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Summary of SEC Proposed Revisions to Oil & Gas Reporting Regulations

On June 26, 2008, the U.S. Securities and Exchange Commission (“SEC”) proposed new rules to its oil and gas reporting regulations to better reflect technological advances and changes in the industry since 1982. The proposed new rules are the result of the SEC’s review of 80 comment letters received subsequent to a request by the SEC that market participants express their views on how oil and gas reserves reporting should be modernized. This memorandum summarizes the key elements of the SEC proposal. The complete SEC release is available at: <http://www.sec.gov/rules/proposed/2008/33-8935.pdf>.

The proposed rules are subject to change: the SEC’s proposal combines specific amendments to the existing regulations and further requests for comment from market participants. The SEC seeks comments on the proposed new rules by August 25, 2008. When final rules are adopted, U.S. oil and gas companies and non-U.S. oil and gas companies reporting on Form 20-F will be required to comply for fiscal years ending on or after December 31, 2009. Early compliance will not be permitted.

The proposed revisions address three issues that have been of particular interest to companies, investors, and securities analysts: (1) the exclusion of activities related to the extraction of bitumen and other “non-traditional” resources from the definition of oil and gas producing activities; (2) the limitations regarding the types of technologies that an oil and gas company may rely upon to establish the levels of certainty required to classify reserves; and (3) the limitation in the current rules that permits oil and gas companies to disclose only their proved reserves. In addition, the proposed revisions also address concerns that have been raised about the use of single-day year-end pricing to determine economic producibility of oil and gas reserves.

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Revision to Year-End Pricing Rule

The SEC proposes to change the price used in calculating reserves from a single-day closing price to an average price for the 12 months prior to the end of a company's fiscal year. The average price will be calculated as the unweighted arithmetic average of the closing price on the last day of each month in that 12-month period. This change would maintain reserves disclosure comparability while mitigating the risk that an anomalous single pricing date would distort the proved reserves estimates. Companies would also have the option of disclosing other sensitivity case analyses, based on futures prices or other forward-looking price estimates, to account for management's outlook.

Disclosure of Probable and Possible Reserves Permitted

Historically, U.S. oil and gas companies and non-U.S. oil and gas companies reporting on Form 20-F have been required to disclose "*proved reserves*" but have not been permitted to disclose other reserve categories, including "*probable reserves*" and "*possible reserves*", in documents filed with the SEC. Under the proposed new rules, companies will be permitted to disclose "probable reserves" and "possible reserves" on a voluntary basis. The relative risks related to such reserves estimates must accompany their disclosure.

Definitions of both probable and possible reserves are proposed. "Probable reserves" are those additional reserves that are less certain to be recovered than proved reserves but which, in sum with proved reserves, are as likely as not to be recovered. "Possible reserves" are those additional reserves that are less certain to be recovered than probable reserves, and might be achieved only under more favorable circumstances than are likely.

In addition, two new terms "*deterministic estimate*" and "*probabilistic estimate*" are proposed as the two methods of estimating reserves amounts. The proposed SEC rules would define a "deterministic estimate" to mean an estimate that is based on using a single "most appropriate" value for each variable in the estimation of reserves, and a "probabilistic estimate" as an estimate that is obtained when the full range of values that could reasonably occur from each unknown parameter is used to generate a full range of possible outcomes and their associated probabilities of occurrence. Under the proposed rules, companies would be permitted to use either method to evaluate reserves.

Thus, when deterministic methods are used to measure "probable reserves", it must be as likely as not that actual remaining quantities recovered will equal or exceed the sum of estimated proved plus probable reserves. When probabilistic methods are used, there should be at least a 50% probability that the actual quantities recovered will equal or exceed the proved plus probable reserves estimates. When deterministic methods are used to measure "possible reserves", the total quantities ultimately recovered from a project must have a low probability to exceed the sum of proved, probable, and possible reserves. When probabilistic methods are used, there should be at least a 10% probability that the actual quantities recovered will equal or exceed the sum of proved, probable and possible estimates.

Revised Definitions for Types of Proved Reserves

“Reasonable Certainty”

The current definition of “*proved reserves*” states that these reserves are “the estimated quantities of crude oil, natural gas, and natural gas liquids which geological and engineering data demonstrate with *reasonable certainty* to be recoverable in future years from known reservoirs under existing economic and operating conditions.” Reasonable certainty has not previously been defined. The SEC has proposed defining “*reasonable certainty*” as “much more likely to be achieved than not.”

Expansion of Permissible Technologies

In addition, the current rules limit the use of alternative technologies in determining a company’s reserves disclosures (that is, companies generally must use actual production or flow tests). The SEC proposes a new term, “*reliable technology*”, to clarify the types of technologies that may be used to establish “reasonable certainty”. As proposed, “reliable technology” is defined as “technology (including computational methods) that, when applied using high quality geoscience and engineering data, is widely accepted within the oil and gas industry, has been field tested and has demonstrated consistency and repeatability in the formation being evaluated or in an analogous formation. Consistent with current industry practice, expressed in probabilistic terms, reliable technology has been proved empirically to lead to correct conclusions in 90% or more of its applications.” Companies will be required to disclose the technologies used to establish “reasonable certainty” of their reserves for material properties in their first filing complying with the new rules, and disclose the technologies used for material additions to reserves estimates in subsequent filings.

The current definition of “*proved oil and gas reserves*” also contains certain specific concepts which limit a company’s ability to claim proved reserves in the absence of information on fluid contacts in a well penetration, notwithstanding the existence of other engineering and geoscientific evidence. The proposed revisions to the definition of proved oil and gas reserves would incorporate the new definition for “reliable technology” above.

Similarly, the SEC proposes to expand the definition of “*proved developed oil and gas reserves*” to include extraction of resources using technologies other than production through wells, which have been installed and are operational at the time of the reserves estimate.

“Proved Undeveloped Reserves”

Under the new proposed rules for “*proved undeveloped reserves*”, the requirement that productivity be “certain” for areas beyond the immediate area of known proved reserves would be changed to “reasonably certain”. This change would standardize the “reasonable certainty” requirement for all types of proved reserves. It would also clarify that proved reserves can be claimed in either a “*continuous accumulation*” or a “*conventional accumulation*” in a given area beyond immediately offset drilling units, provided that economic producibility is reasonably certain. Companies would be required to disclose reserves from continuous accumulations separately from reserves in conventional accumulations.

The proposed definition of “continuous accumulations” would encompass resources that are pervasive throughout large areas, have ill-defined boundaries, and typically lack or are unaffected by hydrocarbon-water contacts near the base of the accumulation. Conversely, the SEC has proposed to define “conventional accumulations” as discrete oil and gas resources related to localized geological structural features or stratigraphic conditions, with the accumulation typically bounded by a hydrocarbon-water contact near its base, and which are significantly affected by the tendency of lighter hydrocarbons to “float” or accumulate above the heavier water.

Additionally, under existing rules, quantities of oil recoverable through improved recovery projects can be included in proved undeveloped reserves estimates only where those techniques have been proved effective by actual production from projects in the area and in the same reservoir. The proposed amendments would expand this definition to permit the use of techniques that have been proved effective under analogous circumstances or by other evidence using reliable technology that establishes reasonable certainty.

“Reserves”

The term “*reserves*” would be defined as the estimated remaining quantities of oil and gas and related substances anticipated to be recoverable, as of a given date, by application of development projects to known accumulations based on the following: analysis of geoscience and engineering data; the use of reliable technology; the legal right to produce; installed means of delivering the oil, gas, or related substances to markets, or the permits, financing, and the appropriate level of certainty to do so; and economic producibility at current prices and costs.

Expanded Definition of “Oil and Gas Producing Activities”

The current SEC definition of “*oil and gas producing activities*” excludes sources of oil and gas that involve extraction by means other than traditional oil and gas wells. The proposed revised definition would include the extraction of marketable hydrocarbons (such as bitumen), in the solid, liquid, or gaseous state, from oil sands, shale, coalbeds, or other nonrenewable natural resources which can be upgraded into natural or synthetic oil or gas, and other activities undertaken with a view to such extraction.

Qualifications of Reserves Evaluators

In the proposed rules, the SEC will require disclosure of the qualifications of the person, whether an individual or a business entity, primarily responsible for preparing the company’s reserves estimates, and the same disclosure if a reserves audit is conducted. If third parties are involved, the SEC proposes to require additional disclosure regarding their objectivity, and the measures taken to assure independence and objectivity. Lastly, companies will be required to obtain consent from the third parties for their portion of the filing, and include a report of the third parties as an exhibit to the relevant registration statement or report.

Oil and Gas Disclosure in MD&A

The proposed rules include topics that oil and gas companies should address either as part of their Management's Discussion and Analysis of Financial Condition and Results of Operations ("MD&A") or in a separate section. Companies will be required to discuss material changes in proved reserves – as well as probable and possible reserves if disclosed – and the sources of those changes, including, for example, changes arising from changes in prices, technical revisions, and changes in status of any concessions held. As described above, companies will also be required to discuss the technologies used to establish the appropriate level of certainty for any material additions to, or increases in, reserves estimates. Finally, the proposed rules list matters that companies should consider in their discussion of known trends and uncertainties that are reasonably likely to have a material effect on the company, such as anticipated exploratory activities, the minimum remaining terms of leases and concessions, and potential effects of different forms of rights to resources.

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This memorandum is not intended to provide legal advice with respect to any particular situation and no legal or business decision should be based solely on its content. Questions concerning issues addressed in this memorandum should be directed to any of the following:

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