

September 8, 2008

U.S. Securities and Exchange Commission  
Attn: Secretary  
100 F Street, NE  
Washington, DC 20549-1090

**Re: File Number S7-15-08, *Modernization of the Oil and Gas Reporting Requirements***

Dear Secretary:

Deloitte & Touche LLP is pleased to comment on the Commission's proposed rule, *Modernization of the Oil and Gas Reporting Requirements* (Release Nos. 33-8935; 34-58030; the "Release"). Rather than respond to each individual element of the Release, we wish to take this opportunity to provide the Commission with our broader perspectives on this initiative.

Overall, we support the Commission's initiative to provide investors with more meaningful disclosures about oil and gas reserves. However, we believe the Commission should clarify or revise certain aspects of the Release and the proposed rule, as discussed below.

**Disclosures Should Be Based on a Single Set of Definitions**

As we expressed in our February 2008 comment letter on the related Concept Release,<sup>1</sup> we believe that the foundation for disclosures of oil and gas reserves should be a single, commonly understood definition of terms. The Release states that "the proposed definitions are not totally consistent with either PRMS or NI 51-101."<sup>2</sup> Different definitions (or slightly different definitions, as presented in the Release) can result in misunderstandings, differing interpretations, and diversity in application, which diminish the value of information. We recommend that the Commission adopt the PRMS definitional framework, which was jointly developed by the Society of Petroleum Engineers (SPE), the World Petroleum Council, the American Association of Petroleum Geologists, and the Society of Petroleum Evaluation Engineers. The PRMS definitions are widely used and well understood in the industry on both a domestic and an international level.

The Release proposes that the definition of oil and gas producing activities include nontraditional resources, such as "bitumen extracted from oil sands, as well as oil and gas extracted from coalbeds and shales." We support the inclusion of these resources in the definition of oil and gas producing activities. The PRMS definition of reserves includes these resources. Therefore, by adopting the PRMS definition of reserves as written, the Commission would be adding these

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<sup>1</sup> *Concept Release on Possible Revisions to the Disclosure Requirements Relating to Oil and Gas Reserves* (the "Concept Release").

<sup>2</sup> Petroleum Resource Management System (PRMS) and Canadian National Instrument 51-101 (NI 51-101).

resources to the proposed disclosures. Similarly, other changes to the disclosures that are generally accepted in the industry could be made by simply adopting the PRMS definitions.

### **Consistency in Accounting and Disclosure Methods**

Throughout the Release, changes to the rules are proposed that could lead to differences in how (1) an entity accounts for oil and gas exploration, development, and producing activities and (2) the entity discloses the underlying oil and gas reserves. Certain aspects of the FASB and SEC accounting literature (e.g., the pricing used to estimate reserve quantities in Statement 19,<sup>3</sup> as amended by paragraph 7 of Statement 25<sup>4</sup>) refer to the Regulation S-X definitions for reporting purposes; thus, changes the Commission makes as a result of this proposed rule will be reflected in these areas. However, this is not the case for all the changes that the Release proposes. (For example, Statement 19 would need to be amended to add nontraditional resources to its scope.) We highlight some of these differences throughout this letter. In addition, Statement 69<sup>5</sup> does not refer to the Commission's definitions. If the proposed release is adopted as written without corresponding changes to Statement 69, preparers and auditors may conclude that two sets of reserves disclosures are required, one using the provisions of the SEC rules and one using the provisions of Statement 69. We believe that such inconsistencies will result in complexity among the different sources of accounting guidance, confusion to users, and costs to preparers.

With respect to auditor requirements, AU Sections 558<sup>6</sup> and 9558<sup>7</sup> (as promulgated by the Auditing Standards Board and as adopted by the PCAOB in Rule 3200T<sup>8</sup>) detail the procedures for auditors regarding the supplemental information required by Statement 69. We believe that the inconsistencies between the accounting and disclosure methods may lead to complexity in the auditing guidance and its application because some procedures that auditors need to perform relate to consistency between the accounting and the disclosures.

The Commission should work with the FASB, IASB, PCAOB, AICPA, and other organizations to revise the accounting and auditing regulations, as necessary, to ensure that there is consistency between these regulations and thus to avoid unnecessary complexity, confusion, and costs to preparers.

### **Pricing Methods**

The Release proposes to “change the price used in calculating reserves from a single-day closing price measured on the last day of the company’s fiscal year to an average price for the 12 months prior to the end of the company’s fiscal year.” We agree that the use of a single-day spot price is

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<sup>3</sup> FASB Statement No. 19, *Financial Accounting and Reporting by Oil and Gas Producing Companies*.

<sup>4</sup> FASB Statement No. 25, *Suspension of Certain Accounting Requirements for Oil and Gas Producing Companies* — an amendment of FASB Statement No. 19.

<sup>5</sup> FASB Statement No. 69, *Disclosures About Oil and Gas Producing Activities* — an amendment of FASB Statements No. 19, 25, 33, and 39.

<sup>6</sup> AICPA *Professional Standards*, AU Section 558, “Required Supplementary Information.”

<sup>7</sup> AICPA *Professional Standards*, AU Section 9558, “Required Supplementary Information: Auditing Interpretations of Section 558.”

<sup>8</sup> PCAOB Rule No. 3200T, *Interim Auditing Standards*.

not meaningful to investors. In addition, we acknowledge that the use of 12-month average price provides comparability. However, we believe that reserves disclosures calculated using management's best estimate of economic assumptions (including future pricing) would be more relevant and aligned with the FASB's move towards fair value. We would expect these assumptions to be consistent with market participant assumptions. In addition, companies should disclose how the estimates were determined. We recommend disclosure of prices used in the estimation process for each primary product (e.g., oil and gas) because we believe that such disclosure would help achieve transparency and comparability and would support how management arrived at these estimates.

Further, any change in pricing that is not also made for accounting purposes would result in additional complexity, confusion, and costs because entities could be required to use different methods for accounting purposes (e.g., for determining units of production, depreciation, or impairments). As stated above, the Commission should work to resolve these differences with the appropriate accounting standard setters.

### **Proved and Probable Reserves**

The Release states that the Commission will permit voluntary disclosure of probable and possible reserves. We support **permitting** the disclosure of probable reserves and believe that companies should be required to clearly discuss the risk factors associated with probable reserves in their disclosures. The SEC should solicit input from preparer groups and user groups regarding whether the benefits of **required** disclosures of probable reserves would exceed their costs.

### *Optional Sensitivity Analysis*

The Release allows entities to “include an optional reserves sensitivity analysis table in their filings that would show what the reserves estimates would be if based on different price and cost criteria, such as a range of prices and costs that may reasonably be achieved, including standardized futures prices or management’s own forecasts.” We support **permitting** entities to include a sensitivity analysis, in the form of a table or otherwise. We believe that such an analysis may be beneficial to investors, especially depending on the pricing method chosen by the Commission in the final rule; however, it could be time-consuming for entities to compile and calculate such information.

### *Preparation and Audit of Reserve Estimates*

The Release proposes required “disclosure regarding the qualifications of the person primarily responsible for preparing the reserves estimates or . . . conducting a reserves audit.”<sup>9</sup> We believe it would be inconsistent to require such disclosures for those preparing or auditing reserve estimates when such disclosures are not required for any other specialists or service providers for estimates underlying other financial and footnote disclosures. In lieu of requiring such disclosures, the

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<sup>9</sup> The Release also proposes a definition of the term “reserves audit.” Footnote 127 of the Release states, “Consistent with the SPE’s auditing guidelines, we note that a ‘reserves audit’ is significantly different than a financial audit. See SPE Reserves Auditing Standards.”

Commission should work with the Society of Petroleum Evaluation Engineers to establish the appropriate qualification requirements for such individuals.

The Release also proposes that “if a company represents that its estimates of reserves are based on estimates prepared by a third party, the company must file a report of the third party as an exhibit to the relevant registration statement or report. [Footnote omitted] . . . Similarly, if the company represents that a third party conducted a reserves audit of the reserves estimates, the company would be required to file a report of the third party as an exhibit to the relevant registration statement or report.” We believe the Commission should follow its current model of requiring expert language, including clear disclosure of which portion of the reserves the third party is “expertising,” and consents in these circumstances.

#### *Aging of Proved Undeveloped Reserves*

The Release requires “disclosure of the aging of proved undeveloped reserves (PUDs).” For entities that have a material amount of PUDs, we support an aging table that shows the amount of PUDs converted to proved developed reserves over a five-year period. While we believe this is important information and would help investors assess the potential value of an entity’s PUDs, the Commission may, to address cost/benefit concerns, consider only requiring this information for entities with a material amount of PUDs.

#### **Change in Accounting Principle or Estimate**

The Release states that the proposed changes “should be viewed as a change in accounting principle, or a change in the method of applying an accounting principle, that is inseparable from a change in accounting estimate . . . and would be accounted for prospectively.” We support the Commission’s position on this matter and agree that this rule proposal, if adopted, should be applied prospectively. Requiring retroactive revision of prior years may be burdensome and provide little or no value because reserves, in effect, are a projection of future production. Likewise, any changes that the FASB makes to accounting guidance for consistency with a final rule release should also be applied prospectively.

#### **Application of Interactive Data Format to Oil and Gas Disclosures**

We believe that the Commission should seek feedback from preparers, investors, analysts, and others about the usefulness of providing tabular disclosures proposed by this Release in an interactive data format. We support the Commission’s move to requiring interactive data and believe it has the potential to improve financial reporting. However, before mandating the submission of these disclosures in interactive data format, the Commission would need to ensure that preparers are ready to tag this data (on either a block-text or a detailed basis) and that the necessary taxonomies are developed, tested, and exposed for public comment.

#### **Proposed Conforming Changes to Form 20-F**

Currently, foreign private issuers disclose oil and gas reserves on the basis of an appendix to the instructions to Form 20-F. These disclosures differ from those that other public oil and gas

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companies are currently required to include. The Release proposes replacing the disclosures required for foreign private issuers with those required for all other oil and gas companies, including those proposed in the Release. We agree with the Commission's assessment that this would provide "more consistent and comparable disclosures among oil and gas companies." However, we believe these proposed disclosures should not apply to foreign private issuers using Form 40-F that comply with NI 51-101, since these rules are broadly consistent with PRMS and the Release.

### **Effective Date of Proposed Rule**

As discussed above, we are concerned with the differences that the proposed rule creates between valuing reserves for disclosure purposes and valuing reserves for accounting purposes. We believe it is important that the Commission work with the appropriate standard setters and align the implementation date of any final release with the timing of the resolution of these differences.

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We would be pleased to discuss these comments with you at your convenience. If you have any questions, please contact Jim Schnurr at (203) 761-3539 or Phillip Hilsher at (713) 982-4644.

Very truly yours,

/s/ Deloitte & Touche LLP

cc: SEC  
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