture confirmed that its Subsidiary Guarantee of the notes shall apply to the Surviving Entity's obligations under the Indenture and the notes;

(v) if any of the properties or assets of Comstock or any of its Restricted Subsidiaries would upon such transaction or series of related transactions become subject to any Lien (other than a Permitted Lien), the creation and imposition of such Lien shall have been in compliance with the Limitation on Liens covenant; and

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(vi) Comstock (or the Surviving Entity if Comstock is not the continuing obligor under the Indenture) shall have delivered to the Trustee, in form and substance reasonably satisfactory to the Trustee, (a) an Officers Certificate stating that such consolidation, merger, transfer, lease or other disposition and any supplemental indenture in respect thereto comply with the requirements under the Indenture and (b) an Opinion of Counsel stating that the requirements of clause (i) of this paragraph have been satisfied.

Upon any consolidation or merger or any sale, assignment, lease, conveyance, transfer or other disposition of all or substantially all of the properties and assets of Comstock and its Restricted Subsidiaries on a consolidated basis in accordance with the foregoing, in which Comstock is not the continuing corporation, the Surviving Entity shall succeed to, and be substituted for, and may exercise every right and power of, Comstock under the Indenture with the same effect as if the Surviving Entity had been named as Comstock therein, and thereafter Comstock, except in the case of a lease will be discharged from all obligations and covenants under the Indenture and the notes and may be liquidated and dissolved.

## **Events of Default**

The following are Events of Default under the Indenture:

(i) default in the payment of the principal of or premium, if any, on any of the notes, whether such payment is due at Stated Maturity, upon redemption, upon repurchase pursuant to a Change of Control Offer or a Prepayment Offer, upon acceleration or otherwise;

(ii) default in the payment of any installment of interest on any of the notes, when due, and the continuance of such default for a period of 30 days;

(iii) default in the performance or breach of the provisions of the Merger, Consolidation and Sale of Assets section of the Indenture, the failure to make or consummate a Change of Control Offer in accordance with the provisions of the Change of Control covenant or the failure to make or consummate a Prepayment Offer in accordance with the provisions of the Limitation on Asset Sales covenant;

(iv) Comstock or any Subsidiary Guarantor shall fail to perform or observe any other term, covenant or agreement contained in the notes, any Subsidiary Guarantee or the Indenture (other than a default specified in (i), (ii) or (iii) above) for a period of 60 days after written notice of such failure stating that it is a notice of default under the Indenture and requiring Comstock or such Subsidiary Guarantor to remedy the same shall have been given (x) to Comstock by the Trustee or (y) to Comstock and the Trustee by the Holders of at least 25% in aggregate principal amount of the notes then outstanding);

(v) the occurrence and continuation beyond any applicable grace period of any default in the payment of the principal of, premium, if any, or interest on any Indebtedness of Comstock (other than the notes) or any Subsidiary Guarantor or any other Restricted Subsidiary for money borrowed when due, or any other default resulting in acceleration of any Indebtedness of Comstock or any Subsidiary Guarantor or any other Restricted Subsidiary for money borrowed, *provided* that the aggregate principal amount of such Indebtedness shall exceed \$20.0 million and *provided, further*, that if any such default is cured or waived or any such acceleration rescinded, or such Indebtedness is repaid, within a period of 10 days from the continuation of such default beyond the applicable grace period or the occurrence of such acceleration, as the case may be, such Event of Default under the Indenture and any consequential acceleration of the notes shall be automatically rescinded, so long as such rescission does not conflict with any judgment or decree;

(vi) any Subsidiary Guarantee shall for any reason cease to be, or be asserted by Comstock or any Subsidiary Guarantor, as applicable, not to be in full force and effect (except pursuant to the release of any such Subsidiary Guarantee in accordance with the Indenture);

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(vii) final judgments or orders rendered against Comstock or any Subsidiary Guarantor or any other Restricted Subsidiary that are unsatisfied and that require the payment in money, either individually or in an aggregate amount, that is more than \$20.0 million over the coverage under applicable insurance policies and either (A) commencement by any creditor of an enforcement proceeding upon such judgment (other than a judgment that is stayed by reason of a pending appeal or otherwise) or (B) the occurrence of a 60-day period during which a stay of such judgment or order, by reason of pending appeal or otherwise, was not in effect;

(viii) the entry of a decree or order by a court having jurisdiction in the premises (A) for relief in respect of Comstock or any Subsidiary Guarantor or any other Restricted Subsidiary in an involuntary case or proceeding under any applicable federal or state bankruptcy, insolvency, reorganization or other similar law or (B) adjudging Comstock or any Subsidiary Guarantor or any other Restricted Subsidiary bankrupt or insolvent, or approving a petition seeking reorganization, arrangement, adjustment or composition of Comstock or any Subsidiary Guarantor or any other Restricted Subsidiary under any applicable federal or state law, or appointing under any such law a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of Comstock or any Subsidiary Guarantor or any other Restricted Subsidiary or of a substantial part of its consolidated assets, or ordering the winding up or liquidation of its affairs, and the continuance of any such decree or order for relief or any such other decree or order unstayed and in effect for a period of 60 consecutive days; or

(ix) the commencement by Comstock or any Subsidiary Guarantor or any other Restricted Subsidiary of a voluntary case or proceeding under any applicable federal or state bankruptcy, insolvency, reorganization or other similar law or any other case or proceeding to be adjudicated bankrupt or insolvent, or the consent by Comstock or any Subsidiary Guarantor or any other Restricted Subsidiary to the entry of a decree or order for relief in respect thereof in an involuntary case or proceeding under any applicable federal or state bankruptcy, insolvency, reorganization or other similar law or to the commencement of any bankruptcy or insolvency case or proceeding against it, or the filing by Comstock or any Subsidiary Guarantor or any other Restricted Subsidiary of a petition or consent seeking reorganization or relief under any applicable federal or state law, or the consent by it under any such law to the filing of any such petition or to the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee or sequestrator (or other similar official) of Comstock or any Subsidiary Guarantor or any other Restricted Subsidiary or of any substantial part of its consolidated assets, or the making by it of an assignment for the benefit of creditors under any such law, or the admission by it in writing of its inability to pay its debts generally as they become due or taking of corporate action by Comstock or any Subsidiary Guarantor or any other Restricted Subsidiary in furtherance of any such action.

If an Event of Default (other than as specified in clause (viii) or (ix) above) shall occur and be continuing, the Trustee, by written notice to Comstock, or the Holders of at least 25% in aggregate principal amount of the notes then outstanding, by written notice to the Trustee and Comstock, may, and the Trustee upon the request of the Holders of not less than 25% in aggregate principal amount of the notes then outstanding shall, declare the principal of, premium, if any, and accrued and unpaid interest on all of the notes due and payable immediately, upon which declaration all amounts payable in respect of the notes shall be immediately due and payable. If an Event of Default specified in clause (viii) or (ix) above occurs and is continuing, then the principal of, premium, if any, and accrued and unpaid interest on all of the notes shall become and be immediately due and payable without any declaration, notice or other act on the part of the Trustee or any Holder of notes.

After a declaration of acceleration under the Indenture, but before a judgment or decree for payment of the money due has been obtained by the Trustee, the Holders of a majority in aggregate principal amount of the outstanding notes, by written notice to Comstock, the Subsidiary Guarantors and the Trustee, may rescind and annul such declaration if (a) Comstock or any Subsidiary Guarantor has paid or deposited with the Trustee a sum sufficient to pay (i) all sums paid or advanced by the Trustee under the Indenture and the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, (ii) all overdue interest on all notes, (iii) the principal of and premium, if any, on any notes which have become due

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otherwise than by such declaration of acceleration and interest thereon at the rate borne by the notes, and (iv) to the extent that payment of such interest is lawful, interest upon overdue interest and overdue principal at the rate borne by the notes (without duplication of any amount paid or deposited pursuant to clause (ii) or (iii)); (b) the rescission would not conflict with any judgment or decree of a court of competent jurisdiction; and (c) all Events of Default, other than the non-payment of principal of, premium, if any, or interest on the notes that has become due solely by such declaration of acceleration, have been cured or waived.

No Holder will have any right to institute any proceeding with respect to the Indenture or any remedy thereunder, unless such Holder has notified the Trustee of a continuing Event of Default and the Holders of at least 25% in aggregate principal amount of the outstanding notes have made written request, and offered such reasonable indemnity as the Trustee may require, to the Trustee to institute such proceeding as Trustee under the notes and the Indenture, the Trustee has failed to institute such proceeding within 60 days after receipt of such notice and the Trustee, within such 60-day period, has not received directions inconsistent with such written request by Holders of a majority in aggregate principal amount of the outstanding notes. Such limitations will not apply, however, to a suit instituted by the Holder of a note for the enforcement of the payment of the principal of, premium, if any, or interest on such note on or after the respective due dates expressed in such note.

During the existence of an Event of Default, the Trustee will be required to exercise such rights and powers vested in it under the Indenture and use the same degree of care and skill in its exercise thereof as a prudent person would exercise under the circumstances in the conduct of such person's own affairs. Subject to the provisions of the Indenture relating to the duties of the Trustee in case an Event of Default shall occur and be continuing, the Trustee will not be under any obligation to exercise any of its rights or powers under the Indenture at the request or direction of any of the Holders unless such Holders shall have offered to the Trustee such reasonable security or indemnity as it may require. Subject to certain provisions concerning the rights of the Trustee, the Holders of a majority in aggregate principal amount of the outstanding notes will have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred on the Trustee under the Indenture.

If a Default or an Event of Default occurs and is continuing and is known to the Trustee, the Trustee shall mail to each Holder notice of the Default or Event of Default within 60 days after the occurrence thereof. Except in the case of a Default or an Event of Default in payment of principal of, premium, if any, or interest on any notes, the Trustee may withhold the notice to the Holders of the notes if the Trustee determines in good faith that withholding the notice is in the interest of the Holders of the notes.

Comstock will be required to furnish to the Trustee annual and quarterly statements as to the performance by Comstock of its obligations under the Indenture and as to any default in such performance. Comstock is also required to notify the Trustee within 10 days of any Default or Event of Default.

### **Legal Defeasance or Covenant Defeasance of Indenture**

Comstock may, at its option and at any time, terminate the obligations of Comstock and the Subsidiary Guarantors with respect to the outstanding notes (such action being a legal defeasance). Such legal defeasance means that Comstock and the Subsidiary Guarantors shall be deemed to have paid and discharged the entire Indebtedness represented by the outstanding notes and to have been discharged from all their other obligations with respect to the notes and the Subsidiary Guarantees, except for, among other things:

the rights of Holders of outstanding notes to receive payment in respect of the principal of, premium, if any, and interest on such notes when such payments are due;

Comstock's obligations to replace any temporary notes, register the transfer or exchange of any notes, replace mutilated, destroyed, lost or stolen notes and maintain an office or agency for payments in respect of the notes;

the rights, powers, trusts, duties and immunities of the Trustee; and

the defeasance provisions of the Indenture. In addition, Comstock may, at its option and at any time, elect to terminate the obligations of Comstock and each Subsidiary Guarantor with respect to certain

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covenants that are set forth in the Indenture, some of which are described under Certain Covenants above, and any omission to comply with such obligations shall not constitute a Default or an Event of Default with respect to the notes (such action being a covenant defeasance ).

In order to exercise either legal defeasance or covenant defeasance:

Comstock or any Subsidiary Guarantor must irrevocably deposit with the Trustee, in trust, for the benefit of the Holders of the notes, cash in United States dollars, U.S. Government Obligations (as defined in the Indenture), or a combination thereof, in such amounts as will be sufficient, in the opinion of a nationally recognized firm of independent public accountants, to pay the principal of, premium, if any, and interest on the outstanding notes to redemption or maturity;

Comstock shall have delivered to the Trustee an Opinion of Counsel to the effect that the Holders of the outstanding notes will not recognize income, gain or loss for federal income tax purposes as a result of such legal defeasance or covenant defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such legal defeasance or covenant defeasance had not occurred (in the case of legal defeasance, such opinion must refer to and be based upon a published ruling of the Internal Revenue Service or a change in applicable federal income tax laws);

no Default or Event of Default shall have occurred and be continuing on the date of such deposit or insofar as clauses (viii) and (ix) under the first paragraph of Events of Default are concerned, at any time during the period ending on the 91st day after the date of deposit;

such legal defeasance or covenant defeasance shall not cause the Trustee to have a conflicting interest under the Indenture or the Trust Indenture Act with respect to any securities of Comstock or any Subsidiary Guarantor;

such legal defeasance or covenant defeasance shall not result in a breach or violation of, or constitute a default under, any material agreement or instrument to which Comstock or any Subsidiary Guarantor is a party or by which it is bound; and

Comstock shall have delivered to the Trustee an Officers Certificate and an Opinion of Counsel satisfactory to the Trustee, which, taken together, state that all conditions precedent under the Indenture to either legal defeasance or covenant defeasance, as the case may be, have been complied with.

**Satisfaction and Discharge**

The Indenture will be discharged and will cease to be of further effect (except as to surviving rights of registration of transfer or exchange of the notes, as expressly provided for in the Indenture) as to all outstanding notes when:

either (i) all the notes theretofore authenticated and delivered (except lost, stolen, mutilated or destroyed notes which have been replaced or paid and notes for whose payment money or certain United States government obligations have theretofore been deposited in trust or segregated and held in trust by Comstock and thereafter repaid to Comstock or discharged from such trust) have been delivered to the Trustee for cancellation or (ii) all notes not theretofore delivered to the Trustee for cancellation have become due and payable or will become due and payable at their Stated Maturity within one year, or are to be called for redemption within one year under arrangements satisfactory to the Trustee for the serving of notice of redemption by the Trustee in the name, and at the expense, of Comstock, and Comstock has irrevocably deposited or caused to be deposited with the Trustee funds in an amount sufficient to pay and discharge the entire Indebtedness on the notes not theretofore delivered to the Trustee for cancellation, for principal of, premium, if any, and interest on the notes to the date of deposit (in the case of notes which have become due and payable) or to the Stated Maturity or Redemption Date, as the case may be, together with instructions from Comstock

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irrevocably directing the Trustee to apply such funds to the payment thereof at maturity or redemption, as the case may be;

Comstock has paid all other sums payable under the Indenture by Comstock; and

Comstock has delivered to the Trustee an Officers Certificate and an Opinion of Counsel which, taken together, state that all conditions precedent under the Indenture relating to the satisfaction and discharge of the Indenture have been complied with.

**Amendments and Waivers**

From time to time, Comstock, the Subsidiary Guarantors and the Trustee may, without the consent of the Holders of the notes, amend or supplement the Indenture or the notes for certain specified purposes, including, among other things, curing ambiguities, defects or inconsistencies, qualifying, or maintaining the qualification of, the Indenture under the Trust Indenture Act, adding or releasing any Subsidiary Guarantor pursuant to the terms of the Indenture, or making any change that does not materially adversely affect the rights of any Holder of notes. Other amendments and modifications of the Indenture or the notes may be made by Comstock, the Subsidiary Guarantors and the Trustee with the consent of the Holders of not less than a majority of the aggregate principal amount of the outstanding notes; provided, however, that no such modification or amendment may, without the consent of the Holder of each outstanding note affected thereby:

change the Stated Maturity of the principal of, or any installment of interest on, any note;

reduce the principal amount of, premium, if any, or interest on any note;

change the coin or currency of payment of principal of, premium, if any, or interest on, any note;

impair the right to institute suit for the enforcement of any payment on or with respect to any note;

reduce the above-stated percentage of aggregate principal amount of outstanding notes necessary to modify or amend the Indenture;

reduce the percentage of aggregate principal amount of outstanding notes necessary for waiver of compliance with certain provisions of the Indenture or for waiver of certain defaults;

modify any provisions of the Indenture relating to the modification and amendment of the Indenture or the waiver of past defaults or covenants, except as otherwise specified;

modify any provisions of the Indenture relating to the Subsidiary Guarantees in a manner adverse to the Holders; or

amend, change or modify the obligation of Comstock to make and consummate a Change of Control Offer in the event of a Change of Control Triggering Event or make and consummate a Prepayment Offer with respect to any Asset Sale or modify any of the provisions or definitions with respect thereto.

The Holders of not less than a majority in aggregate principal amount of the outstanding notes may, on behalf of the Holders of all notes, waive any past default under the Indenture, except a default in the payment of principal of, premium, if any, or interest on the notes, or in respect of a covenant or provision which under the Indenture cannot be modified or amended without the consent of the Holder of each note outstanding.

**The Trustee**

The Bank of New York Trust Company, N.A. serves as trustee under the Indenture. The Indenture (including provisions of the Trust Indenture Act incorporated by reference therein) contains limitations on the rights of the Trustee thereunder, should it become a creditor of Comstock, to obtain payment of claims in certain cases or to realize on certain property received by it in respect of any such claims, as security or otherwise. The Indenture permits the Trustee to engage in other transactions; *provided, however*, if it acquires any conflicting interest (as defined in the Trust Indenture Act) it must eliminate such conflict or resign.



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### **Governing Law**

The Indenture, the notes and the Subsidiary Guarantees are governed by, and construed and enforced in accordance with, the laws of the State of New York.

### **Certain Definitions**

**Acquired Indebtedness** means Indebtedness of a Person (i) existing at the time such Person becomes a Restricted Subsidiary or (ii) assumed in connection with acquisitions of properties or assets from such Person (other than any Indebtedness incurred in connection with, or in contemplation of, such Person becoming a Restricted Subsidiary or such acquisition). Acquired Indebtedness shall be deemed to be incurred on the date the acquired Person becomes a Restricted Subsidiary or the date of the related acquisition of properties or assets from such Person.

**Additional Assets** means (i) any assets or property (other than cash, Cash Equivalents or securities) used in the Oil and Gas Business or any business ancillary thereto, (ii) Investments in any other Person engaged in the Oil and Gas Business or any business ancillary thereto (including the acquisition from third parties of Capital Stock of such Person) as a result of which such other Person becomes a Restricted Subsidiary, (iii) the acquisition from third parties of Capital Stock of a Restricted Subsidiary or (iv) Investments pursuant to clause (v) of the definition of Permitted Investments.

**Adjusted Consolidated Net Tangible Assets** means (without duplication), as of the date of determination, the remainder of: (i) the sum of (a) discounted future net revenues from proved oil and gas reserves of Comstock and its Restricted Subsidiaries calculated in accordance with Commission guidelines before any state, federal or foreign income taxes, as estimated by Comstock and confirmed by a nationally recognized firm of independent petroleum engineers in a reserve report prepared as of the end of Comstock's most recently completed fiscal year for which audited financial statements are available, as increased by, as of the date of determination, the estimated discounted future net revenues from (1) estimated proved oil and gas reserves acquired since such year-end, which reserves were not reflected in such year-end reserve report, and (2) estimated oil and gas reserves attributable to upward revisions of estimates of proved oil and gas reserves since such year-end due to exploration, development or exploitation activities, in each case calculated in accordance with Commission guidelines (utilizing the prices utilized in such year-end reserve report), and decreased by, as of the date of determination, the estimated discounted future net revenues from (3) estimated proved oil and gas reserves produced or disposed of since such year-end and (4) estimated oil and gas reserves attributable to downward revisions of estimates of proved oil and gas reserves since such year-end due to changes in geological conditions or other factors which would, in accordance with standard industry practice, cause such revisions, in each case calculated in accordance with Commission guidelines (utilizing the prices utilized in such year-end reserve report); *provided* that, in the case of each of the determinations made pursuant to clauses (1) through (4), such increases and decreases shall be as estimated by Comstock's petroleum engineers, unless there is a Material Change as a result of such acquisitions, dispositions or revisions, in which event the discounted future net revenues utilized for purposes of this clause (i)(a) shall be confirmed in writing by a nationally recognized firm of independent petroleum engineers, (b) the capitalized costs that are attributable to oil and gas properties of Comstock and its Restricted Subsidiaries to which no proved oil and gas reserves are attributable, based on Comstock's books and records as of a date no earlier than the date of Comstock's latest annual or quarterly financial statements, (c) the Net Working Capital on a date no earlier than the date of Comstock's latest annual or quarterly financial statements and (d) the greater of (1) the net book value on a date no earlier than the date of Comstock's latest annual or quarterly financial statements and (2) the appraised value, as estimated by independent appraisers, of other tangible assets (including, without duplication, Investments in unconsolidated Restricted Subsidiaries) of Comstock and its Restricted Subsidiaries, as of the date no earlier than the date of Comstock's latest audited financial statements, minus (ii) the sum of (a) minority interests, (b) any net gas balancing liabilities of Comstock and its Restricted Subsidiaries reflected in Comstock's latest audited financial statements, (c) to the extent included in (i)(a) above, the discounted future net revenues, calculated in accordance with Commission guidelines (utilizing the prices utilized in Comstock's year-end reserve report), attributable to reserves which are required to be delivered to third parties to fully satisfy the obligations of Comstock and its Restricted

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Subsidiaries with respect to Volumetric Production Payments (determined, if applicable, using the schedules specified with respect thereto) and (d) the discounted future net revenues, calculated in accordance with Commission guidelines, attributable to reserves subject to Dollar-Denominated Production Payments which, based on the estimates of production and price assumptions included in determining the discounted future net revenues specified in (i)(a) above, would be necessary to fully satisfy the payment obligations of Comstock and its Restricted Subsidiaries with respect to Dollar-Denominated Production Payments (determined, if applicable, using the schedules specified with respect thereto).

Adjusted Net Assets of a Subsidiary Guarantor at any date shall mean the amount by which the fair value of the properties and assets of such Subsidiary Guarantor exceeds the total amount of liabilities, including, without limitation, contingent liabilities (after giving effect to all other fixed and contingent liabilities incurred or assumed on such date), but excluding liabilities under its Subsidiary Guarantee, of such Subsidiary Guarantor at such date. Affiliate means, with respect to any specified Person, any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For the purposes of this definition, control, when used with respect to any Person, means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms controlling and controlled have meanings correlative to the foregoing. For purposes of this definition, beneficial ownership of 10% or more of the voting common equity (on a fully diluted basis) or options or warrants to purchase such equity (but only if exercisable at the date of determination or within 60 days thereof) of a Person shall be deemed to constitute control of such Person.

Asset Sale means any sale, issuance, conveyance, transfer, lease or other disposition to any Person other than Comstock or any of its Restricted Subsidiaries (including, without limitation, by means of a merger or consolidation) (collectively, for purposes of this definition, a transfer), directly or indirectly, in one or a series of related transactions, of (i) any Capital Stock of any Restricted Subsidiary held by Comstock or any Restricted Subsidiary, (ii) all or substantially all of the properties and assets of any division or line of business of Comstock or any of its Restricted Subsidiaries or (iii) any other properties or assets of Comstock or any of its Restricted Subsidiaries other than (a) a transfer of cash, Cash Equivalents, hydrocarbons or other mineral products in the ordinary course of business or (b) any lease, abandonment, disposition, relinquishment or farm-out of any oil and gas properties in the ordinary course of business. For the purposes of this definition, the term Asset Sale also shall not include (A) any transfer of properties or assets (including Capital Stock) that is governed by, and made in accordance with, the provisions described under Merger, Consolidation and Sale of Assets; (B) any transfer of properties or assets to an Unrestricted Subsidiary, if permitted under the Limitation on Restricted Payments covenant; or (C) any transfer of properties or assets (including Capital Stock) having a Fair Market Value of less than \$5.0 million.

Attributable Indebtedness means, with respect to any particular lease under which any Person is at the time liable and at any date as of which the amount thereof is to be determined, the present value of the total net amount of rent required to be paid by such Person under the lease during the primary term thereof, without giving effect to any renewals at the option of the lessee, discounted from the respective due dates thereof to such date at the rate of interest per annum implicit in the terms of the lease. As used in the preceding sentence, the net amount of rent under any lease for any such period shall mean the sum of rental and other payments required to be paid with respect to such period by the lessee thereunder excluding any amounts required to be paid by such lessee on account of maintenance and repairs, insurance, taxes, assessments, water rates or similar charges. In the case of any lease which is terminable by the lessee upon payment of a penalty, such net amount of rent shall also include the amount of such penalty, but no rent shall be considered as required to be paid under such lease subsequent to the first date upon which it may be so terminated.

Average Life means, with respect to any Indebtedness, as at any date of determination, the quotient obtained by dividing (i) the sum of the products of (a) the number of years (and any portion thereof) from the date of determination to the date or dates of each successive scheduled principal payment (including, without limitation, any sinking fund or mandatory redemption payment requirements) of such Indebtedness multiplied by (b) the amount of each such principal payment by (ii) the sum of all such principal payments.

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Bank Credit Facility means that certain Credit Agreement dated as of \_\_\_\_\_, 2004 among Comstock, as Borrower, the lenders party thereto from time to time, Bank of Montreal, as Administrative Agent, and Bank of Montreal, as issuing bank, and together with all related documents executed or delivered pursuant thereto at any time (including, without limitation, all mortgages, deeds of trust, guarantees, security agreements and all other collateral and security documents), in each case as such agreements may be amended (including any amendment and restatement thereof), supplemented or otherwise modified from time to time, including any agreement or agreements extending the maturity of, refinancing, replacing or otherwise restructuring (including into two or more separate credit facilities, and including increasing the amount of available borrowings thereunder provided that such increase in borrowings is within the definition of Permitted Indebtedness or is otherwise permitted under the covenant described under \_\_\_\_\_ Limitation on Indebtedness and Disqualified Capital Stock ) or adding Subsidiaries as additional borrowers or guarantors thereunder and all or any portion of the Indebtedness and other Obligations under such agreement or agreements or any successor or replacement agreement or agreements, and whether by the same or any other agent(s), lender(s) or group(s) of lenders.

Capital Stock means, with respect to any Person, any and all shares, interests, participations, rights or other equivalents in the equity interests (however designated) in such Person, and any rights (other than debt securities convertible into an equity interest), warrants or options exercisable for, exchangeable for or convertible into such an equity interest in such Person.

Capitalized Lease Obligation means any obligation to pay rent or other amounts under a lease of (or other agreement conveying the right to use) any property (whether real, personal or mixed) that is required to be classified and accounted for as a capital lease obligation under GAAP, and, for the purpose of the Indenture, the amount of such obligation at any date shall be the capitalized amount thereof at such date, determined in accordance with GAAP.

Cash Equivalents means (i) any evidence of Indebtedness with a maturity of 180 days or less issued or directly and fully guaranteed or insured by the United States of America or any agency or instrumentality thereof (provided that the full faith and credit of the United States of America is pledged in support thereof); (ii) demand and time deposits and certificates of deposit or acceptances with a maturity of 180 days or less of any financial institution that is a member of the Federal Reserve System having combined capital and surplus and undivided profits of not less than \$500 million; (iii) commercial paper with a maturity of 180 days or less issued by a corporation that is not an Affiliate of Comstock and is organized under the laws of any state of the United States or the District of Columbia and rated at least A-1 by S&P or at least P-1 by Moody's; (iv) repurchase obligations with a term of not more than seven days for underlying securities of the types described in clause (i) above entered into with any commercial bank meeting the specifications of clause (ii) above; (v) overnight bank deposits and bankers acceptances at any commercial bank meeting the qualifications specified in clause (ii) above; (vi) deposits available for withdrawal on demand with any commercial bank not meeting the qualifications specified in clause (ii) above but which is a lending bank under the Bank Credit Facility, *provided* all such deposits do not exceed \$5.0 million in the aggregate at any one time; (vii) demand and time deposits and certificates of deposit with any commercial bank organized in the United States not meeting the qualifications specified in clause (ii) above, provided that such deposits and certificates support bond, letter of credit and other similar types of obligations incurred in the ordinary course of business; and (viii) investments in money market or other mutual funds substantially all of whose assets comprise securities of the types described in clauses (i) through (v) above.

Change of Control means the occurrence of any event or series of events by which: (i) any person or group (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act) is or becomes the beneficial owner (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of more than 50% of the total Voting Stock of Comstock; (ii) Comstock consolidates with or merges into another Person or any Person consolidates with, or merges into, Comstock, in any such event pursuant to a transaction in which the outstanding Voting Stock of Comstock is changed into or exchanged for cash, securities or other property, other than any such transaction where (a) the outstanding Voting Stock of Comstock is changed into or exchanged for Voting Stock of the surviving or resulting Person that is Qualified Capital Stock and (b) the holders of the Voting Stock of Comstock immediately prior to such transaction own, directly or indirectly, not

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less than a majority of the Voting Stock of the surviving or resulting Person immediately after such transaction; (iii) Comstock, either individually or in conjunction with one or more Restricted Subsidiaries, sells, assigns, conveys, transfers, leases or otherwise disposes of, or the Restricted Subsidiaries sell, assign, convey, transfer, lease or otherwise dispose of, all or substantially all of the properties and assets of Comstock and such Restricted Subsidiaries, taken as a whole (either in one transaction or a series of related transactions), including Capital Stock of the Restricted Subsidiaries, to any Person (other than Comstock or a Wholly Owned Restricted Subsidiary); (iv) during any consecutive two-year period, individuals who at the beginning of such period constituted the Board of Directors of Comstock (together with any new directors whose election by such Board of Directors or whose nomination for election by the stockholders of Comstock was approved by a vote of 66 2/3% of the directors then still in office who were either directors at the beginning of such period or whose election or nomination for election was previously so approved) cease for any reason to constitute a majority of the Board of Directors of Comstock then in office; or (v) the liquidation or dissolution of Comstock.

**Change of Control Triggering Event** means the occurrence of a Change of Control followed within 30 days by a downgrade in the ratings of the notes by either S&P or Moody's.

**Closing Date** means the date on which the notes are originally issued under the Indenture.

**Common Stock** of any Person means Capital Stock of such Person that does not rank prior, as to the payment of dividends or as to the distribution of assets upon any voluntary or involuntary liquidation, dissolution or winding up of such Person, to shares of Capital Stock of any other class of such Person.

**Consolidated Exploration Expenses** means, for any period, exploration expenses of Comstock and its Restricted Subsidiaries for such period as determined on a consolidated basis in accordance with GAAP.

**Consolidated Fixed Charge Coverage Ratio** means, for any period, the ratio on a pro forma basis of (i) the sum of Consolidated Net Income, Consolidated Interest Expense, Consolidated Income Tax Expense and Consolidated Non-cash Charges each to the extent deducted in computing Consolidated Net Income, in each case, for such period, of Comstock and its Restricted Subsidiaries on a consolidated basis, all determined in accordance with GAAP, decreased (to the extent included in determining Consolidated Net Income) by the sum of (x) the amount of deferred revenues that are amortized during such period and are attributable to reserves that are subject to Volumetric Production Payments and (y) amounts recorded in accordance with GAAP as repayments of principal and interest pursuant to Dollar-Denominated Production Payments, to (ii) the sum of such Consolidated Interest Expense for such period; *provided, however*, that (a) the Consolidated Fixed Charge Coverage Ratio shall be calculated on a pro forma basis assuming that (A) the Indebtedness to be incurred (and all other Indebtedness incurred after the first day of such period of four full fiscal quarters referred to in the covenant described under **Certain Covenants Limitation on Indebtedness and Disqualified Capital Stock** through and including the date of determination), and (if applicable) the application of the net proceeds therefrom (and from any other such Indebtedness), including to refinance other Indebtedness, had been incurred on the first day of such four-quarter period and, in the case of Acquired Indebtedness, on the assumption that the related transaction (whether by means of purchase, merger or otherwise) also had occurred on such date with the appropriate adjustments with respect to such acquisition being included in such pro forma calculation and (B) any acquisition or disposition by Comstock or any Restricted Subsidiary of any properties or assets outside the ordinary course of business, or any repayment of any principal amount of any Indebtedness of Comstock or any Restricted Subsidiary prior to the Stated Maturity thereof, in either case since the first day of such period of four full fiscal quarters through and including the date of determination, had been consummated on such first day of such four-quarter period, (b) in making such computation, the Consolidated Interest Expense attributable to interest on any Indebtedness required to be computed on a pro forma basis in accordance with the covenant described under **Certain Covenants Limitation on Indebtedness and Disqualified Capital Stock** and (A) bearing a floating interest rate shall be computed as if the rate in effect on the date of computation had been the applicable rate for the entire period and (B) which was not outstanding during the period for which the computation is being made but which bears, at the option of Comstock, a fixed or floating rate of interest, shall be computed by applying, at the option of Comstock, either the fixed or floating rate, (c) in making such

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computation, the Consolidated Interest Expense attributable to interest on any Indebtedness under a revolving credit facility required to be computed on a pro forma basis in accordance with the covenant described under **Certain Covenants Limitation on Indebtedness and Disqualified Capital Stock** shall be computed based upon the average daily balance of such Indebtedness during the applicable period, provided that such average daily balance shall be reduced by the amount of any repayment of Indebtedness under a revolving credit facility during the applicable period, which repayment permanently reduced the commitments or amounts available to be reborrowed under such facility, (d) notwithstanding clauses (b) and (c) of this provision, interest on Indebtedness determined on a fluctuating basis, to the extent such interest is covered by agreements relating to Interest Rate Protection Obligations, shall be deemed to have accrued at the rate per annum resulting after giving effect to the operation of such agreements, (e) in making such calculation, Consolidated Interest Expense shall exclude interest attributable to Dollar-Denominated Production Payments, and (f) if after the first day of the period referred to in clause (i) of this definition Comstock has permanently retired any Indebtedness out of the Net Cash Proceeds of the issuance and sale of shares of Qualified Capital Stock of Comstock within 30 days of such issuance and sale, Consolidated Interest Expense shall be calculated on a pro forma basis as if such Indebtedness had been retired on the first day of such period.

**Consolidated Income Tax Expense** means, for any period, the provision for federal, state, local and foreign income taxes (including state franchise taxes accounted for as income taxes in accordance with GAAP) of Comstock and its Restricted Subsidiaries for such period as determined on a consolidated basis in accordance with GAAP.

**Consolidated Interest Expense** means, for any period, without duplication, the sum of (i) the interest expense of Comstock and its Restricted Subsidiaries for such period as determined on a consolidated basis in accordance with GAAP, including, without limitation, (a) any amortization of debt discount, (b) the net cost under Interest Rate Protection Obligations (including any amortization of discounts), (c) the interest portion of any deferred payment obligation constituting Indebtedness, (d) all commissions, discounts and other fees and charges owed with respect to letters of credit and bankers acceptance financing and (e) all accrued interest, in each case to the extent attributable to such period, (ii) to the extent any Indebtedness of any Person (other than Comstock or a Restricted Subsidiary) is guaranteed by Comstock or any Restricted Subsidiary, the aggregate amount of interest paid (to the extent not accrued in a prior period) or accrued by such other Person during such period attributable to any such Indebtedness, in each case to the extent attributable to that period, (iii) the aggregate amount of the interest component of Capitalized Lease Obligations paid (to the extent not accrued in a prior period), accrued or scheduled to be paid or accrued by Comstock and its Restricted Subsidiaries during such period as determined on a consolidated basis in accordance with GAAP and (iv) the aggregate amount of dividends paid (to the extent such dividends are not accrued in a prior period and excluding dividends paid in Qualified Capital Stock) or accrued on Disqualified Capital Stock of Comstock and its Restricted Subsidiaries, to the extent such Disqualified Capital Stock is owned by Persons other than Restricted Subsidiaries, less, to the extent included in any of clauses (i) through (iv), amortization of capitalized debt issuance costs of Comstock and its Restricted Subsidiaries during such period.

**Consolidated Net Income** means, for any period, the consolidated net income (or loss) of Comstock and its Restricted Subsidiaries for such period as determined in accordance with GAAP, adjusted by excluding (i) net after-tax extraordinary gains or losses (less all fees and expenses relating thereto), (ii) net after-tax gains or losses (less all fees and expenses relating thereto) attributable to Asset Sales, (iii) the net income (or net loss) of any Person (other than Comstock or any of its Restricted Subsidiaries), in which Comstock or any of its Restricted Subsidiaries has an ownership interest, except to the extent of the amount of dividends or other distributions actually paid to Comstock or any of its Restricted Subsidiaries in cash by such other Person during such period (regardless of whether such cash dividends or distributions is attributable to net income (or net loss) of such Person during such period or during any prior period), (iv) net income (or net loss) of any Person combined with Comstock or any of its Restricted Subsidiaries on a pooling of interests basis attributable to any period prior to the date of combination, (v) the net income of any Restricted Subsidiary to the extent that the declaration or payment of dividends or similar distributions by that Restricted Subsidiary is not at the date of determination permitted, directly or indirectly, by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental

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regulation applicable to that Restricted Subsidiary or its stockholders, (vi) dividends paid in Qualified Capital Stock, (vii) income resulting from transfers of assets received by Comstock or any Restricted Subsidiary from an Unrestricted Subsidiary, (viii) Consolidated Exploration Expenses and any write-downs or impairments of non-current assets, (ix) to the extent deducted in the calculation of net income, any charges associated with the extinguishment of the Indebtedness evidenced by Comstock's 11 1/4% Senior Notes due 2007 and (x) the cumulative effect of a change in accounting principles.

**Consolidated Net Worth** means, at any date, the consolidated stockholders' equity of Comstock and its Restricted Subsidiaries less the amount of such stockholders' equity attributable to Disqualified Capital Stock or treasury stock of Comstock and its Restricted Subsidiaries, as determined in accordance with GAAP.

**Consolidated Non-cash Charges** means, for any period, the aggregate depreciation, depletion, amortization and exploration expense and other non-cash expenses of Comstock and its Restricted Subsidiaries reducing Consolidated Net Income for such period, determined on a consolidated basis in accordance with GAAP (excluding any such non-cash charge for which an accrual of or reserve for cash charges for any future period is required).

**Consolidated Total Indebtedness** means, with respect to Comstock and its Restricted Subsidiaries as of any date of determination, the aggregate of all Indebtedness of Comstock and its Restricted Subsidiaries as of such date of determination, on a consolidated basis, determined in accordance with GAAP.

**Default** means any event, act or condition that is, or after notice or passage of time or both would become, an Event of Default.

**Disinterested Director** means, with respect to any transaction or series of transactions in respect of which the Board of Directors of Comstock is required to deliver a resolution of the Board of Directors under the Indenture, a member of the Board of Directors of Comstock who does not have any material direct or indirect financial interest (other than an interest arising solely from the beneficial ownership of Capital Stock of Comstock) in or with respect to such transaction or series of transactions.

**Disqualified Capital Stock** means any Capital Stock that, either by its terms, by the terms of any security into which it is convertible or exchangeable or by contract or otherwise, is, or upon the happening of an event or passage of time would be, required to be redeemed or repurchased prior to the final Stated Maturity of the notes or is redeemable at the option of the Holder thereof at any time prior to such final Stated Maturity, or is convertible into or exchangeable for debt securities at any time prior to such final Stated Maturity. For purposes of the covenant described under **Certain Covenants - Limitation on Indebtedness and Disqualified Capital Stock**, Disqualified Capital Stock shall be valued at the greater of its voluntary or involuntary maximum fixed redemption or repurchase price plus accrued and unpaid dividends. For such purposes, the maximum fixed redemption or repurchase price of any Disqualified Capital Stock which does not have a fixed redemption or repurchase price shall be calculated in accordance with the terms of such Disqualified Capital Stock as if such Disqualified Capital Stock were redeemed or repurchased on the date of determination, and if such price is based upon, or measured by, the fair market value of such Disqualified Capital Stock, such fair market value shall be determined in good faith by the board of directors of the issuer of such Disqualified Capital Stock; *provided, however*, that if such Disqualified Capital Stock is not at the date of determination permitted or required to be redeemed or repurchased, the maximum fixed redemption or repurchase price shall be the book value of such Disqualified Capital Stock.

**Dollar-Denominated Production Payments** means production payment obligations of Comstock or a Restricted Subsidiary recorded as liabilities in accordance with GAAP, together with all undertakings and obligations in connection therewith.

**Event of Default** has the meaning set forth above under the caption **Events of Default**.

**Exchanged Properties** means properties or assets used or useful in the Oil and Gas Business received by Comstock or a Restricted Subsidiary in trade or as a portion of the total consideration for other such properties or assets.

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**Fair Market Value** means the fair market value of property or assets (including shares of Capital Stock) as determined in good faith by the Board of Directors of Comstock and evidenced by a Board Resolution, which determination shall be conclusive for purposes of the Indenture; provided, however, that unless otherwise specified herein, the Board of Directors shall be under no obligation to obtain any valuation or assessment from any investment banker, appraiser or other third party.

**GAAP** means generally accepted accounting principles, consistently applied, that are set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as may be approved by a significant segment of the accounting profession of the United States of America, which are applicable as of the date of the Indenture.

The term **guarantee** means, as applied to any obligation, (i) a guarantee (other than by endorsement of negotiable instruments for collection in the ordinary course of business), direct or indirect, in any manner, of any part or all of such obligation and (ii) an agreement, direct or indirect, contingent or otherwise, the practical effect of which is to assure in any way the payment or performance (or payment of damages in the event of non-performance) of all or any part of such obligation, including, without limiting the foregoing, the payment of amounts drawn down under letters of credit. When used as a verb, **guarantee** has a corresponding meaning.

**Holder** means a Person in whose name a note is registered in the Note Register.

**Indebtedness** means, with respect to any Person, without duplication, (i) all liabilities of such Person, contingent or otherwise, for borrowed money or for the deferred purchase price of property or services (excluding any trade accounts payable and other accrued current liabilities incurred and reserves established in the ordinary course of business) and all liabilities of such Person incurred in connection with any agreement to purchase, redeem, exchange, convert or otherwise acquire for value any Capital Stock of such Person, or any warrants, rights or options to acquire such Capital Stock, outstanding on the date of the Indenture or thereafter, if, and to the extent, any of the foregoing would appear as a liability upon a balance sheet of such Person prepared in accordance with GAAP, (ii) all obligations of such Person evidenced by bonds, notes, debentures or other similar instruments, if, and to the extent, any of the foregoing would appear as a liability upon a balance sheet of such Person prepared in accordance with GAAP, (iii) all obligations of such Person with respect to letters of credit, (iv) all indebtedness of such Person created or arising under any conditional sale or other title retention agreement with respect to property acquired by such Person (even if the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such property), but excluding trade accounts payable arising and reserves established in the ordinary course of business, (v) all Capitalized Lease Obligations of such Person, (vi) the Attributable Indebtedness (in excess of any related Capitalized Lease Obligations) related to any Sale/ Leaseback Transaction of such Person, (vii) all Indebtedness referred to in the preceding clauses of other Persons and all dividends of other Persons, the payment of which is secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien upon property (including, without limitation, accounts and contract rights) owned by such Person, even though such Person has not assumed or become liable for the payment of such Indebtedness (the amount of such obligation being deemed to be the lesser of the value of such property or the amount of the obligation so secured), (viii) all guarantees by such Person of Indebtedness referred to in this definition (including, with respect to any Production Payment, any warranties or guaranties of production or payment by such Person with respect to such Production Payment but excluding other contractual obligations of such Person with respect to such Production Payment) and (ix) all obligations of such Person under or in respect of currency exchange contracts, oil and natural gas price hedging arrangements and Interest Rate Protection Obligations. Subject to clause (viii) of the first sentence of this definition, neither Dollar-Denominated Production Payments nor Volumetric Production Payments shall be deemed to be Indebtedness. In addition, Disqualified Capital Stock shall not be deemed to be Indebtedness.

**Interest Rate Protection Obligations** means the obligations of any Person pursuant to any arrangement with any other Person whereby, directly or indirectly, such Person is entitled to receive from time to time

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periodic payments calculated by applying either a floating or a fixed rate of interest on a stated notional amount in exchange for periodic payments made by such Person calculated by applying a fixed or a floating rate of interest on the same notional amount and shall include, without limitation, interest rate swaps, caps, floors, collars and similar agreements or arrangements designed to protect against or manage such Person's and any of its Subsidiaries exposure to fluctuations in interest rates.

Investment means, with respect to any Person, any direct or indirect advance, loan, guarantee of Indebtedness or other extension of credit or capital contribution to (by means of any transfer of cash or other property or assets to others or any payment for property, assets or services for the account or use of others), or any purchase or acquisition by such Person of any Capital Stock, bonds, notes, debentures or other securities (including derivatives) or evidences of Indebtedness issued by, any other Person. In addition, the Fair Market Value of the net assets of any Restricted Subsidiary at the time that such Restricted Subsidiary is designated an Unrestricted Subsidiary shall be deemed to be an Investment made by Comstock in such Unrestricted Subsidiary at such time. Investments shall exclude (i) extensions of trade credit or other advances to customers on commercially reasonable terms in accordance with normal trade practices or otherwise in the ordinary course of business, (ii) Interest Rate Protection Obligations entered into in the ordinary course of business or as required by any Permitted Indebtedness or any Indebtedness incurred in compliance with the Limitation on Indebtedness and Disqualified Capital Stock covenant, but only to the extent that the stated aggregate notional amounts of such Interest Rate Protection Obligations do not exceed 105% of the aggregate principal amount of such Indebtedness to which such Interest Rate Protection Obligations relate and (iii) endorsements of negotiable instruments and documents in the ordinary course of business.

Leverage Ratio means with respect to Comstock and its Restricted Subsidiaries for any period, the ratio of (i) the Consolidated Total Indebtedness of Comstock and its Restricted Subsidiaries as of the last day of such period to (ii) the sum of Consolidated Net Income, Consolidated Interest Expense, Consolidated Income Tax Expense and Consolidated Non-cash Charges each to the extent deducted in computing Consolidated Net Income, in each case, for such period, of Comstock and its Restricted Subsidiaries on a consolidated basis, all determined in accordance with GAAP, decreased (to the extent included in determining Consolidated Net Income) by the sum of (a) the amount of deferred revenues that are amortized during such period and are attributable to reserves that are subject to Volumetric Production Payments and (b) amounts recorded in accordance with GAAP as repayments of principal and interest pursuant to Dollar-Denominated Production Payments. Calculation of the Leverage Ratio on a pro forma basis shall be made in the manner specified in the definition of Consolidated Fixed Charge Coverage Ratio with respect to pro forma calculations of the Consolidated Fixed Charge Coverage Ratio.

Lien means any mortgage, charge, pledge, lien (statutory or other), security interest, hypothecation, assignment for security, claim or similar type of encumbrance (including, without limitation, any agreement to give or grant any lease, conditional sale or other title retention agreement having substantially the same economic effect as any of the foregoing) upon or with respect to any property of any kind. A Person shall be deemed to own subject to a Lien any property which such Person has acquired or holds subject to the interest of a vendor or lessor under any conditional sale agreement, capital lease or other title retention agreement.

Liquid Securities means securities (i) of an issuer that is not an Affiliate of Comstock, (ii) that are publicly traded on the New York Stock Exchange, the American Stock Exchange or the Nasdaq National Market and (iii) as to which Comstock is not subject to any restrictions on sale or transfer (including any volume restrictions under Rule 144 under the Securities Act or any other restrictions imposed by the Securities Act) or as to which a registration statement under the Securities Act covering the resale thereof is in effect for as long as the securities are held; provided that securities meeting the requirements of clauses (i), (ii) and (iii) above shall be treated as Liquid Securities from the date of receipt thereof until and only until the earlier of (a) the date on which such securities are sold or exchanged for cash or Cash Equivalents and (b) 150 days following the date of receipt of such securities. If such securities are not sold or exchanged for cash or Cash Equivalents within 120 days of receipt thereof, for purposes of determining whether the transaction pursuant to which Comstock or a Restricted Subsidiary received the securities was in compliance



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with the provisions of the Indenture described under Certain Covenants Limitation on Asset Sales, such securities shall be deemed not to have been Liquid Securities at any time.

Material Change means an increase or decrease (except to the extent resulting from changes in prices) of more than 30% during a fiscal quarter in the estimated discounted future net revenues from proved oil and gas reserves of Comstock and its Restricted Subsidiaries, calculated in accordance with clause (i)(a) of the definition of Adjusted Consolidated Net Tangible Assets; *provided, however*, that the following will be excluded from the calculation of Material Change: (i) any acquisitions during the quarter of oil and gas reserves with respect to which Comstock's estimate of the discounted future net revenues from proved oil and gas reserves has been confirmed by independent petroleum engineers and (ii) any dispositions of properties and assets during such quarter that were disposed of in compliance with the provisions of the Indenture described under Certain Covenants Limitation on Asset Sales.

Maturity means, with respect to any note, the date on which any principal of such note becomes due and payable as therein or in the Indenture provided, whether at the Stated Maturity with respect to such principal or by declaration of acceleration, call for redemption or purchase or otherwise.

Moody's means Moody's Investors Service, Inc. and its successors.

Net Available Cash from an Asset Sale or Sale/ Leaseback Transaction means cash proceeds received therefrom (including (i) any cash proceeds received by way of deferred payment of principal pursuant to a note or installment recei