

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

EMERALD OIL, INC., *et al.*,¹

Debtors.

) Chapter 11

) Case No. 16-10704 (KG)

) (Joint Administration Requested)

) **Re: Docket No. 17**

Hearing Date: March 24, 2016 at 2:00 p.m. EST

**NOTICE OF HEARING ON DEBTORS' MOTION FOR ENTRY OF INTERIM AND
FINAL ORDERS (I) AUTHORIZING THE DEBTORS TO OBTAIN POSTPETITION
SECURED FINANCING PURSUANT TO SECTION 364 OF THE BANKRUPTCY
CODE, (II) GRANTING LIENS AND PROVIDING SUPERPRIORITY
ADMINISTRATIVE EXPENSE STATUS, (III) AUTHORIZING THE DEBTORS TO
USE CASH COLLATERAL, (IV) GRANTING ADEQUATE PROTECTION TO THE
PREPETITION SECURED PARTIES, (V) MODIFYING THE AUTOMATIC STAY,
(VI) SCHEDULING A FINAL HEARING, AND (VII) GRANTING RELATED RELIEF**

PLEASE TAKE NOTICE that on March 23, 2015, the above-captioned debtors and debtors-in-possession (the "Debtors") filed the *Debtors' Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to Obtain Postpetition Secured Financing Pursuant to Section 364 of the Bankruptcy Code, (II) Granting Liens and Providing Superpriority Administrative Expense Status, (III) Authorizing the Debtors to Use Cash Collateral, (IV) Granting Adequate Protection to the Prepetition Secured Parties, (V) Modifying the Automatic Stay, (VI) Scheduling a Final Hearing, and (VII) Granting Related Relief* (the "Motion") [Docket No. 17], attaching the proposed *Interim Order (I) Authorizing the Debtors to Obtain Postpetition Secured Financing Pursuant to Section 364 of the Bankruptcy Code, (II) Granting Liens and*

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, include: Emerald Oil, Inc. (9000); Emerald DB, LLC (2933); Emerald NWB, LLC (7528); Emerald WB LLC (8929); and EOX Marketing, LLC (4887). The location of the Debtors' service address is: 200 Columbine Street, Suite 500, Denver, Colorado 80206.

Providing Superpriority Administrative Expense Status, (III) Authorizing the Debtors to Use Cash Collateral, (IV) Granting Adequate Protection to the Prepetition Secured Parties, (V) Modifying the Automatic Stay, (VI) Scheduling a Final Hearing, and (VII) Granting Related Relief (the “Proposed Interim DIP Order”). The Proposed Interim DIP Order and Budget are attached hereto as Exhibit A.

PLEASE TAKE FURTHER NOTICE that the Debtors intend to seek interim approval of the Motion and entry of the Proposed Interim DIP Order at a hearing before the Honorable Kevin Gross, United States Bankruptcy Judge, at 824 Market Street, 6th Floor, Courtroom 3, Wilmington, Delaware 19801 on **March 24, 2016, at 2:00 p.m. prevailing Eastern time** (the “Hearing”).

PLEASE TAKE FURTHER NOTICE that complete copies of the Motion and the Proposed Interim DIP Order with exhibits may be obtained free of charge by visiting the website of Donlin, Recano & Company, Inc. at <https://donlinrecano.com/emerald/> or by calling (877) 208-9515. You may also obtain copies of any pleadings by visiting the Court’s website at <http://www.deb.uscourts.gov> in accordance with the procedures and fees set forth therein.

PLEASE TAKE FURTHER NOTICE that the Debtors reserve the right to modify the Proposed Interim DIP Order before or at the Hearing.

Wilmington, Delaware
Dated: March 23, 2016

/s/ Laura Davis Jones

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- and -

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Proposed Counsel to the Debtors

Exhibit A

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	
)	Chapter 11
EMERALD OIL, INC., <i>et al.</i> , ¹)	
)	Case No. 16-10704 (KG)
Debtors.)	
)	(Joint Administration Requested)

**DEBTORS' MOTION FOR ENTRY OF INTERIM AND FINAL
ORDERS (I) AUTHORIZING THE DEBTORS TO OBTAIN
POSTPETITION SECURED FINANCING PURSUANT TO
SECTION 364 OF THE BANKRUPTCY CODE, (II) GRANTING LIENS
AND PROVIDING SUPERPRIORITY ADMINISTRATIVE EXPENSE
STATUS, (III) AUTHORIZING THE DEBTORS TO USE CASH
COLLATERAL, (IV) GRANTING ADEQUATE PROTECTION TO THE
PREPETITION SECURED PARTIES, (V) MODIFYING THE AUTOMATIC STAY,
(VI) SCHEDULING A FINAL HEARING, AND (VII) GRANTING RELATED RELIEF**

Emerald Oil, Inc. and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “Debtors”)² respectfully submit this motion for the relief set forth herein. In support of this motion, the Debtors respectfully proffer the *Declaration of Matthew J. Hart in Support of the Debtors’ Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to Obtain Postpetition Secured Financing Pursuant to Section 364 of the Bankruptcy Code, (II) Granting Liens and Providing Superpriority Administrative Expense Status, (III) Authorizing the Debtors to Use Cash Collateral, (IV) Granting Adequate Protection to the Prepetition Secured Parties, (V) Modifying the*

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, include: Emerald Oil, Inc. (9000); Emerald DB, LLC (2933); Emerald NWB, LLC (7528); Emerald WB LLC (8929); and EOX Marketing, LLC (4887). The location of the Debtors’ service address is: 200 Columbine Street, Suite 500, Denver, Colorado 80206.

² A detailed description of the Debtors and their businesses, and the facts and circumstances supporting this motion and the Debtors’ chapter 11 cases, are set forth in greater detail in the *Declaration of Ryan Smith, Chief Financial Officer of Emerald Oil, Inc., in Support of Chapter 11 Petitions and First Day Motions* (the “First Day Declaration”), filed contemporaneously herewith and incorporated by reference herein.

Automatic Stay, (VI) Scheduling a Final Hearing, and (VII) Granting Related Relief (the “Hart Declaration”), attached hereto as Exhibit B, and the First Day Declaration. In further support of this motion, the Debtors respectfully state the following:

Preliminary Statement³

1. This motion requests that the Court approve a \$7.5 million secured loan credit facility on an interim basis and \$129,928,000 in the aggregate on a final basis (collectively, the “DIP Loan”) provided by Wells Fargo Bank, N.A. and a syndicate of financial institutions comprising the Pre-Petition Lenders (collectively, the “Post-Petition Lenders”). If this Motion is approved, the Debtors will use the proceeds of the DIP Loan to, among other things stabilize and fund the Debtors’ general and corporate operations during these chapter 11 cases.

2. For the reasons set forth below, in the Hart Declaration and the First Day Declaration, the Debtors firmly believe that the DIP Facility will maximize the value of all of the Debtors’ stakeholders and is an exercise of the Debtors’ sound business judgment. Accordingly, the Debtors respectfully request that the Court approve the entry of the Interim Order and the Final Order.

Concise Statement Pursuant to Bankruptcy Rule 4001(b) and Local Rule 4001-2

3. The Debtors seek entry of an interim order, substantially in the form attached hereto as Exhibit A (the “Interim DIP Order”), and a final order (the “Final DIP Order,”⁴ and together with the Interim DIP Order, the “DIP Orders”): (i) authorizing the Debtors to obtain secured postpetition financing (the “DIP Facility”) as set forth in that certain loan agreement, annexed as Exhibit 1 to Exhibit A attached hereto (the “DIP Agreement” and, together with all

³ Capitalized terms used but not defined in this section have the meanings ascribed to such terms further below in this motion or in the Interim DIP Order, as applicable.

⁴ The Debtors will file the form of Final DIP Order prior to the Final Hearing (as defined herein).

agreements, documents, and instruments executed and delivered in connection therewith, as hereafter amended, supplemented, or otherwise modified from time to time in accordance with the DIP Orders, the “DIP Financing Documents”) among Emerald Oil Inc. (“Emerald”), Emerald DB, LLC, Emerald NWB, LLC, Emerald WB LLC, and EOX Marketing, LLC (the “Guarantors”), Wells Fargo Bank, N.A., as administrative agent (in such capacity, the “DIP Agent”), and the lenders of the DIP Loans (collectively, in such capacities, the “Post-Petition Lenders”); (ii) granting liens and providing superpriority claims with respect to such postpetition financing; (iii) authorizing the Debtors to use Cash Collateral; (iv) approving the form of adequate protection to be provided to certain prepetition lenders; (v) modifying the automatic stay on a limited basis as set forth herein; (vi) scheduling a final hearing (the “Final Hearing”) to consider entry of the Final DIP Order; and (vii) granting related relief.

4. The provisions of the DIP Agreement and the Interim DIP Order were extensively negotiated and are the most favorable terms that the Debtors were able to obtain. Moreover, the Debtors have an urgent need for the DIP Facility. Approval of the DIP Facility will ensure the Debtors are able to maintain their operations, pursue the chapter 11 cases, and maximize the value of their estates for the benefit of all stakeholders. Accordingly, the Debtors request that the Court enter the Interim DIP Order and Final DIP Order approving the DIP Facility.

5. The below chart contains a summary of the material terms of the proposed DIP Facility, together with references to the applicable sections of the relevant source documents, as required by Bankruptcy Rules 4001(b)(1)(B) and 4001(c)(1)(B) and Local Rule 4001-2.⁵

5. The summaries contained in this motion are qualified in their entirety by the provisions of the documents referenced. To the extent anything in this motion is inconsistent with such documents, the terms of the applicable documents shall control. Capitalized terms used in this summary chart but not otherwise defined have the meanings ascribed to them in the DIP Financing Documents or the Interim DIP Order, as applicable.

Bankruptcy Code/Local Rule	Summary of Material Terms
Borrower Bankruptcy Rule 4001(c)(1)(B)	Emerald. <i>See</i> DIP Agreement Preamble; Interim DIP Order Preamble.
Guarantors Bankruptcy Rule 4001(c)(1)(B)	Each of the Debtors (other than Emerald). <i>See</i> DIP Agreement Preamble; Interim DIP Order ¶ 11.
DIP Financing Lenders Bankruptcy Rule 4001(c)(1)(B)	Wells Fargo Bank, N.A., and a syndicate of financial institutions comprised of the Pre-Petition Lenders, including SunTrust Bank, The Bank of Nova Scotia, Barclays Bank PLC, and Credit Suisse AG, Cayman Islands Branch. <i>See</i> DIP Agreement Preamble; Interim DIP Order Preambles.
Term Bankruptcy Rule 4001(b)(1)(B)(iii), 4001(c)(1)(B) Local 4001-2(a)(ii)	The term of the DIP Facility shall mature on the earliest of (a) September 22, 2016 at 4:00 p.m. Central Time, (b) April 21, 2016 at 4:00 p.m. Central Time unless the Bankruptcy Court shall have entered a final Financing Order, which shall be in form and substance satisfactory to the DIP Agent, (c) the date the Debtors terminate the commitment of the Lenders to make the Postpetition Loans, (d) the date the DIP Agent terminates the commitment of the Lenders to make the Postpetition Loans upon the occurrence and during the continuation of a Postpetition Default, (e) the date of following the occurrence of an Event of Default under and as defined in the Financing Order and the giving of three (3) Business Days' prior written notice to the Debtors, provided that no such notice or any notice of any kind is required if the Termination Date (as defined in the Financing Order) occurs, (f) the effective date of a confirmed plan of reorganization for the Debtors, (g) the date on which any agreement for the sale of substantially all of the Debtors' assets closes, or (h) the date on which the Bankruptcy Court approves the extension of any other credit facilities to the Debtors over the objection of the DIP Agent. <i>See</i> DIP Agreement § 2(b).
Commitment Bankruptcy Rule 4001(c)(1)(B) Local Rule 4001-2(a)(ii)	The total DIP Facility shall include loans to be advanced and made available to the Borrower in the aggregate maximum principal amount of \$7.5 million on an interim basis and \$129,928,000 in the aggregate on a final basis. <i>See</i> DIP Agreement § 2(b); Interim DIP Order Preamble.
Conditions of Borrowing Bankruptcy Rule 4001(c)(1)(B) Local Rule 4001-2(a)(ii)	The obligation of the Post-Petition Lenders to make any Post-Petition Loan (including the initial Post-Petition Loan) shall be subject to the following conditions precedent: (i) the Borrower shall deliver to the DIP Agent an executed Postpetition Notice of Borrowing pursuant to Section 2.11(b) of the DIP Agreement, (ii) no event has occurred and is continuing which constitutes a Postpetition Default or which would constitute a Postpetition Default but for the requirement that notice be given or time elapsed or both; (iii) the Borrower shall deliver to the DIP Agent a certificate of the chief restructuring officer or chief financial officer of the Borrower certifying that (A) all representations and warranties made by each Debtor in the DIP Agreement or in any statement or certificate after the DIP Agreement Effective Date by such Debtor in writing pursuant to any Loan Document are true and correct in all material respects (except to the extent qualified by materiality, in which case, true and correct in all respects), (B) the Debtors are in compliance with the Budget, subject to the Permitted Variances, and attached thereto is a schedule demonstrating such compliance in reasonable detail, (C) the Debtors do not have sufficient DIP Cash Collateral available to pay the Budgeted Expenses requested to be paid with the proceeds of the Post-Petition Loan, and (D) the Debtors shall apply the proceeds of the Post-Petition Loan only to Budgeted Expenses; (iv) with respect to the initial Postpetition Loan, the DIP Agent shall have received such other approvals or documents as the Lenders may reasonably request; (v) no Bankruptcy Court order has

Bankruptcy Code/Local Rule	Summary of Material Terms
	<p>been entered authorizing the Debtors to obtain financing or credit pursuant to Section 364 of the Bankruptcy Code from any Person other than the Post-Petition Lenders secured by a security interest or having the priority of an administrative claim unless otherwise consented to by the DIP Agent in writing; (vi) the Financing Order shall be in full force and effect and shall not have been vacated, reversed, modified, or amended and, in the event that such order is the subject of any pending appeal, no performance of any obligation of any party under the Financing Order shall have been stayed pending appeal; (vii) the DIP Agent shall have received payment for all reasonable professional fees incurred by the DIP Agent and the Post-Petition Lenders to the extent then due and payable in accordance with the Financing Order; and (viii) after giving effect to the requested Borrowing, the total Post-Petition Loans shall not exceed the Postpetition Aggregate Commitment. In no event shall the Post-Petition Lenders be requested to advance any funds or extend any credit other than for Budgeted Expenses actually incurred and payable either at the time of such advance or within one week thereafter.</p> <p><i>See DIP Agreement § 2(c).</i></p>
<p>Interest Rates Bankruptcy Rule 4001(c)(1)(B) Local Rule 4001-2(a)(ii)</p>	<p>Debtors shall pay interest on the unpaid principal amount of each Post-Petition Loan from the date made until the principal amount thereof shall have been paid in full at a rate per annum equal at all times to (i) in the case of a Eurodollar Borrowing, the LIBO Rate for the Interest Period in effect for such Eurodollar Borrowing plus 9.00% and (ii) in the case of an ABR Borrowing, the Alternate Base Rate in effect from time to time plus 8.00%, in each case, payable monthly in arrears on the last Business Day of each month and on the Postpetition Termination Date and, in the case of a Eurodollar Borrowing, upon the expiration of each Interest Period.</p> <p>In addition, principal outstanding on account of Post-Petition Loans after the occurrence of a Postpetition Default shall bear interest, from the date of such Postpetition Default until the date on which such amount is paid in full or such Postpetition Default is waived or cured, payable on demand, at the applicable rate set forth in clause (i) or (ii) above plus 2.00% per annum; <i>provided</i> further that no rate of interest payable pursuant to the terms of Section 2(c) of the DIP Agreement shall exceed the Highest Lawful Rate. For the avoidance of doubt, the Debtors shall pay interest on the unpaid principal amount of any Rollup Amount in accordance with Section 3.02 of the Credit Agreement,</p> <p><i>See DIP Agreement § 2(c).</i></p>
<p>Use of DIP Financing Facility and Cash Collateral Bankruptcy Rule 4001(b)(1)(B)(ii) Local Rule 4001-2(a)(ii) Repayment Features Local Rule 4001-2(a)(i)(E)</p>	<p>The DIP Facility shall be used (i) in accordance with and subject to the Budget, subject to Permitted Variances, for general corporate purposes of the debtors (including payment of fees and expenses in connection with the transactions contemplated hereby, any adequate protection payments included herein, and working capital) and (ii) such prepetition obligations as the Court shall approve, in each case in a manner consistent with the terms and conditions contained in the DIP Agreement.</p> <p><i>See DIP Agreement § 2(d).</i></p>
<p>Entities with Interests in Cash Collateral Bankruptcy Rule 4001(b)(1)(B)(i)</p>	<p>The lenders party to the Amended and Restated Credit Agreement dated May 1, 2014.</p> <p><i>See Interim DIP Order ¶¶ 14-15, 43-44.</i></p>
<p>Fees Bankruptcy Rule</p>	<p><u>DIP Agency Fee</u>: The DIP Agent shall receive, for its own account, a monthly administration fee of \$15,000, due and payable on the first Business Day of each month</p>

Bankruptcy Code/Local Rule	Summary of Material Terms
4001(c)(1)(B) Local Rule 4001-2(a)(ii)	<p>commencing on the first such date to occur after the DIP Agreement Effective Date.</p> <p><i>See</i> DIP Agreement § 2(c).</p> <p><u>Commitment Fee</u>: Each Post-Petition Lender will receive a commitment fee of 1.00 % per annum on the average daily amount of the unused amount of the DIP Commitment of such Post-Petition Lender during the period from and including the DIP Agreement Effective Date to but excluding the Postpetition Termination Date, payable monthly in arrears on the last Business Day of each month and on the Postpetition Termination Date, commencing on the first such date to occur after the Petition Date.</p> <p><i>See</i> DIP Agreement § 2(c).</p> <p><u>Facility Fee</u>: Each Post-Petition Lender will receive a facility fee equal to 2.00% of the amount of each Post-Petition Lender's commitment (exclusive of any Rollup Amount).</p> <p><i>See</i> DIP Agreement § 3(i).</p>
Budget Bankruptcy Rule 4001(c)(1)(B) Local Rule 4001-2(a)(ii)	<p>The use of cash and proceeds from the DIP Financing Loans is subject to a customary budget, attached to the Interim DIP Order as <u>Exhibit 2</u>.</p> <p><i>See</i> DIP Agreement § 2(c); Interim DIP Order ¶¶ 26, 42.</p>
Reporting Information Bankruptcy Rule 4001(c)(1)(B) Local Rule 4001-2(a)(ii)	<p>The DIP Agreement requires compliance with certain reporting covenants that are usual and customary for DIP financings, including, without limitation, delivery of schedules, assignments, financial statements, insurance policies, and endorsements, weekly reports of receipts and budgeted cash usage, copies of all reports filed with the Office of the United States Trustee within two days after such filing; and such additional financial or other information concerning the acts, conduct, property, assets, liabilities, operations, financial condition, and transactions of any of the Debtors' estates.</p> <p>Additionally, the Debtors are required pursuant to the Interim DIP Order to promptly deliver to the DIP Agent any and all material documentation that in any way relates to a solicitation, offer, or proposed sale or disposition of a material amount of property of any of the Debtors' estates.</p> <p><i>See</i> DIP Agreement § 2(d); Interim DIP Order ¶¶ 59-63.</p>
Variance Covenant Bankruptcy Rule 4001(c)(1)(B) Local Rule 4001-2(a)(ii)	<p>The Debtors are authorized to use the Cash Collateral (including, without limitation, the advances under the DIP Facility) strictly in accordance with the 13-week Budget, subject to a permitted negative variance (i) of 10% per week above the projected Total Operating Disbursements set forth in the Budget, (ii) 10% per week, on a by-line-item basis, above the projected amounts set forth in the Budget for the line-items in the Budget labeled "Accounts Payable - Critical," "Salaries & Benefits," "Rent & Utilities," "Professional Fees" (provided that, for the avoidance of doubt, "Professional Fees" will not include any fees attributable to the Administrative Agent's or Lenders' professionals) and "Other," and (iii) of 10% per four-week period, then ending, on the actual production volume of crude oil set forth in the Budget.</p> <p><i>See</i> DIP Agreement § 2(d); Interim DIP Order ¶ 39</p>

Bankruptcy Code/Local Rule	Summary of Material Terms	
<p>Sale Milestones Bankruptcy Rule 4001(c)(1)(B) Local Rule 4001-2(a)(ii)</p>	<p>30 days after the Petition Date</p> <p>March 28, 2016</p> <p>April 1, 2016</p> <p>April 15, 2016</p> <p>April 29, 2016</p> <p>May 13, 2016</p> <p>May 20, 2016</p> <p>June 10, 2016</p> <p>July 11, 2016</p> <p>July 15, 2016</p> <p>July 22, 2016</p>	<p>The Debtors shall obtain entry of an order authorizing the retention of the Sales Agent.</p> <p>The Debtors shall deliver to the DIP Agent a list of Target Parties, a form NDA to the Target Parties, and a marketing document for distribution to the Target Parties.</p> <p>The Debtors shall have opened and populated a virtual data room with documents and other information for the sale process.</p> <p>The Sales Agent shall have solicited from the Target Parties non-binding indications of interest for the sale transaction.</p> <p>The Debtors' management shall conduct presentations regarding the Debtors' business and assets to interested parties.</p> <p>The Debtors shall have solicited final bid letters and proposed asset purchase agreements and any requisite financial commitment materials from the most promising bidders.</p> <p>The Debtors shall have filed a motion to approve sale and bid procedures.</p> <p>The Debtors shall have obtained entry of an order by the Court approving the bid procedures motion.</p> <p>The Sales Agent shall conduct an auction of substantially all of the Debtors' assets.</p> <p>The Debtors shall have obtained entry of an order by the Court approving the sale transaction.</p> <p>The Debtors shall have closed and consummated the sale transaction and distributed proceeds as set forth in the DIP Order.</p> <p>See Interim DIP Order § 80.</p>
<p>Liens and Priorities Bankruptcy Rule 4001(c)(1)(B)(i) Local Rule 4001-2(a)(i)(D) and (G), 4001-2(a)(ii)</p>	<p>The DIP Loan shall be secured by the following liens:</p> <p>(i) upon entry of the Interim DIP Order, pursuant to section 364(c)(1) of the Bankruptcy Code, superpriority claims with priority over all other administrative claims against the Debtors' estates and all other benefits and protections allowable under sections 507(b) and 503(b)(1) of the Bankruptcy Code, senior in right to all other administrative claims against the Debtors' estates, except for the Carve Out; and</p> <p>(ii) pursuant to sections 364(d)(i), (c)(2) and (c)(3) of the Bankruptcy Code, first priority claims, liens and security interests on any property not subject to a lien, junior liens on property subject to a Prior Lien, and priming liens and security in any and all assets and properties of the Debtors and the Debtors' bankruptcy estates, wherever located, including property subject to avoided liens, now owned or after acquired, real and personal, tangible and intangible, and all proceeds, substitutions, products, rents, or profits thereof (which shall include any and all assets of the Debtors of the types described in the Pre-Petition Claim Documents, but not be limited to the Pre-Petition Collateral, it being the intent of the Debtors, the Pre-Petition Agent, the Pre-Petition Lenders, the Post-Petition Agent, and the Post-Petition Lenders that the DIP Collateral shall encumber all assets of the Debtors' estates, including, without limitation: (1) the following presently-owned and after-acquired personal property: (a) accounts, (b) accessions, (c) chattel paper (both tangible and electronic), (d) commercial tort claims, (e) commodity accounts, (f) commodity contracts, (g) deposit accounts, (h) documents, (i) equipment, (j) financial assets, (k) fixtures, (l) general intangibles, (m) goods, (n) intellectual property, (o) instruments, (p) inventory, (q) investment property, (r) letters of credit, (s) letters of credit rights, (t) payment intangibles, (u) permits, (v) timber, (w) as-extracted collateral, (x) notes, (y)</p>	

Bankruptcy Code/Local Rule	Summary of Material Terms
	<p>promissory notes, (z) securities (certificated and uncertificated), (aa) securities accounts, (ab) securities entitlements, (ac) software, (ad) supporting obligations, (ae) collateral records, (af) insurance, (ag) causes of action, (ah) proceeds from any causes of action under the Bankruptcy Code including, without limitation, § 544, 547, and 548 (“<u>Avoidance Claims</u>”) (but not, for the avoidance of doubt, Avoidance Claims themselves), and (ai) money (as each such term may be defined in the New York Uniform Commercial Code as of the date hereof (the “<u>UCC</u>”)), (2) all presently owned or after acquired real property and improvements thereon and leases of real property, and (3) all presently owned or after acquired interests in Oil and Gas Properties, as defined in the Credit Agreement, wherever located and irrespective to whether such Oil and Gas Properties are part of the Lenders’ Pre-Petition Collateral), subject only to the Prior Liens (if any) and the Carve Out.</p> <p>See DIP Agreement § 2(c); Interim DIP Order ¶ 32.</p>
<p>Carve Out Bankruptcy Rule 4001(c)(1)(B) Local Rule 4001- 2(a)(i)(f)</p>	<p>The sum of: (i) all fees required to be paid to the Clerk of the Court and to the Office of the United States Trustee under section 1930(a) of title 28 of the United States Code plus interest at the statutory rate (without regard to the notice set forth in (iii) below); (ii) all reasonable fees and expenses up to \$50,000 incurred by a trustee under section 726(b) of the Bankruptcy Code (without regard to the notice set forth in (iii) below); (iii) to the extent allowed at any time, whether by interim order, procedural order, or otherwise, but subject to final allowance by the Bankruptcy Court, all unpaid fees and expenses (the “<u>Allowed Professional Fees</u>”) incurred by persons or firms retained by the Debtors pursuant to section 327, 328, or 363 of the Bankruptcy Code (the “<u>Debtor Professionals</u>”) and any Creditors’ Committee pursuant to section 328 or 1103 of the Bankruptcy Code (the “<u>Committee Professionals</u>”) and, together with the Debtor Professionals, the “<u>Professional Persons</u>”) at any time before or on the first business day following delivery by the DIP Agent of a Carve Out Trigger Notice (as defined below); and (iv) Allowed Professional Fees of Professional Persons in an aggregate amount not to exceed \$250,000 incurred after the first business day following delivery by the DIP Agent of the Carve Out Trigger Notice, to the extent allowed at any time, whether by interim order, procedural order, or otherwise (the amounts set forth in this clause (iv) being the “<u>Post-Carve Out Trigger Notice Cap</u>”).</p> <p>The Carve Out amounts for the fees and expenses of the Professional Persons shall be invoiced to the Debtors monthly and promptly deposited into a segregated account of the applicable Debtor with the Post-Petition Agent and held in trust to pay Allowed Professional Fees of Professional Persons benefitting from the Carve Out, with such funds being subject to the respective interests of the Post-Petition Lenders and Pre-Petition Lenders such that any residual amount (the “<u>Residual Amount</u>”) will be paid as provided in the Carve Out Reserve Account Priority (as defined below), but only after payment of all Allowed Professional Fees of Professional Persons benefitting from the Carve Out (the “<u>Carve Out Reserve Account</u>”). Allowed Professional Fees of Professional Persons benefitting from the Carve Out shall be paid from the Carve Out Reserve Account. The “Carve Out Reserve Account Priority” is the following payment priority from the Carve Out Reserve Account to the extent of the Residual Amount: first, to pay the Post-Petition Agent for the benefit of the Post-Petition Lenders and, until and unless the DIP Facility has been indefeasibly paid in full in cash and all DIP Facility commitments have been terminated, second, to the Pre-Petition Agent for the benefit of the Pre-Petition Lenders, and third, any remaining amount shall be retained by the bankruptcy estate(s).</p> <p>On the day on which a Carve Out Trigger Notice is given by the Post-Petition Agent to the Debtors with a copy to counsel to the Creditors’ Committee (the “<u>Termination Declaration Date</u>”), notwithstanding anything in the DIP Agreement to the contrary, including with respect to the existence of a Default (as defined in the DIP Agreement) or Event of</p>

Bankruptcy Code/Local Rule	Summary of Material Terms
	<p>Default, the failure of the Debtors to satisfy any or all of the conditions precedent for borrowings under the DIP Facility, any termination of the commitments under the DIP Facility following an Event of Default, or the occurrence of the Maturity Date (as defined in the DIP Agreement), the Carve Out Trigger Notice shall be deemed a draw request and notice of borrowing by the Debtors, as applicable, per the terms of the DIP Facility, in an amount equal to the accrued and unpaid Professional Fees that have not yet been deposited in to the Carve Out Reserve Account plus the Post-Carve Out Trigger Notice Cap.</p> <p>Notwithstanding anything to the contrary in the terms of the DIP Facility, following delivery of a Carve Out Trigger Notice, the Post-Petition Agent and the Pre-Petition Agent shall not sweep or foreclose on cash (including, without limitation, cash received as a result of the sale or other disposition of any assets) of the Debtors until the Carve Out Reserve Account has been fully funded. Further, notwithstanding anything to the contrary in this Financing Order, (i) while amounts deposited into the Carve Out Reserve Account shall constitute Loans (as defined in the DIP Agreement), disbursements by the Debtors from the Carve Out Reserve Account shall not constitute Loans or increase or reduce the DIP Obligations, (ii) the failure of the Carve Out Reserve Account to satisfy in full the Allowed Professional Fees shall not affect the priority of the Carve Out, and (iii) in no way shall the Budget, Carve Out, Post-Carve Out Trigger Notice Cap, Carve Out Reserves, or any of the foregoing be construed as a cap or limitation on the amount of the Allowed Professional Fees due and payable by the Debtors. For the avoidance of doubt and notwithstanding anything to the contrary herein or in the DIP Facility, or in any facility under the Pre-Petition Claim Documents, the Carve Out shall be senior to all liens and claims securing the DIP Facility, the Adequate Protection Liens, and any and all other forms of adequate protection, liens, or claims securing the DIP Obligations or the prepetition secured obligations.</p> <p>The Post-Petition Agent, the Post-Petition Lenders, the Pre-Petition Agent, and the Pre-Petition Lenders shall not be responsible for the payment or reimbursement of any fees or disbursements of any Professional Person incurred in connection with the Cases or any successor cases under any chapter of the Bankruptcy Code. Nothing in this Financing Order or otherwise shall be construed to obligate the Post-Petition Agent, the Post-Petition Lenders, the Pre-Petition Agent, and/or the Pre-Petition Lenders in any way, to pay compensation to, or to reimburse expenses of, any Professional Person, or to guarantee that the Debtors have sufficient funds to pay such compensation or reimbursement, and any such obligation to make payments to any Professional Person shall be an obligation of the applicable bankruptcy estate.</p> <p>Any payment or reimbursement made prior to the occurrence of the Termination Declaration Date in respect of any Allowed Professional Fees shall not reduce the Post-Carve Out Trigger Notice Cap.</p> <p>Any payment or reimbursement made on or after the occurrence of the Termination Declaration Date in respect of any Allowed Professional Fees shall permanently reduce the Carve Out on a dollar-for-dollar basis. Any funding of the Carve Out shall be added to, and made a part of, the DIP Obligations secured by the DIP Collateral and shall be otherwise entitled to the protections granted under this Financing Order, the DIP Documents, the Bankruptcy Code, and applicable law.</p> <p>Other than the Carve Out set forth above, none of the Post-Petition Agent, the Post-Petition Lenders, the Pre-Petition Agent and the Pre-Petition Lenders consents to any carve out from their Collateral for payment of any fees and expenses of the Professional Persons. The amounts payable on account of Professional Fees are subject to final approval and allowance by the Bankruptcy Court, and to the extent the amounts funded in the Carve Out Reserve Account exceed the amount so allowed, any excess shall be</p>

Bankruptcy Code/Local Rule	Summary of Material Terms
	<p>distributed per the Carve Out Reserve Account Priority.</p> <p><i>See Interim DIP Order ¶¶ 65–74.</i></p>
<p>506(c) Waiver Bankruptcy Rule 4001(c)(1)(B)(x) Local Rule 4001-2(a)(i)(C)</p>	<p>Subject to entry of the Final DIP Order, no costs or expenses of administration which have or may at any time be incurred in the chapter 11 cases (or in any successor chapter 7 case) shall be charged against the DIP Agent or the Lenders, their claims or the Collateral pursuant to section 506(c) of the Bankruptcy Code without the prior written consent of the DIP Agent and the Lenders, and no such consent shall be implied from any other action, inaction, or acquiescence by the Lender.</p> <p><i>See DIP Agreement § 2(c); Interim DIP Order ¶ 75.</i></p>
<p>Section 552(b) Bankruptcy Rule 4001(c)(1)(B) Local Rule 4001-2(a)(i)(h)</p>	<p>The Debtors stipulate that the “equities of the case” exception of Bankruptcy Code section 552(b) shall not apply.</p> <p><i>See Interim DIP Order ¶ 20.</i></p>
<p>Stipulations to Prepetition Liens and Claims Bankruptcy Rule 4001(c)(1)(B)(iii) Local Rule 4001-2(a)(i)(B) Challenge Period Bankruptcy Rule 4001(c)(1)(B) Local Rule 4001-2(a)(i)(B)</p>	<p>Pursuant to paragraphs 10 and 18 of the Interim DIP Order, the Debtors make certain customary admissions and stipulations with respect to the aggregate amount of the prepetition debt and the extent, validity, enforceability, and priority of the liens and security interests securing the Pre-Petition Collateral.</p> <p><i>See Interim DIP Order ¶¶ 10, 18.</i></p>
<p>Adequate Protection Bankruptcy Rules 4001(b)(1)(B)(iv), 4001(c)(1)(B)(ii)</p>	<p>Taking into account all factors in the chapter 11 cases, as adequate protection of the Pre-Petition Agent’s and Pre-Petition Lenders’ interest in the Collateral and for the Debtors’ use of Cash Collateral, and subject only to Prior Liens, if any, the Carve Out, and the Post-Petition Agent and the Post-Petition Lenders’ liens and security interests securing the DIP Facility:</p> <ul style="list-style-type: none"> i. The Pre-Petition Agent and Pre-Petition Lenders are granted pursuant to the Interim DIP Order, effective as of the Petition Date, valid and automatically perfected first priority replacement liens and security interests in and upon the Collateral. ii. To the extent any adequate protection is insufficient to adequately protect the Pre-Petition Agent and the Pre-Petition Lenders’ interest in the Collateral, the Pre-Petition Agent and the Pre-Petition Lenders are granted pursuant to the Interim DIP Order, superpriority administrative claims and all of the other benefits and protections allowable under Bankruptcy Code § 507(b), junior only in right to any superpriority administrative claims granted to the Post-Petition Agent and the Post-Petition Lenders on account of the DIP Facility and the Carve Out. <p><i>See Interim DIP Order ¶¶ 4344.</i></p>
<p>Events of Default Bankruptcy Rule 4001(c)(1)(B)</p>	<p>The DIP Financing Agreement contains the following events of default: (a) any default, event of default, violation, or breach by any of the Debtors of any of the terms of the DIP Orders or any default, event of default, or Event of Default (as such term is defined in the</p>

Bankruptcy Code/Local Rule	Summary of Material Terms
Local Rule 4001-2(a)(ii)	<p>DIP Facility Documents) under the DIP Facility Documents; (b) the occurrence of the Expiration Date (as defined below), maturity, termination, expiration, or non-renewal of this Financing Order or the DIP Facility as provided for herein or in any of the DIP Facility Documents; (c) the Debtors shall fail to pay any principal of the DIP Facility when the same becomes due and payable; (d) the Debtors shall fail to pay any interest on the DIP Facility or any fee or other amount due with respect to the DIP Facility after such interest, fee, or other amount becomes due and payable; (e) the Debtors shall fail to obtain, on or before 30 days after the Petition Date, an order by the Court approving the Motion on a final basis in form and substance satisfactory to the Agent, for itself and for and on behalf of the Lenders, in its sole and absolute discretion; (f) any representation or warranty made by the Debtors in any DIP Facility Document or in any statement or certificate given after the effective date of the DIP Amendment by any of the Debtors in writing pursuant to any DIP Facility Document or in connection with any DIP Facility Document shall be false in any material respect on the date as of which made; (g) any of the Debtors' Cases shall be dismissed or converted to a case under chapter 7 of the Bankruptcy Code; (h) the appointment of a trustee or examiner with expanded powers (beyond those set forth in sections 1106(a)(3) and (4) of the Bankruptcy Code) under 1106(b) of the Bankruptcy Code in any of the Debtors' Cases; (i) any security interest, lien, or encumbrance, excluding any Prior Liens, shall be granted in any of the Collateral which is pari passu with or senior to the liens, security interests, or claims of the DIP Agent or the Lenders, including, without limitation, any surcharge of the Collateral pursuant to Bankruptcy Code §506(c); (j) the entry of an order granting relief from the Automatic Stay to the holder or holders of any other security interest or lien (other than the DIP Agent or the Lenders) in any Collateral to permit the pursuit of any judicial or non-judicial transfer or other remedy against any of the Collateral, in each case involving assets with a value in excess of \$250,000; (k) any provision of the DIP Facility Documents shall cease to be valid and binding on the Debtors, or the Debtors shall so assert in any pleading filed with any court; (l) the Debtors shall attempt to vacate or modify the DIP Orders over the objection of the DIP Agent, for itself and for and on behalf of the Lenders; (m) the entry of an order pursuant to Bankruptcy Code § 363 approving the sale of a material portion of any of the Debtors' assets; (n) the failure to meet any of the Sale Milestones (as defined below); (o) the entry of any order modifying, reversing, revoking, staying, rescinding, vacating, or amending the DIP Orders; (p) the filing by the Debtors or confirmation of a plan of reorganization that (1) does not provide for indefeasible payment in full in cash of all obligations owing under the DIP Facility or (2) is not acceptable to the DIP Agent in the treatment of the Lenders' Pre-Petition Claim or the DIP Facility; (q) any challenge to the extent, validity, priority, or unavailability of the DIP Agent's or the Lenders' liens securing the Lenders' Pre-Petition Claim and/or the DIP Facility is commenced by the Debtors or an order is entered sustaining any such challenge commenced by any party other than the Debtors; or (r) the occurrence of any default under any DIP Facility Document.</p> <p>See DIP Agreement § 2(b); Interim DIP Order ¶ 76.</p>
Waiver/Modification of the Automatic Stay Bankruptcy Rule 4001(c)(1)(B)(iv)	<p>The automatic stay imposed by section 362(a) of the Bankruptcy Code is modified pursuant to the Interim DIP Order to permit: (a) the Debtors, the DIP Agent, and the Lenders to commit all acts and take all actions necessary to implement the DIP Facility and the DIP Orders; (b) all acts, actions, and transfers contemplated in the DIP Orders, including, without limitation, transfers of Cash Collateral and other funds to the DIP Agent, for itself and for and on behalf of the Lenders, by the Debtors as provided in the DIP Orders; and (c) consistent with the terms of the DIP Order, to permit the DIP Agent and/or the Lenders, at their option, to pursue their rights and remedies as to the Collateral in accordance with the Pre-Petition Claim Documents, the DIP Facility Documents, and</p>

Bankruptcy Code/Local Rule	Summary of Material Terms
	<p>applicable law.</p> <p>See Interim DIP Order Preamble, ¶ 54.</p> <p>Upon the occurrence of an Event of Default that continues to exist after the Default Notice Period, then without further act or action by the DIP Agent, or any further notice, hearing or order of this Court, the Automatic Stay shall be immediately modified and the DIP Agent shall be and are hereby is authorized, in its sole and absolute discretion, to take any and all actions and remedies that the DIP Agent may deem appropriate to proceed against, take possession of, protect, and realize upon the Collateral and any other property of any of the estates of the Debtors, including, without limitation, (i) any right or remedy set forth in the DIP Facility Documents, (ii) any right or remedy that the DIP Agent may deem appropriate to proceed against, take possession of, foreclose upon, sell (in whole or in part), protect, and realize upon the Collateral and any other property of any of the Debtors' estates upon which the DIP Agent and the Lenders have been or may hereafter be granted liens and security interests to obtain repayment of the DIP Facility and the Lenders' Pre-Petition Claim, (iii) the commencement of actions for specific performance and for the foreclosure upon any Collateral, (iv) the sale of the Collateral, or any portion thereof, either as a whole or in part, at private or public auction, and the DIP Agent, for itself and for and on behalf of the Lenders shall have the right to purchase the Collateral at same by credit bidding all or a part of their debt or otherwise, (v) taking possession of the Collateral, and the exercise, without interference, and, if necessary, as the attorney-in-fact for the Debtors, of any rights of the Debtors in the management, possession, operation, protection or preservation of the Collateral, (vi) the receipt of proceeds from the sale of any Collateral, (vii) the direction of the payment for any purchase of the Collateral directly to the DIP Agent, for itself and for and on behalf of the Lenders, as applicable, and (viii) the right of setoff and recoupment as to any funds of the Debtors' estates held by the DIP Agent, for itself and for and on behalf of the Lenders; provided that the DIP Agent and the Lenders shall not be obligated to take title to any of the Collateral in the pursuit of any of the DIP Agent's or the Lenders' rights and remedies and the Debtors shall cooperate with the DIP Agent and the Lenders in conjunction with the exercise of any right and the pursuit of any remedy by the DIP Agent or the Lenders without limitation.</p> <p>See DIP Agreement § 7.02(a); Interim DIP Order ¶¶ 54, 78.</p>
<p>Waiver/Modification of Applicability of Nonbankruptcy Law Relating to Perfection or Enforceability of Liens</p> <p>Bankruptcy Rule 4001(c)(1)(B)(vii)</p>	<p>The Interim DIP Order shall be sufficient and conclusive evidence of the priority, perfection, attachment, and validity of all of the DIP Agent's and the Lenders' security interests in and liens on the DIP Collateral granted and created hereunder, and such security interests and liens shall constitute valid, automatically perfected and unavoidable security interests and liens, with the priorities granted under the Interim DIP Order, effective as of the Petition Date, without the necessity of creating, filing, recording, or serving any financing statements, mortgages, or other documents that might otherwise be required under federal or state law in any jurisdiction or the taking of any other action to validate or perfect the security interests and liens granted to the DIP Agent, for itself and on behalf of any of the Lenders, by the Interim DIP Order.</p> <p>See Interim DIP Order ¶ 45</p>
<p>Indemnification</p> <p>Bankruptcy Rule 4001(c)(1)(B)(ix)</p>	<p>Subject to entry of the Final DIP Order, the Debtors shall jointly and severally indemnify the DIP Agent, the Lenders, the Secured Swap Provider, and their respective representatives, directors, officers, employees, independent contractors, attorneys and agents, and their successors and assigns (each, an "<u>Indemnified Person</u>," and together, the "<u>Indemnified Persons</u>") and hold each of them harmless from and against all claims, liabilities, losses, damages, causes of action, suits, judgments, costs, and expenses, including, without limitation, reasonable attorneys' fees, arising out of or from or related to any of the Pre-Petition Claim Documents and DIP Facility Documents. If any action,</p>

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	<p>suit, or proceeding is brought against any of the Indemnified Persons, Debtors shall, at the DIP Agent's or Lenders' request, defend the same at their sole cost and expense, such cost and expense to be a joint and several liability of the Debtors, by counsel, selected by the Lenders.</p> <p>See DIP Agreement § 8; Interim DIP Order ¶ 103.</p>
<p>Liens on Avoidance Actions Local Rule 4001-2(a)(i)(D)</p>	<p>To the extent approved by and subject to the Final DIP Order, the DIP Collateral includes the proceeds of any causes of action under sections 544, 547, and 548 of the Bankruptcy Code (collectively, the "<u>Avoidance Actions</u>") (but not, for the avoidance of doubt, Avoidance Actions themselves).</p> <p>See Interim DIP Order ¶ 33.</p>

Jurisdiction and Venue

6. The United States Bankruptcy Court for the District of Delaware (the "Court") has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated February 29, 2012. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2). The Debtors confirm their consent pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules") to the entry of a final order by the Court in connection with this motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

7. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

8. The bases for the relief requested herein are sections 105, 361, 362, 363, 364, 503, and 507 of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the "Bankruptcy Code"), Bankruptcy Rules 2002, 4001, and 9014, and Local Rules 2002-1(b) and 4001-2.

Relief Requested

9. The Debtors request that the Court, on an interim basis pending entry of the Final DIP Order:

- a. authorize the Debtors to obtain the DIP Financing consisting of \$7.5 million of secured financing on an interim basis and \$129,928,000 in aggregate on a final basis subject to and pursuant to the terms and conditions set forth in the Interim DIP Order and the DIP Agreement;
- b. authorize the Debtors to execute and deliver the DIP Agreement and the other DIP Financing Documents and to perform such other and further acts as may be necessary or appropriate in connection therewith;
- c. authorize the Debtors to (a) grant the Post-Petition Lenders superpriority administrative claims and all other benefits and protections allowable under sections 507(b) and 503(b)(1) of the Bankruptcy Code, senior in right to all other administrative claims against the Debtors' estates, except for the Carve Out and (b) pursuant to sections 364(d)(i), (c)(2) and (c)(3) of the Bankruptcy Code, perfected first priority claims, priming liens, and security interests in the DIP Collateral and Pre-Petition Collateral, subject only to the Prior Liens (if any) and the Carve Out.
- d. authorize the Debtors to (a) use Cash Collateral (as defined in the Interim DIP Order) to the extent required herein, and (b) provide adequate protection, solely to the extent provided herein, to the Pre-Petition Lenders under: (i) that certain Amended and Restated Credit Agreement, dated as of May 1, 2014, by and among Emerald, as borrower, the Guarantors party thereto, Wells Fargo Bank, N.A., as administrative agent (the "Pre-Petition Agent," and together with the DIP Agent, collectively, the "Agent"), and the lenders from time to time party thereto (in such capacity, the "Pre-Petition Lenders") on account of the Debtors' use of Cash Collateral and any other Pre-Petition Collateral;
- e. authorize the Agent to exercise remedies under the DIP Financing Documents upon the occurrence and during the continuance of an Event of Default (as defined in the DIP Agreement);
- f. subject to entry of the Final DIP Order, authorize the Debtors to grant liens to the Post-Petition Lenders on the proceeds of the Avoidance Actions (as defined herein) (but not, for the avoidance of doubt, on the Avoidance Actions themselves);

- g. subject to entry of the Final DIP Order, waive the Debtors' right to surcharge against the DIP Financing Collateral (as defined in the Interim DIP Order) or, solely to the extent set forth herein, the Pre-Petition Collateral pursuant to section 506(c) of the Bankruptcy Code;
- h. schedule the Final Hearing for a date that is before the 25th day after the Petition Date to consider entry of the Final DIP Order authorizing the borrowings under, and the Debtors' entry into, the DIP Agreement on a final basis and approval of notice procedures with respect thereto; and
- i. lift the automatic stay imposed by section 362 of the Bankruptcy Code to the extent necessary to implement and effectuate the terms of the DIP Orders.

Background

10. The Debtors are an onshore oil and gas exploration and production company with headquarters in Denver, Colorado and operations primarily located in North Dakota. The Debtors operate, or have royalty or working interests in, approximately 100 oil and gas production sites.

11. On March 22, 2016 (the "Petition Date"), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtors are operating their businesses and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. Concurrently with the filing of this Motion, the Debtors filed a motion requesting procedural consolidation and joint administration of these chapter 11 cases pursuant to Bankruptcy Rule 1015(b). No request for the appointment of a trustee or examiner has been made in these chapter 11 cases, and no committees have been appointed or designated.

I. The Debtors' Prepetition Capital Structure.

12. As of December 31, 2015, the Debtors reported approximately \$291 million in total assets (with \$28 million in current assets) and approximately \$337 million in total liabilities. As described in greater detail below, as of the Petition Date, the principal amount of

the Debtors' consolidated funded debt obligations (the "Prepetition Debt Obligations") totaled approximately \$260.5 million, comprising: (a) approximately \$111 million of obligations under the Prepetition Credit Facility (as defined herein); and (b) approximately \$148.5 million of obligations under the Convertible Notes (as defined herein).

A. Credit Facility.

13. Emerald is the borrower under that certain Amended and Restated Credit Agreement, dated as of May 1, 2014 (as amended from time to time, the "Prepetition Credit Agreement"), with Wells Fargo Bank, N.A., as administrative agent, and the lenders from time to time party thereto.⁶ The Prepetition Credit Agreement provides for a senior secured reserve-based revolving credit facility with a maximum commitment of \$400 million (the "Prepetition Credit Facility"). The obligations owing in respect of the Prepetition Credit Agreement are guaranteed by each of the other Debtors except for Emerald Oil, Inc.

14. The Debtor' Pre-Petition Lenders assert they have first priority lien on all of the Debtors' existing producing reserves. On April 30, 2015, in connection with the scheduled semiannual borrowing base redetermination, Emerald and the Lenders entered into an amendment to the Prepetition Credit Facility. The amendment to the Prepetition Credit Facility reduced the borrowing base from \$250 million to \$200 million. On October 6, 2015, the Agent notified Emerald that the borrowing base was further decreased to \$120 million, as described more fully below.

15. The Prepetition Credit Agreement permits the Debtors to hedge (typically in the form of a swap agreement) up to 60 percent of proved reserves for the first 24 months of the term of the particular swap agreement and 80 percent of projected production from proved developed

⁶ The Credit Agreement amended and restated that certain Credit Agreement, dated as of November 20, 2012, among Emerald, as borrower, the Agent and the Lenders.

producing reserves from the 24th month up to the 60th month of the swap agreement, subject to certain restrictions. As of September 30, 2015, Emerald had hedges covering 70 percent of its projected production through 2016.

16. On February 3, 2016, The Bank of Nova Scotia notified Emerald that Emerald's existing hedges had been terminated for approximately \$17.5 million with all proceeds going towards pay down of the existing base deficiency. Concurrently, the borrowing base was reduced from \$120 million to \$113 million. Thus, as of the Petition Date, all of the Debtors' swap agreements had terminated, and the Debtors therefore no longer had hedges in place.

B. Convertible Notes.

17. Emerald has issued those certain 2.0 percent Convertible Senior Notes due 2019 (the "Convertible Notes") pursuant to an Indenture dated March 24, 2014 between Emerald and U.S. Bank, National Association, as indenture trustee (the "Indenture Trustee"). The Convertible Notes, issued in the aggregate principal amount of \$172,500,000 (netting approximately \$167 million in proceeds), mature on April 1, 2019. Interest on the Convertible Notes is payable semi-annually on October 1 and April 1 of each year. The Convertible Notes are not guaranteed by the other Debtors. On October 22, 2015, the Debtors entered into an agreement with a holder of the Convertible Notes pursuant to which the Debtors and the noteholder agreed to exchange approximately \$3 million principal value of Convertible Notes for a number of shares of common stock, thereby achieving a limited deleveraging.

II. The Debtors Have an Immediate Need for Cash.

18. The Debtors require immediate access to liquidity to ensure that they are able to continue operating during these chapter 11 cases and preserve the value of their estates for the benefit of all parties in interest. As of the Petition Date, the Debtors' total cash balance is

approximately \$3.5 million, which is insufficient to operate their enterprise and continue paying their debts as they come due. Without prompt postpetition financing and access to cash collateral, the Debtors will be unable to pay wages for their employees, preserve and maximize the value of their estates, and administer these chapter 11 cases, causing immediate and irreparable harm to the value of the Debtors' estates to the detriment of all stakeholders. *See* Hart Decl. ¶¶ 6, 10.

III. Alternative Sources of Financing Are Not Readily Available.

19. The Debtors do not believe it would prudent, or even possible, to administer these chapter 11 estates on a "cash collateral" basis, rendering postpetition financing a necessity. However, the Debtors do not have a variety of sources of financing readily available. The Debtors' Pre-Petition Lenders assert that all of the Debtors' existing producing reserves are encumbered under their existing capital structure, which, along with the Debtors' long-term liquidity needs, projected cash losses, and the current state of the oil and gas commodity markets and its impact on cash flows and asset values, restricts the availability of, and options for, postpetition financing. *See* Hart Decl. ¶¶ 8. As a result, the Debtors do not believe third-party debtor-in-possession financing would be reasonably obtainable.

20. Starting in the fall of 2015, the Debtors' management and advisors, including Intrepid Partners, LLC ("Intrepid"), initiated discussions with the Pre-Petition Lenders regarding a potential chapter 11 process as well as a variety of out-of-court restructuring options. During this process, the Pre-Petition Lenders made it clear that they would not consent to a "priming" DIP financing provided by a third party. *See* Hart Decl. ¶ 13.

21. In the course of exploring and negotiating restructuring and financing alternatives, the Pre-Petition Lenders again expressed an unwillingness to have their loans primed by a third party postpetition financing. *See* Hart Decl. ¶ 20. Additionally, the Debtors could not provide

strong enough evidence of a sufficient equity cushion to allow for debtor-in-possession financing that would prime existing lenders' liens over their objections. For the same reasons regarding the likelihood of providing sufficient evidence of an equity cushion, few if any lenders would be willing to provide debtor-in-possession financing junior to the Debtors' existing lenders. *See* Hart Decl. ¶¶ 20–21. These indicators did not portend the development of a feasible third-party financing option.

22. Additionally, with any third-party proposal, the Debtors would incur the execution risk associated with a new lender transaction, including material timing and due diligence constraints, necessarily involving the payment of additional professional fees. In contrast, the proposed DIP Facility offered by the Post-Petition Lenders allows the Debtors to avoid the need to engage in a costly and time-consuming priming fight at the outset of these chapter 11 cases.

Basis for Relief

I. The Debtors Should Be Authorized to Obtain Postpetition Financing Through the DIP Financing Documents.

A. Entry into the DIP Financing Documents Is an Exercise of the Debtors' Sound Business Judgment.

23. The Court should authorize the Debtors, as an exercise of their sound business judgment, to enter into the DIP Financing Documents, obtain access to the DIP Facility, and continue using the Cash Collateral. Section 364 of the Bankruptcy Code authorizes a debtor to obtain secured or superpriority financing under certain circumstances discussed in detail below. Courts grant a debtor-in-possession considerable deference in acting in accordance with its business judgment in obtaining postpetition secured credit, so long as the agreement to obtain such credit does not run afoul of the provisions of, and policies underlying, the Bankruptcy Code. *See, e.g., In re Trans World Airlines, Inc.*, 163 B.R. 964, 974 (Bankr. D. Del. 1994)

(approving a postpetition loan and receivables facility because such facility “reflect[ed] sound and prudent business judgment”); *In re L.A. Dodgers LLC*, 457 B.R. 308, 313 (Bankr. D. Del. 2011) (“[C]ourts will almost always defer to the business judgment of a debtor in the selection of the lender.”); *In re Ames Dep’t Stores, Inc.*, 115 B.R. 34, 40 (Bankr. S.D.N.Y. 1990) (“[C]ases consistently reflect that the court’s discretion under section 364 is to be utilized on grounds that permit reasonable business judgment to be exercised so long as the financing agreement does not contain terms that leverage the bankruptcy process and powers or its purpose is not so much to benefit the estate as it is to benefit a party-in-interest.”).

24. Specifically, to determine whether the business judgment standard is met, a court need only “examine whether a reasonable business person would make a similar decision under similar circumstances.” *In re Exide Techs.*, 340 B.R. 222, 239 (Bankr. D. Del. 2006); *see also In re Curlew Valley Assocs.*, 14 B.R. 506, 513–14 (Bankr. D. Utah 1981) (noting that courts should not second guess a debtor’s business decision when that decision involves “a business judgment made in good faith, upon a reasonable basis, and within the scope of [the debtor’s] authority under the [Bankruptcy] Code”).

25. Furthermore, in considering whether the terms of postpetition financing are fair and reasonable, courts consider the terms in light of the relative circumstances of both the debtor and the potential lender. *In re Farmland Indus., Inc.*, 294 B.R. 855, 886 (Bankr. W.D. Mo. 2003); *see also Unsecured Creditors’ Comm. Mobil Oil Corp. v. First Nat’l Bank & Trust Co. (In re Elingsen McLean Oil Co., Inc.)*, 65 B.R. 358, 365 n.7 (W.D. Mich. 1986) (recognizing a debtor may have to enter into “hard bargains” to acquire funds for its reorganization). The Court may also appropriately take into consideration non-economic benefits to the Debtors offered by a

proposed postpetition facility. For example, in *In re ION Media Networks, Inc.*, the bankruptcy court for the Southern District of New York held that:

Although all parties, including the Debtors and the Committee, are naturally motivated to obtain financing on the best possible terms, a business decision to obtain credit from a particular lender is almost never based purely on economic terms. *Relevant features of the financing must be evaluated, including non economic elements such as the timing and certainty of closing, the impact on creditor constituencies and the likelihood of a successful reorganization.* This is particularly true in a bankruptcy setting where cooperation and establishing alliances with creditor groups can be a vital part of building support for a restructuring that ultimately may lead to a confirmable reorganization plan. That which helps foster consensus may be preferable to a notionally better transaction that carries the risk of promoting unwanted conflict.

No. 09-13125, 2009 WL 2902568, at *4 (Bankr. S.D.N.Y. July 6, 2009) (emphasis added).

26. The Debtors' determination to move forward with the DIP Facility is an exercise of their sound business judgment following an arms'-length process and careful evaluation of alternatives. Specifically, and in the face of insufficient cash on hand, the Debtors and their advisors determined that the Debtors would require significant postpetition financing to support their operational and chapter 11 activities. Further, while the Debtors' vendors historically have allowed the Debtors to purchase goods on credit, the Debtors' ability to continue this practice is dependent upon their having access to sufficient liquidity to assure business counterparties that the Debtors are not a credit risk. The Debtors negotiated the DIP Agreement and other DIP Financing Documents with the Post-Petition Lenders in good faith, at arms' length, and with the assistance of their respective advisors, and the Debtors believe that they have obtained the best financing available. Accordingly, the Court should authorize the Debtors' entry into the DIP Financing Documents, as it is a reasonable exercise of the Debtors' business judgment.

B. The Debtors Should Be Authorized to Grant Liens and Superpriority Claims.

27. The Debtors propose to obtain financing under the DIP Facility by providing security interests and liens as set forth in the DIP Financing Documents pursuant to section 364(c) of the Bankruptcy Code; specifically, the Debtors propose to provide to the Post-Petition Lenders perfected first priority claims, priming liens, and security interests in the DIP Collateral and Pre-Petition Collateral.

28. The statutory requirement for obtaining postpetition credit under section 364(c) is a finding, made after notice and hearing, that a debtor is “unable to obtain unsecured credit allowable under Section 503(b)(1) of [the Bankruptcy Code].” 11 U.S.C. § 364(c). *See In re Crouse Grp., Inc.*, 71 B.R. 544, 549 (Bankr. E.D. Pa. 1987) (secured credit under section 364(c) of the Bankruptcy Code is authorized, after notice and hearing, upon showing that unsecured credit cannot be obtained). Courts have articulated a three-part test to determine whether a debtor is entitled to financing under section 364(c) of the Bankruptcy Code. Specifically, courts look to whether:

- a. the debtor is unable to obtain unsecured credit under section 364(b) of the Bankruptcy Code, *i.e.*, by allowing a lender only an administrative claim;
- b. the credit transaction is necessary to preserve the assets of the estate; and
- c. the terms of the transaction are fair, reasonable, and adequate, given the circumstances of the debtor-borrower and proposed lenders.

See In re Ames Dep’t Stores, 115 B.R. 34, 37–40 (Bankr. S.D.N.Y. 1990); *see also In re St. Mary Hosp.*, 86 B.R. 393, 401-02 (Bankr. E.D. Pa. 1988); *Crouse Grp.*, 71 B.R. at 549.

29. As described above and as set forth in the Hart Declaration, the Debtors are in need of an immediate capital infusion, yet current market conditions are challenging and the

Debtors' existing producing reserves are asserted to be encumbered under their existing capital structure. *See* Hart Decl. ¶¶ 8, 10. Therefore, the Debtors, in consultation with their advisors, concluded that any workable financing likely would require the support of, or be provided by, the Debtors' existing lenders. *See* Hart Decl. ¶¶ 20–21. Without postpetition financing, the Debtors lack sufficient funds to operate their enterprise, continue paying their debts as they come due, or cover the projected costs of these chapter 11 cases. *See* Hart Decl. ¶¶ 10, 20. Absent the DIP Facility, which will allow the Debtors to meet their working capital needs during these chapter 11 cases and consummate the proposed sale transaction, the value of the Debtors' estates would be significantly impaired to the detriment of all stakeholders. Given the Debtors' circumstances, the Debtors believe that the terms of the DIP Facility, as set forth in the DIP Agreement, are fair, reasonable, and adequate, all as more fully set forth below. For all these reasons, the Debtors submit that they have met the standard for obtaining postpetition financing.

30. In the event that a debtor is unable to obtain unsecured credit allowable as an administrative expense under section 503(b)(1) of the Bankruptcy Code, section 364(c) provides that a court “may authorize the obtaining of credit or the incurring of debt (1) with priority over any or all administrative expenses of the kind specified in section 503(b) or 507(b) of [the Bankruptcy Code]; (2) secured by a lien on property of the estate that is not otherwise subject to a lien; or (3) secured by a junior lien on property of the estate that is subject to a lien.” As described above, the Debtors are unable to obtain unsecured credit. Therefore, approving a superpriority claim in favor of the Post-Petition Lenders is reasonable and appropriate.

31. Further, section 364(d) provides that a debtor may obtain credit secured by a senior or equal lien on property of the estate already subject to a lien, after notice and a hearing, where the debtor is “unable to obtain such credit otherwise” and “there is adequate protection of

the interest of the holder of the lien on the property of the estate on which such senior or equal lien is proposed to be granted.” 11 U.S.C. § 364(d)(1). Consent by the secured creditors to priming obviates the need to show adequate protection. *See Anchor Savs. Bank FSB v. Sky Valley, Inc.*, 99 B.R. 117, 122 (N.D. Ga. 1989) (“[B]y tacitly consenting to the superpriority lien, those [undersecured] creditors relieved the debtor of having to demonstrate that they were adequately protected.”). Accordingly, the Debtors may incur “priming” liens under the DIP Facility if either (a) the Pre-Petition Lenders have consented or (b) Pre-Petition Lenders’ interests in collateral are adequately protected.

32. Here, the Pre-Petition Lenders have consented to the DIP Facility. Therefore, the relief requested pursuant to section 364(d)(1) of the Bankruptcy Code is appropriate.

C. No Comparable Alternative to the DIP Facility Is Reasonably Available.

33. A debtor need only demonstrate “by a good faith effort that credit was not available without” the protections afforded to potential lenders by sections 364(c) of the Bankruptcy Code. *In re Snowshoe Co., Inc.*, 789 F.2d 1085, 1088 (4th Cir. 1986); *see also In re Plabell Rubber Prods., Inc.*, 137 B.R. 897, 900 (Bankr. N.D. Ohio 1992). Moreover, in circumstances where only a few lenders likely can or will extend the necessary credit to a debtor, “it would be unrealistic and unnecessary to require [the debtor] to conduct such an exhaustive search for financing.” *In re Sky Valley, Inc.*, 100 B.R. 107, 113 (Bankr. N.D. Ga. 1988), *aff’d sub nom. Anchor Sav. Bank FSB v. Sky Valley, Inc.*, 99 B.R. 117, 120 n.4 (N.D. Ga. 1989); *see also In re Snowshoe Co.*, 789 F.2d 1085, 1088 (4th Cir. 1986) (demonstrating that credit was unavailable absent the senior lien by establishment of unsuccessful contact with other financial institutions in the geographic area); *In re Stanley Hotel, Inc.*, 15 B.R. 660, 663 (D. Colo. 1981) (bankruptcy court’s finding that two national banks refused to grant unsecured loans was sufficient to support conclusion that section 364 requirement was met); *In re Ames Dep’t Stores*,

115 B.R. at 37–39 (debtor must show that it made reasonable efforts to seek other sources of financing under section 364(a) and (b)).

34. As noted above, the Debtors do not believe that alternative sources of financing are reasonably available given the realities imposed by the Debtors' existing capital structure. The Debtors' Pre-Petition Lenders assert that all of the Debtors' existing producing reserves are encumbered under their existing capital structure. *See* Hart Decl. ¶¶ 8, 13. Thus, the Debtors have determined that the DIP Facility provides the best opportunity available to the Debtors under the circumstances to fund these chapter 11 cases. *See* Hart Decl. ¶¶ 15, 17. Therefore, in addition to evidence to be introduced at the hearing on the Interim DIP Order if necessary, the Debtors submit that the requirement of section 364 of the Bankruptcy Code that alternative credit on more favorable terms be unavailable to the Debtors is satisfied.

D. The Repayment Feature of the DIP Facility Under the Final DIP Order Is Appropriate.

35. Section 363(b) of the Bankruptcy Code permits a debtor to use, sell or lease property, other than in the ordinary course of business, with court approval. It is well settled in the Third Circuit that such transactions should be approved when they are supported by a sound business purpose. *See In re Abbots Dairies, Inc.*, 788 F.2d 143 (3d Cir. 1986) (holding that in the Third Circuit, a debtor's use of assets outside the ordinary course of business under section 363(b) should be approved if the debtor can demonstrate a sound business justification for the proposed transaction). The business judgment rule shields a debtor's management from judicial second-guessing. *In re Johns-Manville Corp.*, 60 B.R. 612, 615-16 (Bankr. S.D.N.Y. 1986) (“[T]he [Bankruptcy] Code favors the continued operation of a business by a debtor and a presumption of reasonableness attaches to a debtor's management decisions.”).

36. Repayment of prepetition debt (often referred to as a “roll-up”) is a common feature in debtor-in-possession financing arrangements. Courts in this jurisdiction have approved similar DIP features, including on the first day of the case. *See, e.g., In re MACH Gen, LLC*, No. 14-10461 (MFW) (Bankr. D. Del. Mar. 5, 2014) (authorizing approximately \$200 million DIP that included roll-up of approximately \$144 million prepetition debt pursuant to interim order); *In re Furniture Brands Int’l, Inc.*, No. 13-12329 (CSS) (Bankr. D. Del. Sept. 11, 2013) (authorizing approximately \$140 million DIP that included roll-up of approximately \$91 million prepetition debt pursuant to interim order); *In re Appleseed’s Intermediate Holdings LLC*, No. 11-10160 (KG) (Bankr. D. Del. Jan. 20, 2011) (authorizing approximately \$140 million DIP that included roll-up of approximately \$48.6 million prepetition debt pursuant to interim order); *In re Dayton Superior Corp.*, No. 09-11351 (BLS) (Bankr. D. Del. Apr. 21, 2009) (authorizing approximately \$165 million DIP that included roll-up of approximately \$110 million prepetition debt pursuant to interim order).⁷

37. The repayment of \$109,928,000 of obligations under the Prepetition Credit Facility in cash from DIP Financing Loan proceeds upon entry of the Final DIP Order is a sound exercise of the Debtors’ business judgment. Under the proposed DIP Facility, \$109,928,000 of obligations under the Prepetition Credit Facility will be repaid on the effective date of the DIP Agreement such that \$109,928,000 will be “rolled-up” into the DIP Facility. The repayment of the Prepetition Credit Facility is a material component of the structure of the DIP Facility and was required by the Post-Petition Lenders as a condition to their commitment to provide postpetition financing.

⁷ Because of the voluminous nature of the orders cited herein, such orders have not been attached to this motion. Copies of these orders are available upon request of the Debtors’ proposed counsel.

38. Where, as here, a prepetition secured creditor is likely oversecured, repaying such creditor that stands to receive payment in full with postpetition loans will not harm the Debtors' estates and other creditors. In contrast, absent the DIP Facility, the Debtors' ability to continue operating as a going concern will be jeopardized to the detriment of all parties in interest. The DIP Facility's proposed repayment feature merely affects the timing, not the amount, of the Pre-Petition Lenders' recovery. Given these circumstances, repayment of the Prepetition Credit Facility is reasonable, appropriate, and a sound exercise of the Debtors' business judgment.

II. The Debtors Should Be Authorized to Use the Cash Collateral.

39. Section 363 of the Bankruptcy Code generally governs the use of estate property. Section 363(c)(2)(A) permits a debtor in possession to use cash collateral with the consent of the secured party. Here, the Pre-Petition Lenders consent to the Debtors' use of the Cash Collateral, subject to the terms and limitations set forth in the Interim DIP Order.

40. Section 363(e) provides for adequate protection of interests in property when a debtor uses cash collateral. Further, section 362(d)(1) of the Bankruptcy Code provides for adequate protection of interests in property due to the imposition of the automatic stay. *See In re Cont'l Airlines*, 91 F.3d 553, 556 (3d Cir. 1996) (en banc). While section 361 of the Bankruptcy Code provides examples of forms of adequate protection, such as granting replacement liens and administrative claims, courts decide what constitutes sufficient adequate protection on a case-by-case basis. *In re Swedeland Dev. Grp., Inc.*, 16 F.3d 552, 564 (3d Cir. 1994); *In re Satcon Tech. Corp.*, No. 12-12869 (KG), 2012 WL 6091160, at *6 (Bankr. D. Del. Dec. 7, 2012); *In re N.J. Affordable Homes Corp.*, No. 05-60442 (DHS), 2006 WL 2128624, at *14 (Bankr. D.N.J. June 29, 2006); *In re Columbia Gas Sys., Inc.*, Nos. 91-803, 91-804, 1992 WL 79323, at *2 (Bankr. D. Del. Feb. 18, 1992); *see also In re Dynaco Corp.*, 162 B.R. 389, 394 (Bankr. D.N.H. 1993) (citing 2 Collier on Bankruptcy ¶ 361.01[1] at 361-66 (15th ed. 1993))

(explaining that adequate protection can take many forms and “must be determined based upon equitable considerations arising from the particular facts of each proceeding”)).

41. As described more fully above, and as set forth in the Interim DIP Order, the Debtors propose to provide the Pre-Petition Lenders with a variety of adequate protection to protect against the postpetition diminution in value of the Cash Collateral resulting from the use, sale, or lease of the Cash Collateral by the Debtors and the imposition of the automatic stay (collectively, the “Adequate Protection Obligations”):

- a. Valid and automatically perfected first priority replacement liens and security interests in and upon the Pre-Petition Collateral and the DIP Collateral;
- b. superpriority administrative claims and all of the other benefits and protections allowed under section 507(b) of the Bankruptcy Code, junior only in right to any superpriority administrative claims granted to the DIP Agent and the Post-Petition Lenders on account of the DIP Facility and the Carve Out;
- c. attorneys’ fees and expenses and financial advisors’ fees and expenses.

42. Therefore, the Debtors submit that the proposed Adequate Protection Obligations are sufficient to protect the Pre-Petition Lenders from any diminution in value to the Cash Collateral. In light of the foregoing, the Debtors further submit, and the Pre-Petition Lenders agree, that the proposed Adequate Protection Obligations to be provided for the benefit of the Pre-Petition Lenders are appropriate.⁸ Thus, the Debtors’ provision of the Adequate Protection Obligations is not only necessary to protect against any diminution in value but is fair and appropriate under the circumstances of these chapter 11 cases to ensure the Debtors are able to

⁸ Pursuant to the DIP Orders, the Pre-Petition Lenders are permitted to seek additional adequate protection in accordance with the terms thereof.

continue using the Cash Collateral, subject to the terms and limitations set forth in the Interim DIP Order, for the benefit of all parties in interest and their estates.

III. The Debtors Should Be Authorized to Pay the Fees Required by the DIP Agent and the Post-Petition Lenders Under the DIP Financing Documents.

43. Under the DIP Financing Documents, the Debtors have agreed, subject to Court approval, to pay certain fees to the DIP Agent and the Post-Petition Lenders. In particular, as noted above, the Debtors have agreed to pay:

- a. a monthly agency fee of \$15,000, due and payable on the first Business Day of each month commencing on the first such date to occur after the DIP Agreement's Effective Date;
- b. for the account of each of the Post-Petition Lenders, a commitment fee equal to 1.00% percent per annum of the average daily amount of the unused amount of the DIP Loan of such Lender during the period from and including the DIP Agreement Effective Date to, but excluding, the Postpetition Termination Date, payable monthly in arrears on the first Business Day of each month and on the Postpetition Termination Date, commencing on the first such date to occur after the Petition Date; and
- c. a facility fee equal to 2.00% of the amount of each Post-Petition Lender's commitment (exclusive of any Rollup Amount).

44. It is understood and agreed by all parties, including the Debtors, that these fees are an integral component of the overall terms of the DIP Facility, and were required by the DIP Agent and the Post-Petition Lenders as consideration for the extension of postpetition financing. *See* Hart Decl. ¶¶ 18–19. Accordingly, the Court should authorize the Debtors to pay the fees provided under the DIP Financing Documents in connection with entering into those agreements.

IV. The Post-Petition Lenders Should Be Deemed Good-Faith Lenders Under Section 364(e).

45. Section 364(e) of the Bankruptcy Code protects a good-faith lender's right to collect on loans extended to a debtor, and its right in any lien securing those loans, even if the

authority of the debtor to obtain such loans or grant such liens is later reversed or modified on appeal. Section 364(e) of the Bankruptcy Code provides that:

The reversal or modification on appeal of an authorization under this section [364 of the Bankruptcy Code] to obtain credit or incur debt, or of a grant under this section of a priority or a lien, does not affect the validity of any debt so incurred, or any priority or lien so granted, to an entity that extended such credit in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and the incurring of such debt, or the granting of such priority or lien, were stayed pending appeal.

46. As explained herein, in the Hart Declaration, and in the First Day Declaration, the DIP Financing Documents are the result of: (a) the Debtors' reasonable and informed determination that the Post-Petition Lenders offered the most favorable terms on which to obtain vital postpetition financing and (b) extended arms'-length, good-faith negotiations between the Debtors and the DIP Agent and Post-Petition Lenders. The Debtors submit that the terms and conditions of the DIP Financing Documents are reasonable and appropriate under the circumstances, and the proceeds of the DIP Facility will be used only for purposes that are permissible under the Bankruptcy Code. Further, no consideration is being provided to any party to the DIP Financing Documents other than as described herein. Accordingly, the Court should find that the Post-Petition Lenders are "good faith" lenders within the meaning of section 364(e) of the Bankruptcy Code and are entitled to all of the protections afforded by that section.

V. The Automatic Stay Should Be Modified on a Limited Basis.

47. The proposed Interim DIP Order provides that the automatic stay provisions of section 362 of the Bankruptcy Code will be modified to allow the Post-Petition Lenders to file any financing statements, security agreements, notices of liens, and other similar instruments and documents in order to validate and perfect the liens and security interests granted to them under the Interim DIP Order. The proposed Interim DIP Order further provides that the automatic stay

is modified as necessary to permit the Debtors to grant the DIP Financing Liens to the Post-Petition Lenders and to incur all liabilities and obligations set forth in the Interim DIP Order. Finally, the proposed Interim DIP Order provides that, following the occurrence of an Event of Default (as defined in the DIP Agreement), the automatic stay shall be vacated and modified to the extent necessary to permit the DIP Agent to exercise all rights and remedies in accordance with the DIP Financing Documents, or applicable law.

48. Stay modifications of this kind are ordinary and standard features of debtor-in-possession financing arrangements, and, in the Debtors' business judgment, are reasonable and fair under the circumstances of these chapter 11 cases. *See, e.g., In re Magnum Hunter Res. Corp.*, No. 15-12533 (KG) (Bankr. D. Del. Dec. 15, 2015) (terminating automatic stay after event of default); *In re Peak Broad., LLC*, No. 12-10183 (PJW) (Bankr. D. Del. Feb. 2, 2012) (terminating automatic stay after occurrence of termination event); *In re TMP Directional Mktg., LLC*, No. 11-13835 (MFW) (Bankr. D. Del. Jan. 17, 2012) (modifying automatic stay as necessary to effectuate the terms of the order); *In re Broadway 401 LLC*, No. 10-10070 (KJC) (Bankr. D. Del. Feb. 16, 2010) (same); *In re Hights Cross Commc'ns, Inc.*, No. 10-10062 (BLS) (Bankr. D. Del. Feb. 8, 2010) (same).

VI. Failure to Obtain Immediate Interim Access to the DIP Facility and Cash Collateral Would Cause Immediate and Irreparable Harm.

49. Bankruptcy Rules 4001(b) and 4001(c) provide that a final hearing on a motion to obtain credit pursuant to section 364 of the Bankruptcy Code or to use cash collateral pursuant to section 363 of the Bankruptcy Code may not be commenced earlier than 14 days after the service of such motion. Upon request, however, the Court may conduct a preliminary, expedited hearing on the motion and authorize the obtaining of credit and use of cash collateral to the extent necessary to avoid immediate and irreparable harm to a debtor's estate.

50. The Debtors request that the Court hold and conduct a hearing to consider entry of the Interim DIP Order authorizing the Debtors, from and after entry of the Interim DIP Order until the Final Hearing, to receive initial funding under the DIP Facility. The Debtors require the initial funding under the DIP Facility prior to the Final Hearing and entry of the Final DIP Order to continue operating, pay their administrative expenses, and to implement the relief requested in the Debtors' other "first day" motions. This relief will enable the Debtors to preserve and maximize value and, therefore, avoid immediate and irreparable harm and prejudice to their estates and all parties in interest, pending the Final Hearing. *See* Hart Decl. ¶ 22.

Request for Final Hearing

51. Pursuant to Bankruptcy Rules 4001(b)(2) and 4001(c)(2), the Debtors request that the Court set a date for the Final Hearing that is as soon as practicable, and in no event after 31 days after the Petition Date, and fix the time and date prior to the Final Hearing for parties to file objections to this motion.

Waiver of Bankruptcy Rule 6004(a) and 6004(h)

52. To implement the foregoing successfully, the Debtors request that the Court enter an order providing that notice of the relief requested herein satisfies Bankruptcy Rule 6004(a) and that the Debtors have established cause to exclude such relief from the 14-day stay period under Bankruptcy Rule 6004(h).

Notice

53. The Debtors will provide notice of this motion to: (a) the Office of the United States Trustee for the District of Delaware; (b) the holders of the 30 largest unsecured claims against the Debtors (on a consolidated basis); (c) the administrative agent under the Debtors' prepetition credit facility; (d) counsel to the administrative agent under the Debtors' prepetition credit facility; (e) the indenture trustee for the Debtors' 2.00% convertible senior notes due 2019;

(f) the agent under the Debtors' proposed debtor-in-possession credit facility; (g) counsel to the agent under the Debtors' proposed debtor-in-possession credit facility; (h) the United States Attorney's Office for the District of Delaware; (i) the Internal Revenue Service; (j) the Environmental Protection Agency; (k) the office of the attorneys general for the states in which the Debtors operate; (l) the Securities and Exchange Commission; and (m) any party that has requested notice pursuant to Bankruptcy Rule 2002. As this motion is seeking "first day" relief, within two business days of the hearing on this motion, the Debtors will serve copies of this motion and any order entered in respect to this motion as required by Local Rule 9013-1(m). The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

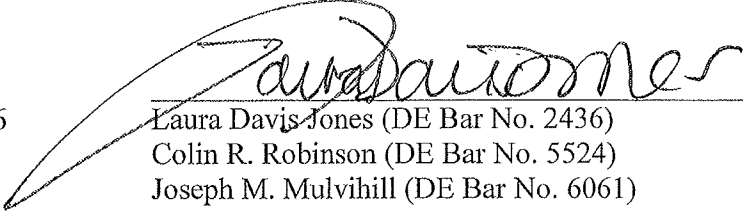
No Prior Request

54. No prior request for the relief sought in this motion has been made to this or any other court.

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WHEREFORE, the Debtors respectfully request that the Court enter the DIP Orders, granting the relief requested herein and such other relief as the Court deems appropriate under the circumstances.

Wilmington, Delaware
Dated: March 23, 2016



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Proposed Counsel to the Debtors

EXHIBIT A

Proposed Interim DIP Order

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:)	Case No. 16-10704 (KG)
Emerald Oil, Inc., <i>et al.</i>)	Chapter 11
Debtors. ¹)	(Joint Administration Requested)

INTERIM AGREED ORDER
AUTHORIZING LIMITED USE OF CASH COLLATERAL,
OBTAINING POST-PETITION CREDIT SECURED BY SENIOR LIENS,
GRANTING ADEQUATE PROTECTION TO EXISTING LIENHOLDERS,
SCHEDULING A FINAL HEARING, AND GRANTING RELATED RELIEF

Upon the *Motion for Interim and Final Orders (A) Authorizing the Debtors to Use Cash Collateral, (B) Authorizing the Debtors to Obtain Post-Petition Secured Financing, (C) Granting Security Interests and Superpriority Administrative Expense Status to the Lenders, (D) Granting Adequate Protection to Existing Lienholders; (E) Scheduling a Final Hearing; and (F) Granting Related Relief* (the “Financing Motion”), dated March 23, 2016 and filed by the above-captioned debtors, as debtors-in-possession (collectively, the “Debtors”), seeking, *inter alia*, pursuant to Sections 105, 361, 362(d), 363(c), 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1), 503(b), and 507 of Title 11 of the United States Code (the “Bankruptcy Code”), and Rules 2002, 4001, and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), the following:

- (i) authority for the Debtors to obtain post-petition loans and other extensions of credit from Wells Fargo Bank, N.A. and a syndicate of financial institutions comprised of the Pre-Petition Lenders (as defined herein) (collectively the “Post-Petition Lenders”, and together with the Pre-Petition Lenders, collectively the

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, include: Emerald Oil, Inc. (9000); Emerald DB, LLC (2933); Emerald NWB, LLC (7528); Emerald WB LLC (8929); and EOX Marketing, LLC (4887). The location of the Debtors’ service address is: 200 Columbine Street, Suite 500, Denver, Colorado 80206.

“Lenders”) in an amount not to exceed \$7,500,000 on an interim basis, and \$129,928,000 on a final basis, cumulative of any amounts advanced on an interim basis (the “DIP Commitment”), and including, without limitation, principal, other extensions of credit and financial accommodations, interest, fees, expenses, and other costs of the Post-Petition Agent and the Post-Petition Lenders in these bankruptcy cases (collectively, the “Cases”), in accordance with the terms and conditions set forth herein and in that certain Amended and Restated Credit Agreement dated May 1, 2014 (as heretofore amended (the “Credit Agreement”), as amended in connection herewith by the Debtor in Possession Financing Amendment to Amended and Restated Credit Agreement (the “DIP Amendment”), the Credit Agreement and the DIP Amendment (collectively, the “DIP Agreement”)², and with the other Loan Documents (as defined in the DIP Agreement), and all other related agreements and documents (collectively, the “DIP Facility”);

- (ii) authority for the Debtors to execute, deliver, and perform under the DIP Facility and Loan Documents, and all other related agreements and documents creating, evidencing, or securing indebtedness or obligations of any of the Debtors to Wells Fargo Bank, N.A., as agent for the Post-Petition Lenders (in such capacity, the “Post-Petition Agent”) and the Post-Petition Lenders on account of the DIP Facility or granting or perfecting liens or security interests by any of the Debtors in favor of and for the benefit of the Post-Petition Agent, for itself and for and on behalf of the Post-Petition Lenders, on account of the DIP Facility, as same now exists or may hereafter be amended, modified, supplemented, ratified, assumed, extended, renewed, restated, or replaced, and any and all of the agreements and documents currently executed or to be executed in connection therewith or related thereto, by and among any of the Debtors, the Post-Petition Agent, and the Post-Petition Lenders, the terms of which are referenced and incorporated herein as if set forth *in haec verba* (collectively, the “DIP Facility Documents”);
- (iii) approval of the terms and conditions of the DIP Facility and the DIP Facility Documents;
- (iv) upon entry of a final order, approval of the Lenders’ Pre-Petition Claim (as defined herein) (less \$1,750,000, which shall remain as the Lenders’ Pre-Petition Claim (such amount, the “Lenders’ Retained Pre-Petition Claim”)), being deemed obligations and indebtedness to the Post-Petition Agent and the Post-Petition Lenders under the DIP Facility (all obligations and indebtedness of any of the Debtors to the Post-Petition Agent and the Post-Petition Lenders under the DIP Facility Documents, collectively, the “DIP Obligations”) and secured by the DIP Collateral (as defined below);

² A copy of the DIP Agreement is attached hereto as Exhibit “1”, and incorporated herein as if set forth *in haec verba*.

- (v) authority for the Debtors to use Cash Collateral (as defined below) of Wells Fargo Bank, N.A., in its capacity as administrative agent (in such capacity, the "Pre-Petition Agent", and together in its capacity as the Post-Petition Agent, the "Agent") for itself and the other senior lenders (collectively, the "Pre-Petition Lenders") under the Credit Agreement (as defined herein) in accordance with the terms and conditions set forth herein;
- (vi) modification of the automatic stay of Bankruptcy Code § 362 (the "Automatic Stay") to the extent provided herein;
- (vii) granting of automatically perfected first priority liens and security interests to the Post-Petition Agent, for itself and on behalf of the Post-Petition Lenders to secure the DIP Obligations in the DIP Collateral, and granting automatically perfected liens, security interests, and other adequate protection to the Pre-Petition Agent, for itself and for and on behalf of the Pre-Petition Lenders with respect to their interests in the DIP Collateral and the Pre-Petition Collateral (as defined below); and
- (viii) authorizing the indefeasible transfer of Cash Collateral to and for the benefit of the Agent, for itself and for and on behalf of the Lenders, as set forth herein.

The Court having considered the Motion, the terms of the DIP Agreement and the DIP Facility Documents, the Declaration of Matthew J. Hart in support of the Motion, and the evidence submitted at the interim hearing held before this Court on [____], 2016, to consider entry of this Financing Order; and in accordance with Bankruptcy Rules 2002, 4001(b), (c), and (d), and 9014 and the Local Bankruptcy Rules, due and proper notice of the Motion and the interim hearing having been given; and it appearing that approval of the interim relief requested in the Motion is necessary to avoid immediate and irreparable harm to the Debtors pending the Final Hearing and is otherwise fair and reasonable and in the best interests of the Debtors, their creditors and their estates, and essential for the continued operation of the Debtors' businesses; and all objections, if any, to the entry of this Financing Order having been withdrawn, resolved or overruled by the Court; and after due deliberation and consideration, and for good and sufficient cause appearing therefor:

THE COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:

1. The Debtors and the Agent have represented to this Court that they have agreed in good faith to the terms and conditions of the DIP Agreement and this *Interim Agreed Order Authorizing Limited Use of Cash Collateral, Obtaining Post-Petition Credit Secured by Senior Liens, and Granting Adequate Protection to Existing Lienholders, Scheduling a Final Hearing, and Granting Related Relief* (the "Financing Order").

2. The Debtors and the Agent have stipulated and agreed as follows, and based upon the pleadings and evidence presented at the interim hearing before this Court, this Court hereby acknowledges such stipulations, and grants the relief herein, on an interim basis, pursuant to Bankruptcy Rule 4001 to prevent immediate and irreparable harm to the Debtors and their estates. Therefore, consistent with Bankruptcy Code §§ 361, 362, 363, 364, 503(b), and 507, this Court hereby finds and orders:

OPPORTUNITY TO OBJECT

3. Pursuant to Bankruptcy Rule 4001(d)(2), any objection to the entry of a final order on the Financing Motion must be filed on or before 5:00 p.m. Eastern Time on [____], 2016 (the "Objection Date"). A final hearing on the Financing Motion shall take place on [____], 2016, at [__:__]m., Eastern Time before the Honorable Kevin Gross, United States Bankruptcy Judge, at the United States Bankruptcy Court, District of Delaware, 824 Market Street, 6th Floor, Courtroom 3, Wilmington, Delaware 19801 (the "Final Hearing"). Objections shall be in writing and shall be filed with the Clerk of the Bankruptcy Court so that any such objections are received on or before the Objection Date.

4. The Debtors and the Agent have represented to the Court that they have negotiated at arm's length and have acted in good faith in the negotiation and preparation of the DIP Agreement and

this Financing Order, have been represented by counsel, and intend to be and are bound by their respective terms. The terms and conditions of this Financing Order and the DIP Facility Documents reflect the Debtors' exercise of prudent business judgment under exigent circumstances and are consistent with their fiduciary duties and are supported by reasonably equivalent value and fair consideration.

STATEMENT OF JURISDICTION

5. This Court has jurisdiction over this proceeding and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (B), (D), (G), (K), (M) and (O).

NOTICE

6. Sufficient and adequate notice of the Financing Motion and the interim hearing with respect thereto has been given to prevent immediate and irreparable harm pursuant to Bankruptcy Rules 2002, 4001, 9006, and 9014 and the Local Rules, and as required by Bankruptcy Code §§ 102, 105, 361, 362, 363, and 364. Other than the notice provided for herein, no further notice of the interim relief sought in the Financing Motion is necessary.

FACTUAL AND PROCEDURAL BACKGROUND

7. On March 22, 2016 (the "Petition Date"), the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code. The Debtors have continued in the management and possession of their business and property as debtors-in-possession pursuant to Bankruptcy Code §§ 1107 and 1108.

8. On [_____], 2016, the Court conducted the interim hearing on the Financing Motion and pronounced interim approval of the Financing Motion as set forth herein.

9. An official committee of unsecured creditors (the “Creditors’ Committee”) has not yet been appointed in these Cases.

The Lenders’ Pre-Petition Claims

10. The Debtors stipulate that, pursuant to the Pre-Petition Claim Documents (as defined below) and applicable law, the Pre-Petition Agent and the Pre-Petition Lenders hold a valid, enforceable, and allowable claim against Emerald Oil, Inc. (“Emerald”), as of the Petition Date, in an aggregate amount equal to at least \$111,678,000.00 of unpaid principal, plus any and all other fees, costs, expenses, charges, and other claims, debts or obligations of the Debtors to the Pre-Petition Agent and the Pre-Petition Lenders that have accrued as of the Petition Date under the Pre-Petition Claim Documents and applicable law. The claim of the Pre-Petition Agent and the Pre-Petition Lenders, as described in the preceding sentence together with all post-Petition Date interest, fees, costs, and charges allowed to the Pre-Petition Agent and the Pre-Petition Lenders on such claim pursuant to Bankruptcy Code § 506(b), shall collectively be referred to hereunder as the “Lenders’ Pre-Petition Claim”.

11. The Debtors stipulate that all of Emerald’s indebtedness and obligations to the Pre-Petition Agent and the Pre-Petition Lenders, including, without limitation, the Lenders’ Pre-Petition Claim, have been unconditionally guaranteed by Emerald WB LLC, Emerald DB LLC, Emerald NWB LLC and EOX Marketing, LLC (collectively, the “Guarantors”) pursuant to certain agreements and documents including, without limitation, the Guaranty and Collateral Agreement dated November 20, 2012, as amended by the First Amendment to Guaranty and Collateral Agreement dated May 1, 2014, as further set forth therein.

12. The Debtors stipulate that the Lenders’ Pre-Petition Claim (including, without limitation, the Lenders’ Retained Pre-Petition Claim) constitutes an allowed, legal, valid, binding, enforceable, and non-avoidable obligation of and claim against the Debtors, and shall not be subject to any offset,

defense, counterclaim, avoidance, recharacterization, or subordination pursuant to the Bankruptcy Code or any other applicable law, and that the Debtors, their estates, and any official committee appointed in these Cases, subject to Paragraph 100, do not possess and shall not assert any claim, counterclaim, setoff, or defense of any kind, nature, or description which would in any way affect the validity, enforceability, allowance, and non-avoidability of the Lenders' Pre-Petition Claim.

13. The Debtors stipulate that the Lenders' Retained Pre-Petition Claim shall remain as an allowed, legal, valid, binding, enforceable, and non-avoidable obligation of and claim against the Debtors, and shall not be subject to any offset, defense, counterclaim, avoidance, recharacterization, or subordination pursuant to the Bankruptcy Code or any other applicable law, and that the Debtors, their estates, and any official committee appointed in these Cases, subject to Paragraph 100, do not possess and shall not assert any claim, counterclaim, setoff, or defense of any kind, nature, or description which would in any way affect the validity, enforceability, allowance, and non-avoidability of the Lenders' Retained Pre-Petition Claim.

The Pre-Petition Claim Documents

14. The Debtors stipulate that the Lenders' Pre-Petition Claim is evidenced by certain documents executed and delivered to the Pre-Petition Agent and the Pre-Petition Lenders by the Debtors, including, without limitation, the Credit Agreement and the documents listed on Exhibit "3" hereto.

15. The Credit Agreement, and all notes, security agreements, assignments, pledges, mortgages, deeds of trust, guaranties, forbearance agreements, letters of credit, swap agreements (including, without limitation, that certain ISDA 2002 Master Agreement dated as of June 20, 2014 and executed by and between the Bank of Nova Scotia (the "Secured Swap Provider") and Emerald Oil, Inc.) and other instruments or documents executed in connection therewith or related thereto shall be

referred to herein collectively as the “Pre-Petition Claim Documents.” True and correct copies of certain of the Pre-Petition Claim Documents are retained by the Debtors and will be made available to interested parties upon request.

16. The Debtors stipulate that the Pre-Petition Claim Documents are genuine, valid, existing, legally enforceable and admissible in the Cases for all purposes.

The Pre-Petition Collateral

17. Subject only to Prior Liens (as defined below) (if any), the Debtors stipulate that the Lenders’ Pre-Petition Claim evidenced by the Pre-Petition Claim Documents is secured by perfected first priority liens and security interests in, *inter alia*, all of the real and/or personal property now owned or at any time hereafter acquired by any of the Debtors or in which any such Debtor now has or at any time in the future may acquire any right, title or interest and whether now existing or hereafter coming into existence covered by those certain mortgages, collateral and pledge agreements forming a component of the Security Instruments, as defined in the Pre-Petition Claim Documents (collectively, the “Lenders’ Pre-Petition Collateral”), including, without limitation, (1) all presently owned or after acquired real property, fixtures and improvements thereon, leases of real property, oil and gas properties and as-extracted collateral, in each case, covered by those certain mortgages forming a component of the Security Instruments, as defined in the Pre-Petition Claim Documents, and (2) the following presently-owned and after-acquired personal property: (a) accounts, (b) chattel paper (both tangible and electronic), (c) commercial tort claims, (d) commodity accounts, (e) deposit accounts (other than payroll, withholding tax, and other fiduciary deposit accounts), (f) securities accounts, (g) documents, (h) general intangibles (including, without limitation, rights in and under any swap agreements), (i) goods (including, without limitation, all inventory and equipment), (j) instruments, (k) investment property, (l) letters of credit rights (whether or not the letter of credit is evidenced by a

writing), (m) pledged securities, (n) supporting obligations, and (o) to the extent not otherwise included, any other property insofar as it consists of personal property of any kind or character defined in and subject to the UCC (as defined below), (3) all books and records pertaining to the Lenders' Pre-Petition Collateral, and (4) to the extent not otherwise included, all proceeds and products of any and all of the foregoing and all collateral security, income, royalties and other payments now or hereafter due and payable with respect to, and guarantees and supporting obligations relating to, any and all of the Lenders' Pre-Petition Collateral and, to the extent not otherwise included, all payments of insurance (whether or not the Pre-Petition Agent is the loss payee thereof), or any indemnity, warranty or guaranty, payable by reason of loss or damage to or otherwise with respect to any of the foregoing Lenders' Pre-Petition Collateral, all other claims, including, without limitation, all cash, guarantees and other supporting obligations given with respect to any of the foregoing; provided that, notwithstanding anything to the contrary herein, the Lenders' Pre-Petition Collateral shall not include the Avoidance Claims (as defined below) or any proceeds thereof. The Lenders' liens and security interests in the Lenders' Pre-Petition Collateral were granted pursuant to, *inter alia*, the Pre-Petition Claim Documents.

18. The Debtors stipulate that the Pre-Petition Agent and the Pre-Petition Lenders have properly perfected their first priority liens and security interests and other liens in the applicable Pre-Petition Collateral (subject to Prior Liens (if any) and liens and security interests securing the DIP Facility as granted in this Financing Order) as evidenced by, among other things, the Pre-Petition Claim Documents, documents held in possession of the Pre-Petition Agent and the Pre-Petition Lenders, and documents filed with the appropriate state, county, and other offices.

Defaults by the Debtors

19. The Debtors stipulate that they are in default of their debts and obligations to the Pre-Petition Agent and the Pre-Petition Lenders under the terms and provisions of the Pre-Petition Claim Documents. The Debtors stipulate that these defaults exist, have not been timely cured, and are continuing. The Debtors stipulate that the filing of these Cases has accelerated the Lenders' Pre-Petition Claim for all purposes in these Cases and in connection with the Pre-Petition Agent's and the Pre-Petition Lenders' enforcement of their rights and remedies under the Pre-Petition Claim Documents and applicable law. The Lenders' Pre-Petition Claim remains due and owing.

CASH COLLATERAL

Lenders' Cash Collateral

20. The Debtors stipulate that all cash of each of the Debtors' bankruptcy estates, wherever located, and all cash equivalents, whether in the form of negotiable instruments, documents of title, securities, deposit accounts, investment accounts, or in any other form, that were on the Petition Date in any of the Debtors' possession, custody or control (or persons in privity with any of the Debtors), or in which any of the Debtors will obtain an interest during the pendency of these Cases whether via advances under the DIP Facility or otherwise, or which represent income, proceeds, products, rents, or profits of any of the Collateral (as defined below) shall constitute the cash collateral of the Agent, for itself and for and on behalf of the Lenders (collectively, the "Cash Collateral"). The Debtors stipulate that the Pre-Petition Agent and the Pre-Petition Lenders have, subject to any DIP Facility to the extent provided in this Financing Order, first priority perfected liens and security interests in the Cash Collateral pursuant to the applicable provisions of the Pre-Petition Claim Documents, Bankruptcy Code §§ 363(a) and 552(b), and this Financing Order, and the "equities of the case" exception of Bankruptcy Code § 552(b) shall not apply.

21. Each Debtor shall segregate and account to the Agent and the Lenders for all Cash Collateral that they now possess, that they have permitted to be transferred into the possession of others (if any), that is being held by those in privity with the Debtors, or that any Debtor might hereafter obtain or have any interest in. Each Debtor shall account to the Agent and the Lenders for the receipt and use, if any, of the Cash Collateral received by the Debtors since the Petition Date and prior to the entry of this Financing Order. Absent a further order of this Court or the consent of the Agent and the Lenders, the Debtors are strictly prohibited from using the Cash Collateral except as expressly provided for herein.

Need For and Consent to Limited Use of Cash Collateral

22. The Lenders do not consent to the Debtors' use of Cash Collateral except in strict accordance with the terms and conditions contained in this Financing Order. The relief hereunder is necessary to avoid immediate and irreparable harm to the Debtors' estates because, without the use of Cash Collateral, the Debtors will not have the funds necessary to maintain their assets, sell or otherwise liquidate their assets, provide financial information, and pay employee compensation, payroll taxes, overhead, and other expenses necessary to maximize the value of the Debtors' estates. The Debtors require the use of Cash Collateral as provided herein.

23. Good, adequate, and sufficient cause has been shown to justify the granting of the relief requested herein. The use of Cash Collateral will benefit the Debtors and their estates. The ability of the Debtors to maximize the value of their estates depends upon the Debtors' ability to use the Cash Collateral of the Agent and the Lenders. Accordingly, the use of Cash Collateral by the Debtors is actual and necessary to preserving their estates.

Authorization for Limited Use of Cash Collateral

24. The Debtors are hereby authorized, on a limited basis, to use Cash Collateral only in strict accordance with the terms and conditions provided in this Financing Order.

DIP FACILITY

Need for DIP Facility

25. Without the use of Cash Collateral and the DIP Facility, the Debtors will not have the funds necessary to maintain their assets, operate their businesses, sell or otherwise liquidate their assets, provide financial information, or pay employee compensation, payroll taxes, overhead, and other expenses necessary to maximize the value of the Debtors' estates. The use of the Cash Collateral and obtaining the DIP Facility is actual and necessary to preserving the Debtors and their estates. The Post-Petition Agent and the Post-Petition Lenders are willing to provide the DIP Facility to or for the benefit of the Debtors only in accordance with the terms of the DIP Agreement and this Financing Order.

26. The Debtors have requested that the Post-Petition Agent and the Post-Petition Lenders permit use of Cash Collateral and the DIP Facility in order to provide funds to be used for the purposes set forth in the Budget (as defined below), and such other purposes as permitted by this Financing Order and to which the Post-Petition Agent, for itself and on behalf of the Post-Petition Lenders consents in writing.

27. The Debtors have sought to obtain financing from other sources and are unable to obtain credit allowable under Bankruptcy Code § 503(b)(1), or pursuant to Bankruptcy Code §§ 364(a) and (b), on terms more favorable to the Debtors than the terms of the DIP Facility.

28. The terms of the DIP Facility and this Financing Order, including, without limitation, the related fees and priming liens granted in accordance therewith, are fair, just, and reasonable under the circumstances, are ordinary and appropriate for secured financing to debtors-in-possession, reflect the

Debtors' exercise of their prudent business judgment consistent with their fiduciary duties, and are supported by reasonably equivalent value and fair consideration. Any credit extended under the terms of this Financing Order and the DIP Facility shall be deemed to have been extended in good faith by the Post-Petition Agent and the Post-Petition Lenders, as the term "good faith" is used in Bankruptcy Code § 364(e).

Authorization to Obtain Credit

29. The Debtors are hereby authorized to obtain credit only in accordance with the DIP Agreement, the DIP Facility, this Financing Order and the Budget.

30. The Debtors are hereby authorized to obtain post-petition loans and other extensions of credit in an amount not to exceed \$20,000,000 pursuant to the terms of this Financing Order and the terms of the DIP Agreement, solely for the purposes set forth in the Budget or as otherwise provided in the DIP Agreement. Amounts borrowed and repaid under the DIP Facility may be reborrowed. Unless otherwise agreed, no borrowing shall be made more frequently than once per week.

31. The DIP Facility Documents and the terms therein, including, without limitation, the fees, indemnification provisions (including, without limitation, the indemnification provisions of the DIP Agreement), and priming lien provisions, are approved in their entirety. The Debtors are authorized to execute, deliver, and perform under the DIP Facility Documents.

Financing Liens and Superpriority Administrative Claims

32. Effective as of the Petition Date, the Post-Petition Agent, for itself and for and on behalf of the Post-Petition Lenders, is entitled to first priority claims, liens and security interests on any property not subject to a lien, junior liens on property subject to a Prior Lien, and priming liens and security interests in the Collateral (as defined below), and the protections of good faith credit providers to the fullest extent under Bankruptcy Code §§ 364(c)(1), (c)(2), and (c)(3), 364(d)(1), and 364(e), and

thus such claims, liens, and security interests are hereby granted (a) pursuant to Bankruptcy Code § 364(c)(1), superpriority claim with priority over all other administrative claims against the Debtors' estates, including, without limitation, Bankruptcy Code §§ 105, 326, 327, 328, 330, 331, 503(b), 507(b), 1113, and 1114, (b) pursuant to Bankruptcy Code § 364(c)(2), a first priority lien on and security interest in Collateral that is not subject to any lien or security interest, if any; (c) pursuant to Bankruptcy Code § 364(c)(3), a junior lien on and security interest in Collateral that is subject to Prior Liens, if any; and (d) pursuant to Bankruptcy Code § 364(d)(1), a first priority priming lien on and security interest in the Collateral, subject only to the Prior Liens, if any, and all of which claims, liens, and security interests granted in (a) through (d) of this paragraph shall secure the DIP Facility and DIP Obligations (including, without limitation, principal and any other extensions of credit, interest, fees, expenses, and any fees and expenses of the Post-Petition Agent and the Post-Petition Lenders in these Cases, however incurred), senior to all other liens, encumbrances, and security interests, including, without limitation, adequate protection and replacement liens granted pursuant to the terms of this Financing Order, but subject only to Prior Liens and the Carve Out (as defined below). Each of the Debtors shall be jointly and severally liable for the DIP Facility, and the performance of all obligations under the terms of the DIP Agreement, this Financing Order, and the DIP Facility Documents, and shall grant the above-mentioned liens as security for the same.

33. The first priority and priming liens and security interests securing the DIP Facility granted hereby are effective as of the Petition Date and are valid and automatically perfected first priority priming liens and security interests, subject only to Prior Liens (if any) and the Carve Out, in and upon, and hereby are granted in and attach to, any and all assets and properties of the Debtors and the Debtors' bankruptcy estates, wherever located, including property subject to avoided liens, now owned or after acquired, real and personal, tangible and intangible, and all proceeds, substitutions,

products, rents, or profits thereof (collectively, the “DIP Collateral,” and together with the Pre-Petition Collateral and the Cash Collateral, the “Collateral”), which shall include any and all assets of the Debtors of the types described in the Pre-Petition Claim Documents, but not be limited to the Pre-Petition Collateral, it being the intent of the Debtors, the Pre-Petition Agent, the Pre-Petition Lenders, the Post-Petition Agent, and the Post-Petition Lenders that the DIP Collateral shall encumber all assets of the Debtors’ estates, including, without limitation: (1) the following presently-owned and after-acquired personal property: (a) accounts, (b) accessions, (c) chattel paper (both tangible and electronic), (d) commercial tort claims, (e) commodity accounts, (f) commodity contracts, (g) deposit accounts, (h) documents, (i) equipment, (j) financial assets, (k) fixtures, (l) general intangibles, (m) goods, (n) intellectual property, (o) instruments, (p) inventory, (q) investment property, (r) letters of credit, (s) letters of credit rights, (t) payment intangibles, (u) permits, (v) timber, (w) as-extracted collateral, (x) notes, (y) promissory notes, (z) securities (certificated and uncertificated), (aa) securities accounts, (ab) securities entitlements, (ac) software, (ad) supporting obligations, (ae) collateral records, (af) insurance, (ag) causes of action, (ah) proceeds from any causes of action under the Bankruptcy Code including, without limitation, § 544, 547, and 548 (“Avoidance Claims”), and (ai) money (as each such term may be defined in the New York Uniform Commercial Code as of the date hereof (the “UCC”)), (2) all presently owned or after acquired real property and improvements thereon and leases of real property, and (3) all presently owned or after acquired interests in Oil and Gas Properties, as defined in the Credit Agreement, wherever located and irrespective to whether such Oil and Gas Properties are part of the Lenders’ Pre-Petition Collateral.

Cash Collateral Accounts

34. The Debtors shall immediately, and shall continue to, segregate, remit, and deposit all Cash Collateral in each of the Debtors’ accounts, possession, custody or control and which any of the

Debtors may receive in the future, in accordance with the applicable cash management orders entered by this Court and as permitted by the DIP Agreement. The bank accounts of each of the Debtors shall be only with the Agent in the name of the Debtors (individually or collectively, the "Cash Collateral Accounts"), and the Post-Petition Agent, for itself and for and on behalf of the Post-Petition Lenders, shall have full dominion and control over each such account. Absent written consent from the Post-Petition Agent and the Post-Petition Lenders otherwise, the Debtors will close all accounts that are not maintained with the Agent.

35. The Debtors shall be prohibited from withdrawing funds from the Cash Collateral Accounts, except in strict compliance with the terms of this Financing Order and the DIP Facility.

36. Each of the Debtor's Banks (as defined below) is authorized to debit the applicable Debtor's accounts in the ordinary course of business without the need for further order of this Court for: (i) all checks drawn on the Debtor's accounts which are cashed at such Bank's counters or exchanged for cashier's checks by the payees thereof prior to the Petition Date; (ii) all checks or other items deposited in one of Debtor's accounts with such Bank prior to the Petition Date which have been dishonored or returned unpaid for any reason, together with any fees and costs in connection therewith, to the same extent the Debtor was responsible for such items prior to the Petition Date; and (iii) all undisputed prepetition amounts outstanding as of the date hereof, if any, owed to any Bank as service charges for the maintenance of the Cash Management System; and that any of the Debtor's Banks may rely on the representations of such Debtor with respect to whether any check or other payment order drawn or issued by the Debtor prior to the Petition Date should be honored pursuant to this or any other order of this Court, and such Bank shall not have any liability to any party for relying on such representations by the Debtor as provided for herein; and that (i) that those certain existing deposit agreements between the Debtors and their existing depository and disbursement banks (collectively, the

"Banks") shall continue to govern the postpetition cash management relationship between the Debtors and the Banks, and that all of the provisions of such agreements, including, without limitation, the termination and fee provisions, shall remain in full force and effect, (ii) the Debtors and the Banks may, without further Order of this Court, agree to and implement changes to the cash management systems and procedures in the ordinary course of business, including, without limitation, the opening and closing of bank accounts.³

37. To the extent there exists or comes to exist any cash of the Debtors' estates that is not Cash Collateral, wherever located and however held, such cash shall be deemed to have been used first by the Debtors' estates and such cash, to the extent applicable, shall be subject to the liens and security interests granted to the Agent and the Lenders hereunder.

ADEQUATE PROTECTION OF THE LENDERS

Budgeted Cash Collateral Usage

38. As adequate protection of the Lenders' interest in the Collateral and for the Debtors' use of Cash Collateral and only so long as an Event of Default (as defined below) shall not have occurred, and continue to exist after the Default Notice Period (as defined below), the Debtors are authorized to and shall use the Cash Collateral (including, without limitation, the advances under the DIP Facility) strictly in accordance with the 13-week budget attached hereto as Exhibit "2" (the "Budget"), subject to a permitted negative variance (i) of 10% per week above the projected Total Operating Disbursements set forth in the Budget, (ii) of 10% per week, on a by-line-item basis, above the projected amounts set forth in the Budget for the line-items in the Budget labeled "Accounts Payable – Critical", "Salaries & Benefits", "Rent & Utilities", "Professional Fees" (provided that, for the avoidance of doubt,

³ This paragraph is intended to be consistent with the cash management order in these cases, to the extent of any inconsistency, this paragraph shall control.

“Professional Fees” will not include any fees attributable to the Agent’s or Lenders’ professionals⁴), and “Other”, and (iii) of 10% per four-week period, then ending, on the actual production volume of crude oil set forth in the Budget. Any unused amounts in the Budget during any one-week period may be carried forward to future weekly periods and applied to any amount by which that same line-item, and only that same line-item, exceeds its projected use as set forth in the Budget, such that the cumulative-to-date budgeted amount for each line item is available without causing such future weekly periods to exceed the allowable variance. Unless otherwise agreed, no advances under the DIP Facility shall be made more frequently than once per week. Prior to any transfer or use of Cash Collateral by the Debtors, the Debtors’ Chief Restructuring Officer shall review and verify the proposed transfer or use of Cash Collateral for strict compliance with the Budget and the DIP Agreement.

39. The Lenders’ consent to use of Cash Collateral and agreement to extend credit extends only to (i) amounts due under the DIP Facility and (ii) amounts actually incurred in accordance with the Budget. Upon the occurrence of an Event of Default that continues to exist after the Default Notice Period (as defined below), the Lenders’ consent to use of Cash Collateral or agreement to extend credit shall automatically and immediately terminate and any consent for use of Cash Collateral or agreement to extend credit to satisfy projected, budgeted expenditures shall be immediately terminated and deemed withdrawn unless such Event of Default is waived by the Agent, for itself and for and on behalf of the Lenders, in its sole and absolute discretion.

40. Absent the prior written consent of the Agent, except as may specifically be provided in the Budget including, without limitation, for ordinary course payroll, benefits, and expense reimbursements, the Debtors agree that no transfer of Cash Collateral shall be made to any of the

⁴ Any variance analysis shall take into account that the Agent’s or Lenders’ professional fees are not included in the “Professional Fees” line-item.

Debtors' insiders, as that term is defined in Bankruptcy Code § 101. Any transfers to insiders shall be so identified in the Budget.

41. The Budget may be modified in writing only with the prior written consent of the Agent and Majority Post-Petition Lenders (as defined in the DIP Agreement). The Budget shall be revised on a monthly basis subject to the consent of the Agent and the Majority Post-Petition Lenders, such consent to be deemed given if no objection is received within five business days.

Replacement and Adequate Protection Liens; Superpriority Administrative Claims

42. Taking into account all factors in these Cases, as adequate protection of the Pre-Petition Agent's and Pre-Petition Lenders' interests in the Collateral, and for the Debtors' use of Cash Collateral, and subject only to Prior Liens, if any, the Carve Out, and the Post-Petition Agent and the Post-Petition Lenders' liens and security interests securing the DIP Facility, the Pre-Petition Agent and Pre-Petition Lenders are hereby granted, effective as of the Petition Date, valid and automatically perfected first priority replacement liens and security interests in and upon the Collateral to secure any diminution in value of the Post-Petition Agent' and the Post-Petition Lenders', and the Pre-Petition Agent's and the Pre-Petition Lenders' interests in the Collateral from and after the Petition Date.

43. To the extent any adequate protection is insufficient to adequately protect the Pre-Petition Agent and the Pre-Petition Lenders' interest in the Collateral, the Pre-Petition Agent and the Pre-Petition Lenders are hereby granted superpriority administrative claims and all of the other benefits and protections allowable under Bankruptcy Code § 507(b), junior only in right to any superpriority administrative claims granted to the Post-Petition Agent and the Post-Petition Lenders on account of the DIP Facility and the Carve Out.

Automatic Perfection

44. This Financing Order shall be sufficient and conclusive evidence of the priority, perfection, attachment, and validity of all of the Agent's and the Lenders' security interests in and liens on the DIP Collateral granted and created hereunder, and such security interests and liens shall constitute valid, automatically perfected and unavoidable security interests and liens, with the priorities granted hereunder, effective as of the Petition Date, without the necessity of creating, filing, recording, or serving any financing statements, mortgages, or other documents that might otherwise be required under federal or state law in any jurisdiction or the taking of any other action to validate or perfect the security interests and liens granted to the Agent, for itself and for and on behalf of the Lenders, by this Financing Order.

45. To the extent that any applicable non-bankruptcy law otherwise would restrict the granting, scope, enforceability, attachment, or perfection of the Agent's and the Lenders' liens and security interests granted and created by this Financing Order or otherwise would impose filing or registration requirements with respect to such liens and security interests, such law is hereby preempted to the maximum extent permitted by the Bankruptcy Code, applicable federal law, and the judicial power of the United States Bankruptcy Court.

46. By virtue of the terms of this Financing Order, to the extent that the Agent has filed Uniform Commercial Code financing statements, mortgages, deeds of trust, or other security or perfection documents under the names of any of the Debtors, such filings shall be deemed to properly perfect its liens and security interests granted under this Financing Order without further action by the Agent or by any of the Lenders.

47. If the Agent shall, in its sole and absolute discretion, elect for any reason to file any Uniform Commercial Code financing statements, mortgages, deeds of trust, or other recordable

documents to further evidence perfection of its interests in property of the estates, Agent, or, upon the request of Agent, the Debtors, are authorized and directed to execute, or cause to be executed, all such mortgages, deeds of trust, or other documents, and the filing, recording, or service (as the case may be) of such financing statements, mortgages, deeds of trust, or similar documents shall be deemed to have been made at the time of and on the Petition Date, and the signature(s) of any person(s) designated by the Debtors, whether by letter to the Agent or by appearing on any one or more of the agreements or other documents respecting the security interests and liens of the Agent, for itself and for and on behalf of the Lenders, granted hereunder shall bind the Debtors and their estates. The Agent may, in its sole and absolute discretion, execute such documents on behalf of the Debtors as the Debtors' attorney-in-fact, or file a certified copy of this Financing Order in any filing or recording office in any county or other jurisdiction in which any of the Debtors have real or personal property, and, in such event, the subject filing or recording officer is authorized and directed to file or record such documents or certified copy of this Financing Order.

Authorization to Act

48. The Debtors are hereby authorized and directed to perform all acts, take any action, and execute and comply with the terms of such other documents, instruments and agreements, as the Agent may require as evidence of and for the protection of the Collateral, or that may be otherwise deemed necessary by the Agent to effectuate the terms and conditions of this Financing Order and the DIP Facility.

49. Until such time as the Lenders' Pre-Petition Claim and the DIP Obligations shall have been indefeasibly paid and satisfied in full in accordance with the terms of the Pre-Petition Claim Documents and the DIP Facility Documents, and without further order of the Court: (a) the Debtors shall use the DIP Facility proceeds and all Cash Collateral strictly in accordance with the terms of the

Budget requirements and the other terms of this Financing Order; (b) the Debtors shall not, without prior order from the Court (after notice to Agent), engage in any transaction that is not in the ordinary course of the Debtors' business, and (c) the Debtors shall timely comply with all of the covenants set forth in the DIP Facility Documents.

Prior Liens

50. The security interests and liens of the Lenders granted pursuant to the terms of this Financing Order are subject to (a) any other valid, perfected and unavoidable liens and security interests of any other secured creditor in any assets of any of the Debtors existing on the Petition Date, or (b) valid and unavoidable liens that are perfected subsequent to the Petition Date as permitted by section 546(b) of the Bankruptcy Code, in each case that are senior in priority under applicable law to the Pre-Petition Agent's and the Pre-Petition Lenders' liens and security interests granted under the Pre-Petition Claim Documents in the Pre-Petition Collateral, and the liens and security interests securing the Lenders' Retained Pre-Petition Claim (collectively, the "Prior Liens"). The Debtors and the Agent, on behalf of itself and the Lenders, shall have the right to object to the validity, priority, or extent of any such Prior Liens, or the allowance of any claims secured thereby, or to institute any actions or adversary proceedings with respect thereto. The post-petition security interests and liens granted to the Agent and the Lenders pursuant to this Financing Order shall not at any time be (a) made subject or subordinated to, or made pari passu with, any other lien or security interest existing on the Petition Date, or any claim, lien, or security interest created under Bankruptcy Code §§ 363 or 364(d) or otherwise (except with respect to any Prior Liens), or (b) subject to any lien or security interest that is avoided and preserved for the benefit of the Debtors' estates under Bankruptcy Code § 551.

No Additional Liens

51. Until such time as the Lenders' Pre-Petition Claim and the DIP Obligations shall have been indefeasibly paid and satisfied in full in accordance with the terms of the Pre-Petition Claim Documents and the DIP Facility Documents, the Debtors shall not be authorized to obtain credit secured by a lien or security interest in the Pre-Petition Collateral, the Cash Collateral, or the DIP Collateral, other than the DIP Facility, without the prior written consent of the Agent, for itself and for and on behalf of the Lenders, or order of the Court upon reasonable notice.

No Liability

52. From and after the Petition Date, no act committed or action taken by the Agent, for itself and for and on behalf of the Lenders under this Financing Order, or the collection of the Lenders' Pre-Petition Claim, or the DIP Facility, shall be used, construed, or deemed to hold the Agent and/or the Lenders to be in "control" of or participating in the governance, management, or operations of any of the Debtors for any purpose, without limitation, or to be acting as a "responsible person(s)" or "owner(s) or operator(s)" or a person(s) in "control" with respect to the governance, management, or operation of any of the Debtors or their respective businesses (as such terms, or any similar terms, are used in the Internal Revenue Code, WARN Act, Comprehensive Environmental Response, Compensation and Liability Act, or the Bankruptcy Code, each as may be amended from time to time, or any other federal or state statute, at law, in equity, or otherwise) by virtue of the interests, rights, and remedies granted to or conferred upon the Agent and the Lenders under the Pre-Petition Claim Documents, the DIP Facility Documents, or this Financing Order including, without limitation, such rights and remedies as may be exercisable by the Agent and the Lenders in connection with this Financing Order.

Automatic Stay

53. The Automatic Stay is hereby vacated and modified to the extent necessary to permit (a) the Debtors, the Agent, and the Lenders to commit all acts and take all actions necessary to implement the DIP Facility and this Financing Order, (b) all acts, actions, and transfers contemplated herein, including, without limitation, transfers of Cash Collateral and other funds to Agent, for itself and for and on behalf of the Lenders, by the Debtors as provided herein, and (c) consistent with the terms of this Financing Order, to permit the Agent and/or the Lenders, at their option, to pursue their rights and remedies as to the Collateral in accordance with the Pre-Petition Claim Documents, the DIP Facility Documents, and applicable law.

Collateral Insurance, Maintenance, Taxes, and Deposits

54. The Debtors shall maintain, with financially sound and reputable insurance companies, insurance of the kind covering the Collateral, and in accordance with the Pre-Petition Claim Documents and the DIP Facility Documents (covering such risks in amounts as shall be satisfactory to the Agent and shall name the Agent, for itself and for and on behalf of the Lenders, as loss payee thereunder), including, without limitation, insurance covering the Collateral and such other collateral of the Lenders, if any, as the Agent may from time to time request; and, at the Agent's request, the Debtors shall deliver to the Agent evidence of the maintenance of such insurance.

55. Upon receipt of notification (written or oral) that an insurance policy covering any Collateral will not be renewed by the respective carrier, the Debtors will promptly notify the Agent in writing of such occurrence and thereafter provide the Agent with the status of all negotiations, if any, regarding such policy on a weekly basis.

56. To the extent permitted by the Budget, the Debtors shall make any and all payments necessary to keep the Collateral and their other property in good repair and condition and not permit or

commit any waste thereof. The Debtors shall exercise their business judgment and, in so doing shall preserve, maintain, and continue all material leases, patents, licenses, privileges, franchises, certificates and the like necessary for the operation of their businesses.

57. To the extent the Debtors have made or make any deposits for the benefit of utility companies or any other entity (and the Debtors shall not make any such deposits which are not included in the Budget without first obtaining prior written consent of the Agent), such deposits shall be, and hereby are, upon any return of same to the Debtors, subject to the first priority perfected liens and security interests of the Agent in respect of the DIP Facility and the Debtors' use of Cash Collateral granted by this Financing Order.

Reporting Requirements

58. The Debtors are authorized and directed to provide to the Agent all of the documentation and reports required under the DIP Agreement and the other DIP Facility Documents, including, without limitation, the reports required by the DIP Agreement, schedules, assignments, financial statements, insurance policies, and endorsements, unless the Agent waives or modifies such requirements in writing (the "Reporting Information").

59. The Reporting Information shall also include: (a) weekly reports of receipts and budgeted cash usage; (b) copies of all reports filed with the Office of the United States Trustee within 2 days after such filing; and (c) such additional financial or other information concerning the acts, conduct, property, assets, liabilities, operations, financial condition, and transactions of any of the Debtors, or concerning any matter that may affect the administration of any of the Debtors' estates, as the Agent may from time to time reasonably request. All Reporting Information shall be in accordance with accounting principles and bookkeeping practices consistently applied with past accounting principles and bookkeeping practices and reporting of the Debtors to the Agent.

60. The Debtors shall promptly deliver to the Agent any and all material documentation that in any way relates to a solicitation, offer, or proposed sale or disposition of a material amount of property of any of the Debtors' estates, including, without limitation, letters of inquiry, solicitations, letters of intent, or asset purchase agreements.

61. The Agent, and its representatives, agents, consultants and other professionals, shall be permitted, in coordination with Debtors' counsel, to contact and communicate with the Debtors and their financial and sale advisors regarding potential transactions for the sale or other disposition of assets of any of the Debtors' estates. The Debtors shall be responsive and employ their reasonable best efforts to cooperate in the coordination of all such contacts and communications, including, without limitation, by conducting update telephone conferences with the Debtors, their financial and sale advisors, and the Agent and the Lenders upon request regarding any potential transactions for the sale or other disposition of the assets of any of the Debtors' estates. In the event the Debtors are not reasonably responsive and/or do not employ their reasonable best efforts to cooperate in the coordination of all such contacts and communications, then, upon notice of same by the Agent to the Debtors, the Debtors consent to an expedited hearing upon the Agent's motion in which the Agent, on behalf of its representatives, agents, consultants and other professionals, may seek to be permitted to conduct such contacts and communications without the Debtors' consent.

62. The Agent, and its representatives, agents and advisors, shall have full access, upon reasonable notice during normal business hours, to the Debtors' business records, business premises, and to the Collateral to enable the Agent or its representatives, agents and advisors to (a) review, appraise, and evaluate the physical condition of the Collateral, (b) inspect and review the financial records and all other records of the Debtors concerning the operation of the Debtors' businesses, and (c) evaluate the Debtors' overall financial condition and all other records relating to the operations of

the Debtors. The Debtors shall fully cooperate with the Agent regarding such reviews, evaluations, and inspections, and shall make their employees and professionals available to the Agent and its representatives, agents and advisors, to conduct such reviews, evaluations, and inspections.

Interest, Fees, Costs and Expenses of the Agent and the Lenders

63. During the Cases, as additional adequate protection, all interest, fees, costs, and expenses, including, without limitation, attorneys' fees and expenses and financial advisors' fees and expenses, due at any time to the Agent and the Lenders under the Pre-Petition Claim Documents and/or the DIP Facility Documents (including, without limitation, the expenses described in Section 7 of the DIP Amendment), as applicable, that are incurred as a result of or in way related to the Debtors' Cases, or incurred prior to and unpaid on the Petition Date (collectively, the "Lenders' Costs"), may be charged by the Agent and the Lenders and shall be paid by the Debtors out of the Cash Collateral or out of any DIP Facility advances, on no less frequently than a monthly basis, up to the aggregate amount for such Lenders' Costs set forth in the Budget or, if greater than such amount in the Budget, only if approved in writing by the Agent. The Debtors are hereby authorized to pay such Lenders' Costs without the Agent or the Lenders, or the Agent's or the Lenders' counsel, having to file any further application with this Court for approval or payment. Any such Lenders' Costs that constitute fees and expenses incurred by any professional retained by the Agent shall be paid within 10 calendar days of delivery of a summary invoice to the Debtors, which may be redacted for privilege as determined by the Agent, with a copy to the U.S. Trustee and any official committee appointed in these Cases; provided, however, that (i) any redacted fee statements shall retain all privileges irrespective of any disclosure of any privileged matter, and any such disclosure shall be deemed inadvertent for all purposes and deemed stricken from any record in these Cases or otherwise, (ii) if the Debtors, U.S. Trustee, or any official committee objects to the reasonableness of such fees and expenses and cannot resolve such objection within 5 business days

of service of such summary invoice(s), the Debtors, U.S. Trustee, or any official committee, as the case may be, shall file and serve upon such professional an objection with the Court (a "Fee Objection") limited to the issue of the reasonableness of the disputed fees and expenses within 10 calendar days of the delivery of such summary invoice; (iii) if the Debtors, U.S. Trustee, or any official committee fails to object to the reasonableness of such fees and expenses within 10 calendar days, any objection of the Debtors, U.S. Trustee, or any official committee, as the case may be, shall be waived, (iv) the Debtors shall timely pay in accordance with this Financing Order the undisputed fees and expenses reflected on any invoice to which a Fee Objection has been timely filed, and (v) notwithstanding the foregoing (i), (ii), (iii), and (iv) of this sentence, the Lenders' Costs incurred prior to and unpaid as of the Petition Date shall be paid indefeasibly upon entry of this Financing Order. Payments of Lenders' Costs may be effectuated directly by the Agent and all such payments shall constitute advances under the DIP Facility. All Lenders' Costs owed to the Agent and/or the Lenders, regardless of whether or not such Lenders' Costs are set forth in the Budget and including, without limitation, all fees referred to in the DIP Facility Documents (including, without limitation, all attorneys' and other professionals' fees and expenses), shall constitute obligations under the DIP Facility and shall be secured by the Collateral and afforded all priorities and protections afforded to the DIP Facility under this Financing Order and the DIP Facility Documents.

Professional Fees of the Estates

64. As used in this Financing Order, the "Carve Out" means the sum of (i) all fees required to be paid to the Clerk of the Court and to the Office of the United States Trustee under section 1930(a) of title 28 of the United States Code plus interest at the statutory rate (without regard to the notice set forth in (iii) below); (ii) all reasonable fees and expenses up to \$50,000 incurred by a trustee under section 726(b) of the Bankruptcy Code (without regard to the notice set forth in (iii) below); (iii) to the extent

allowed at any time, whether by interim order, procedural order, or otherwise, but subject to final allowance by the Bankruptcy Court, all unpaid fees and expenses (the "Allowed Professional Fees") incurred by persons or firms retained by the Debtors pursuant to section 327, 328, or 363 of the Bankruptcy Code (the "Debtor Professionals"), and any Creditors' Committee pursuant to section 328 or 1103 of the Bankruptcy Code (the "Committee Professionals" and, together with the Debtor Professionals, the "Professional Persons") at any time before or on the first business day following delivery by the Post-Petition Agent of a Carve Out Trigger Notice (as defined below); and (iv) Allowed Professional Fees of Professional Persons in an aggregate amount not to exceed \$250,000 incurred after the first business day following delivery by the Post-Petition Agent of the Carve Out Trigger Notice, to the extent allowed at any time, whether by interim order, procedural order, or otherwise (the amount set forth in this clause (iv) being the "Post-Carve Out Trigger Notice Cap"). For purposes of the foregoing, "Carve Out Trigger Notice" shall mean, a written notice stating that the Post-Carve Out Trigger Notice Cap has been invoked, delivered by hard copy, facsimile, or email (or other electronic means) by the Post-Petition Agent to the Debtors, their lead restructuring counsel, the U.S. Trustee, and counsel to any Creditors' Committee, which notice may be delivered following the occurrence and continued existence of an Event of Default under the terms of the DIP Facility or this Financing Order.

65. The Carve Out amounts for the fees and expenses of the Professional Persons shall be invoiced to the Debtors monthly and promptly deposited into a segregated account of the applicable Debtor with the Post-Petition Agent and held in trust to pay Allowed Professional Fees of Professional Persons benefitting from the Carve Out, with such funds being subject to the respective interests of the Post-Petition Lenders and Pre-Petition Lenders such that any residual amount (the "Residual Amount") will be paid as provided in the Carve Out Reserve Account Priority (as defined below), but only after payment of all Allowed Professional Fees of Professional Persons benefitting from the Carve Out (the

“Carve Out Reserve Account”). Allowed Professional Fees of Professional Persons benefitting from the Carve Out shall be paid from the Carve Out Reserve Account. The “Carve Out Reserve Account Priority” is the following payment priority from the Carve Out Reserve Account to the extent of the Residual Amount: first, to pay the Post-Petition Agent for the benefit of the Post-Petition Lenders and, until and unless the DIP Facility has been indefeasibly paid in full in cash and all DIP Facility commitments have been terminated, second, to the Pre-Petition Agent for the benefit of the Pre-Petition Lenders, and third, any remaining amount shall be retained by the bankruptcy estate(s).

66. On the day on which a Carve Out Trigger Notice is given by the Post-Petition Agent to the Debtors with a copy to counsel to the Creditors’ Committee (the “Termination Declaration Date”), notwithstanding anything in the DIP Agreement to the contrary, including with respect to the existence of a Default (as defined in the DIP Agreement) or Event of Default, the failure of the Debtors to satisfy any or all of the conditions precedent for borrowings under the DIP Facility, any termination of the commitments under the DIP Facility following an Event of Default, or the occurrence of the Maturity Date (as defined in the DIP Agreement), the Carve Out Trigger Notice shall be deemed a draw request and notice of borrowing by the Debtors, as applicable, per the terms of the DIP Facility, in an amount equal to the accrued and unpaid Professional Fees that have not yet been deposited in the Carve Out Reserve Account plus the Post-Carve Out Trigger Notice Cap.

67. Notwithstanding anything to the contrary in the terms of the DIP Facility, following delivery of a Carve Out Trigger Notice, the Post-Petition Agent and the Pre-Petition Agent shall not sweep or foreclose on cash (including, without limitation, cash received as a result of the sale or other disposition of any assets) of the Debtors until the Carve Out Reserve Account has been fully funded. Further, notwithstanding anything to the contrary in this Financing Order, (i) while amounts deposited into the Carve Out Reserve Account shall constitute Loans (as defined in the DIP Agreement),

disbursements by the Debtors from the Carve Out Reserve Account shall not constitute Loans or increase or reduce the DIP Obligations, (ii) the failure of the Carve Out Reserve Account to satisfy in full the Allowed Professional Fees shall not affect the priority of the Carve Out, and (iii) in no way shall the Budget, Carve Out, Post-Carve Out Trigger Notice Cap, Carve Out Reserves, or any of the foregoing be construed as a cap or limitation on the amount of the Allowed Professional Fees due and payable by the Debtors. For the avoidance of doubt and notwithstanding anything to the contrary herein or in the DIP Facility, or in any facility under the Pre-Petition Claim Documents, the Carve Out shall be senior to all liens and claims securing the DIP Facility, the Adequate Protection Liens, and any and all other forms of adequate protection, liens, or claims securing the DIP Obligations or the prepetition secured obligations.

68. The Post-Petition Agent, the Post-Petition Lenders, the Pre-Petition Agent, and the Pre-Petition Lenders shall not be responsible for the payment or reimbursement of any fees or disbursements of any Professional Person incurred in connection with the Cases or any successor cases under any chapter of the Bankruptcy Code. Nothing in this Financing Order or otherwise shall be construed to obligate the Post-Petition Agent, the Post-Petition Lenders, the Pre-Petition Agent, and/or the Pre-Petition Lenders in any way, to pay compensation to, or to reimburse expenses of, any Professional Person, or to guarantee that the Debtors have sufficient funds to pay such compensation or reimbursement, and any such obligation to make payments to any Professional Person shall be an obligation of the applicable bankruptcy estate.

69. Any payment or reimbursement made prior to the occurrence of the Termination Declaration Date in respect of any Allowed Professional Fees shall not reduce the Post-Carve Out Trigger Notice Cap.

70. Any payment or reimbursement made on or after the occurrence of the Termination Declaration Date in respect of any Allowed Professional Fees shall permanently reduce the Carve Out on a dollar-for-dollar basis. Any funding of the Carve Out shall be added to, and made a part of, the DIP Obligations secured by the DIP Collateral and shall be otherwise entitled to the protections granted under this Financing Order, the DIP Documents, the Bankruptcy Code, and applicable law.

71. Other than the Carve Out set forth above, none of the Post-Petition Agent, the Post-Petition Lenders, the Pre-Petition Agent and the Pre-Petition Lenders consents to any carve out from their Collateral for payment of any fees and expenses of the Professional Persons. The amounts payable on account of Professional Fees are subject to final approval and allowance by the Bankruptcy Court, and to the extent the amounts funded in the Carve Out Reserve Account exceed the amount so allowed, any excess shall be distributed per the Carve Out Reserve Account Priority.

72. Until such time as the Lenders' Pre-Petition Claim and the DIP Obligations shall have been indefeasibly paid and satisfied in full in accordance with the Pre-Petition Claim Documents and the DIP Facility Documents, any remaining unapplied retainer funds at the conclusion of a Professional Person's engagement shall be immediately returned to Agent, for itself and for and on behalf of the Lenders, as the Lenders' Cash Collateral. Any and all payments of fees and expenses to any Professional Persons or use of Cash Collateral shall constitute diminution in the value of the Collateral for all purposes including, without limitation, all adequate protection and superpriority claims granted under the Bankruptcy Code and this Financing Order. Agent, for itself and for and on behalf of the Lenders, expressly retains the right to object to any fees or expenses of any Professional Persons as to reasonableness or on any other grounds.

73. Notwithstanding the foregoing, in no event shall Cash Collateral, the Carve Out, the Carve Out Reserve Account, or the proceeds of any loans, advances, or other funds made available by

any of the Lenders to or for the benefit of the Debtors be used for the payment or reimbursement of any fees, expenses, costs or disbursements of any Professional Persons or other persons incurred with the purpose of: (a) objecting to or contesting in any manner, or in raising any defenses to, the validity, extent, perfection, priority, or enforceability of the Lenders' Pre-Petition Claim, the Pre-Petition Claim Documents, the DIP Facility, the DIP Facility Documents, this Financing Order, or any liens or security interest granted thereby or with respect thereto, or any other rights or interests of the Agent or the Lenders under any Pre-Petition Claim Document or DIP Facility Document, (b) investigating, asserting, prosecuting or the joinder in any claims or causes of action against the Agent or the Lenders, or any of their officers, directors, employees, affiliates, agents, attorneys, or equity holders (whether arising under state law, the Bankruptcy Code or any other federal or foreign law); (c) preventing, enjoining, hindering or otherwise delaying the Agent's or the Lenders' enforcement of the Pre-Petition Claim Documents, the DIP Facility Documents or this Financing Order or any realization upon any Collateral (unless such enforcement or realization is in direct violation of an explicit provision in any DIP Facility Document or this Financing Order); (d) incurring indebtedness except as permitted by the DIP Facility Documents or this Financing Order; (e) modifying the Post-Petition Agent's or the Post-Petition Lenders' rights under any DIP Facility Documents or this Financing Order without the Post-Petition Agent's or the Post-Petition Lenders' consent; (f) asserting or declaring any liens or security interests granted under any of the Pre-Petition Claim Documents, the DIP Facility Documents, or this Financing Order to have a priority other than the priority set forth herein or therein; (g) asserting, prosecuting or the joinder in, any action or other proceeding seeking to grant a lien or security interest senior to, or on parity with, the liens and security interests of the Agent and the Lenders in the Collateral or any portion thereof without the Agent's and the Lenders' written consent; (h) asserting or declaring any of the Pre-Petition Claim Documents, DIP Facility Documents, or this Financing Order to

be invalid, not binding or unenforceable in any respect; or (i) using Cash Collateral or selling any Collateral except as specifically permitted in the DIP Facility Documents or this Financing Order. Notwithstanding the foregoing, Cash Collateral or DIP Facility advances deposited into the Carve Out Reserve Account may be used to pay the fees earned and expenses incurred of counsel to any official committee appointed in these Cases in an amount not to exceed \$25,000 for reviewing the Lenders' Pre-Petition Claim, the Pre-Petition Claim Documents, and any liens or security interest granted thereby.

No Surcharge

74. Subject to the entry of a final order, no costs or expenses of administration which have or may at any time be incurred in these Cases (or in any successor chapter 7 case) shall be charged against the Agent or the Lenders, their claims or the Collateral pursuant to Bankruptcy Code § 506(c) without the prior written consent of the Agent and the Lenders, and no such consent shall be implied from any other action, inaction, or acquiescence by Lender. Subject to entry of a final order, the Agent and the Lenders shall not be subject in any way whatsoever to the equitable doctrine of "marshaling" or any similar doctrine with respect to the Collateral.

EVENTS OF DEFAULT/REMEDIES

Events of Default

75. The occurrence of any of the following shall constitute an Event of Default under this Financing Order and the DIP Facility Documents: (a) any default, event of default, violation, or breach by any of the Debtors of any of the terms of this Financing Order or any default, event of default, or Event of Default (as such term is defined in the DIP Facility Documents) under the DIP Facility Documents; (b) the occurrence of the Expiration Date (as defined below), maturity, termination, expiration, or non-renewal of this Financing Order or the DIP Facility as provided for herein or in any

of the DIP Facility Documents; (c) the Debtors shall fail to pay any principal of the DIP Facility when the same becomes due and payable; (d) the Debtors shall fail to pay any interest on the DIP Facility or any fee or other amount due with respect to the DIP Facility after such interest, fee, or other amount becomes due and payable; (e) the Debtors shall fail to obtain, on or before 30 days after the Petition Date, an order by the Court approving the Financing Motion on a final basis in form and substance satisfactory to the Agent, for itself and for and on behalf of the Lenders, in its sole and absolute discretion; (f) any representation or warranty made by the Debtors in any DIP Facility Document or in any statement or certificate given after the effective date of the DIP Amendment by any of the Debtors in writing pursuant to any DIP Facility Document or in connection with any DIP Facility Document shall be false in any material respect on the date as of which made; (g) any of the Debtors' Cases shall be dismissed or converted to a case under chapter 7 of the Bankruptcy Code; (h) the appointment of a trustee or examiner with expanded powers (beyond those set forth in sections 1106(a)(3) and (4) of the Bankruptcy Code) under 1106(b) of the Bankruptcy Code in any of the Debtors' Cases; (i) any security interest, lien, or encumbrance, excluding any Prior Liens, shall be granted in any of the Collateral which is *pari passu* with or senior to the liens, security interests, or claims of the Agent or the Lenders, including, without limitation, any surcharge of the Collateral pursuant to Bankruptcy Code §506(c); (j) the entry of an order granting relief from the Automatic Stay to the holder or holders of any other security interest or lien (other than the Agent or the Lenders) in any Collateral to permit the pursuit of any judicial or non-judicial transfer or other remedy against any of the Collateral, in each case involving assets with a value in excess of \$250,000; (k) any provision of the DIP Facility Documents shall cease to be valid and binding on the Debtors, or the Debtors shall so assert in any pleading filed with any court; (l) the Debtors shall attempt to vacate or modify this Financing Order over the objection of the Agent, for itself and for and on behalf of the Lenders; (m) the entry of an order pursuant to

Bankruptcy Code § 363 approving the sale of a material portion of any of the Debtors' assets; (n) the failure to meet any of the Sale Milestones (as defined below); (o) the entry of any order modifying, reversing, revoking, staying, rescinding, vacating, or amending this Financing Order; (p) the filing by the Debtors or confirmation of a plan of reorganization that (1) does not provide for indefeasible payment in full in cash of all obligations owing under the DIP Facility or (2) is not acceptable to the Agent in the treatment of the Lenders' Pre-Petition Claim or the DIP Facility; (q) any challenge to the extent, validity, priority, or unavailability of the Agent's or the Lenders' liens securing the Lenders' Pre-Petition Claim and/or the DIP Facility is commenced by the Debtors or an order is entered sustaining any such challenge commenced by any party other than the Debtors; or (r) the occurrence of any default under any DIP Facility Document (any of the foregoing events of default being referred to in this Financing Order, individually, as an "Event of Default", or severally, as "Events of Default").

Remedies

76. Upon the occurrence of any Event of Default, and its continued existence following the giving of three (3) business days' prior written notice (the "Default Notice Period") to the Debtors, any official committee appointed in these Cases, and the U.S. Trustee, provided that no such notice or any notice of any kind is required if the Termination Date (defined below) occurs, at all times thereafter, and without further act or action by the Agent, or any further notice, hearing, or order of this Court: (a) any and all obligations of the Post-Petition Agent and the Post-Petition Lenders in connection with the DIP Facility or under this Financing Order and the DIP Facility Documents shall immediately terminate, (b) the Post-Petition Agent, for itself and for and on behalf of the Post-Petition Lenders may declare all or any part of the DIP Facility to be immediately accelerated and due and payable for all purposes, rights, and remedies, and (c) the Debtors' authority to use Cash Collateral shall immediately terminate; provided that during such three (3) business day Default Notice Period, the Debtors and any

official committee appointed in these Cases shall be entitled to an emergency hearing before this Court, upon adequate notice to the Agent, for itself and for and on behalf of the Lenders, to contest whether an Event of Default has occurred; and provided further that the Post-Petition Lenders shall not be obligated to make any loans or advances under the DIP Facility during any Default Notice Period.

77. Furthermore, upon the occurrence of any Event of Default that continues to exist after the Default Notice Period, then without further act or action by the Agent, or any further notice, hearing or order of this Court, the Automatic Stay shall be immediately modified and the Agent shall be and are hereby authorized, in its sole and absolute discretion, to take any and all actions and remedies that the Agent may deem appropriate to proceed against, take possession of, protect, and realize upon the Collateral and any other property of any of the estates of the Debtors, including, without limitation, (i) any right or remedy set forth in the DIP Facility Documents, (ii) any right or remedy that the Agent may deem appropriate to proceed against, take possession of, foreclose upon, sell (in whole or in part), protect, and realize upon the Collateral and any other property of any of the Debtors' estates upon which the Agent and the Lenders have been or may hereafter be granted liens and security interests to obtain repayment of the DIP Facility and the Lenders' Pre-Petition Claim, (iii) the commencement of actions for specific performance and for the foreclosure upon any Collateral, (iv) the sale of the Collateral, or any portion thereof, either as a whole or in part, at private or public auction, and the Agent, for itself and for and on behalf of the Lenders shall have the right to purchase the Collateral at same by credit bidding all or a part of their debt or otherwise, (v) taking possession of the Collateral, and the exercise, without interference, and, if necessary, as the attorney-in-fact for the Debtors, of any rights of the Debtors in the management, possession, operation, protection or preservation of the Collateral, (vi) the receipt of proceeds from the sale of any Collateral, (vii) the direction of the payment for any purchase of the Collateral directly to the Agent, for itself and for and on behalf of the Lenders,

as applicable, and (viii) the right of setoff and recoupment as to any funds of the Debtors' estates held by the Agent, for itself and for and on behalf of the Lenders; provided that the Agent and the Lenders shall not be obligated to take title to any of the Collateral in the pursuit of any of the Agent's or the Lenders' rights and remedies and the Debtors shall cooperate with the Agent and the Lenders in conjunction with the exercise of any right and the pursuit of any remedy by the Agent or the Lenders without limitation.

78. Upon or after the occurrence of any Event of Default, the Agent and the Lenders may, in their sole and absolute discretion, advance funds to the Debtors, and all such advances (i) shall not constitute a waiver, limitation, or modification of the Agent's and the Lenders' rights and remedies pursuant to the Pre-Petition Claim Documents, the DIP Facility Documents, this Financing Order, and applicable law and (ii) shall be and hereby are granted all of the protections granted to the Agent and the Lenders under this Financing Order in connection with the DIP Facility.

Sale Process

79. As a condition to the DIP Facility and as further adequate protection of the Agent and the Lenders for the use of the Collateral, the Debtors shall conduct a comprehensive marketing and sale process of their assets and businesses in accordance with each of the following requirements by the applicable date set forth below ("Sale Milestones"):

- a. Sales Agent. On or prior to 30 days after the Petition Date, the Debtors shall obtain entry of an employment order that provides for: (i) the engagement of the services of a sales agent, acceptable to the Agent in its reasonable discretion, which, for the avoidance of doubt, shall include Intrepid Partners, LLC (such sales agent, the "Sales Agent"), (ii) the vesting of the Sales Agent with the duty to sell all or substantially all of the assets of the Debtors free and clear of all

liens and other interests in accordance with Bankruptcy Code § 363 (b) and (f) (a "Sale Transaction") and the Sale Milestones, and (iii) approval of an engagement agreement with the Sales Agent on terms and conditions acceptable to the Agent in its reasonable discretion, it being understood that the Debtors' engagement letter with Intrepid Partners, LLC dated March 17, 2016 is acceptable to the Agent.

b. Draft Marketing Materials. On or prior to March 28, 2016, the Debtors (or the Sales Agent on behalf of the Debtors) shall deliver to the Agent (i) a list of potential buyers (each an "Target Party" and collectively the "Target Parties") the Sales Agent plans to contact regarding the Sale Transaction, (ii) a form confidentiality agreement for distribution to the Target Parties (the "NDA"), and (iii) a draft marketing document for distribution to the Target Parties which provides a brief overview of the Debtors' assets and business, the planned process and timeline for the sale process, and the contact information for representatives of the Sales Agent (the "Teaser"); in each case in form and substance satisfactory to the Agent in its reasonable discretion.

c. Distribution of Marketing Materials & Opening of Data Room. On or prior to April 1, 2016, the Debtors (or the Sales Agent on behalf of the Debtors) shall have distributed the NDA and Teaser to the Target Parties and opened and populated a virtual data room (the "VDR") with documents and other information typically provided by sellers to prospective purchasers of similar assets and businesses for purposes of their due diligence. Target Parties that have executed

NDAs, the Debtors, the Agent, and the professionals of each of the foregoing parties shall have access to the VDR.

d. Initial Indications of Interest. On or prior to April 15, 2016, the Sales Agent (on behalf of the Debtors) shall have solicited from the Target Parties non-binding indications of interest for the Sale Transaction, including estimated purchase price, proposed “stalking horse” bid considerations, and any requisite financing plans and contingencies (the “Indications of Interest”), and shall promptly delivered to the Agent any such Indications of Interest submitted by a potential purchaser (an “Interested Party”).

e. Management Presentations. On or prior to April 29, 2016, the Debtors’ management shall conduct presentations regarding the Debtors’ business and assets to the Interested Parties that the Sales Agent judges to be most promising (the “Second Round Parties”) and shall distribute to the Second Round Parties a proposed, draft “stalking horse” asset purchase agreement (the “Proposed APA”) in form and substance satisfactory to the Agent in its reasonable discretion. The presentation materials from the management presentation, as well as the Proposed APA, shall also be made available in the VDR.

f. Final Bids and Mark-Up of Proposed APA. On or prior to May 13, 2016, the Debtor shall have solicited final bid letters and proposed asset purchase agreements (black-lined against the Proposed APA) and any requisite financing commitment materials (collectively, the “Second Round Bid Package”) from the Second Round Bidders to serve as a “stalking horse” purchaser, and the Debtors

shall promptly deliver copies to the Agent of any such Second Round Bid Packages received.

g. Motion to Approve Sale and Bid Procedures. On or prior to May 20, 2016, the Debtors shall have file a motion seeking entry of an order by the Court approving bid procedures with respect to consummation of a Sale Transaction and scheduling an auction date, bid deadline, and final sale hearing, on terms and conditions acceptable to the Agent in its reasonable discretion (the “Bid Procedures Motion”). At the time of the filing of the Bid Procedures Motion or anytime thereafter the Debtor may propose a “stalking horse” bidder acceptable to the Agent in its reasonable discretion.

h. Order Approving Sale and Bid Procedures. On or prior to June 10, 2016, the Debtors shall have obtained the entry of an order by the Court approving the Bid Procedures Motion on terms and conditions acceptable to the Agent in its reasonable discretion.

i. Auction. On or prior to July 11, 2016, the Sales Agent shall conduct an auction of substantially all of the Debtors’ assets.

j. Order Approving Sale. On or prior to July 15, 2016, the Debtor shall have obtained entry of an order by the Court approving the Sale Transaction in accordance with Bankruptcy Code § 363 (b) and (f), on terms and conditions acceptable to the Agent in its reasonable discretion.

k. Sale Consummation. On or prior to July 22, 2016, the Debtors shall have closed and consummated the Sale Transaction and distributed proceeds as provided herein.

80. Each of the Sale Milestones may be extended or waived in writing by Agent in its sole and absolute discretion. The Debtors shall promptly file with the Court a notice of any such extension or waiver.

81. At the closing of a Sale Transaction (a) all funds of the Debtors' estates (exclusive of funds included in the Carve Out Reserve Account and, to the extent included in the Budget, administrative expenses accrued and unpaid from the date of this Order through the closing date of the Sale Transaction) and (b) all proceeds received from the closing of a Sale Transaction shall be paid as follows:

- a. First, subject to Agent's approval, to unpaid amounts owed to the Sales Agent⁵;
- b. Second, to pay indefeasibly in full any Prior Liens in the assets being sold up to the value allocated to the asset securing such Prior Lien as such allocated value is agreed upon by the holder of the Prior Lien, the Debtors, and the Agent, or, failing such agreement, in an amount determined by the Court;
- c. Third, to the Agent, for itself and for and on behalf of the Post-Petition Lenders, in an amount necessary to pay indefeasibly in full the DIP Obligations;
- d. Fourth, to the Agent, for itself and for and on behalf of the Pre-Petition Lenders in an amount necessary to pay indefeasibly in full any outstanding amounts of the Lenders' Pre-Petition Claim; and
- e. Fifth, to the Debtors' estates for distribution to creditors in accordance with the Bankruptcy Code.

⁵ For the avoidance of doubt, the "Monthly Fee" and "Sale Transaction Fee" included in the Debtors' engagement letter with Intrepid Partners, LLC dated March 17, 2016 shall be acceptable to the Agent, with any unpaid amounts earned and payable at this time, along with any accrued and unreimbursed expenses.

82. The Agent, for itself and for and on behalf of the Lenders, may credit bid, in its sole and absolute discretion, any portion and up to the entire amount of the Agent and the Lenders' respective claims, including, without limitation, both the Lenders' Pre-Petition Claim and the DIP Obligations (as applicable), at any time on any individual asset, portion of the assets, or all assets constituting their respective Collateral in conjunction with any sale of the Debtors' assets (the "Credit Bid Right"). The Agent shall be a qualified and permitted bidder in all respects at any auction, and shall not be required to submit a deposit, purchase agreement, or any other deliverable or documentation to the Debtors or their representatives or agents. Upon exercise of the Credit Bid Right, the Lenders shall not be required to take title to any individual asset, portion of the assets, or all of the assets, and the Agent shall have the right to designate any person or entity in its sole and absolute discretion that shall take title to the individual asset, portion of the assets, or all of the assets that are subject to the Credit Bid Right. Except for the holders of any Prior Liens, no other person may credit bid unless the entire amount of the Lenders' claims, including, without limitation, both the Lenders' Pre-Petition Claim and the DIP Obligations (as applicable), will be indefeasibly paid in full in cash on the closing of the proposed sale. In the event the Agent, for itself and for and on behalf of the Lenders, exercises its Credit Bid Right and the amount of the credit bid of the Agent exceeds the total amount of the highest bids for the assets subject to the Credit Bid Right, the credit bid of the Agent, for itself and for and on behalf of the Lenders, shall be deemed the highest and best bid and such credit bid shall be accepted by the Debtors and be presented for approval to the Court.

OTHER TERMS

83. The Debtors and the Agent are authorized to implement, in accordance with the terms of the DIP Facility Documents, any modifications or amendments to any DIP Facility Document upon the

approval of the Majority Post-Petition Lenders, except with respect to certain matters specified in the DIP Agreement or the DIP Facility Documents requiring the approval of all Post-Petition Lenders.

84. Other than any Prior Liens and the Carve Out, no priority claims shall be allowed that are or will be prior to or on parity with the superpriority claims or secured claims of the Agent and the Lenders against the Debtors and their estates arising from the Pre-Petition Claim Documents, the DIP Facility Documents, and this Financing Order.

85. No obligations incurred or payments or other transfers made by or on behalf of the Debtors on account of the post-petition financing arrangements with the Post-Petition Agent and the Post-Petition Lenders shall be avoidable or recoverable from the Post-Petition Agent and the Post-Petition Lenders under any section of the Bankruptcy Code, or any other federal, state, or other applicable law.

86. Except for the reasonable and necessary sale of inventory in the ordinary course of the Debtors' business and as may be provided for in the Budget and consistent with the terms of the DIP Agreement, the Debtors shall not sell, transfer, lease, encumber, or otherwise dispose of any of the Collateral, without the prior written consent of the Agent.

87. As a current and continuing condition precedent to each advance to be made under the DIP Facility, any employment by any of the Debtors of (i) Opportune LLP as financial advisor and chief restructuring officer (the "CRO") shall provide that Opportune LLP and its representatives shall report and be accountable only to the independent directors of the Debtors, and (ii) Intrepid Partners, LLC shall provide that Intrepid Partners, LLC shall report and be accountable only to the CRO, or only to the CRO and the independent directors of the Debtors, as determined by Intrepid Partners, LLC and the independent directors of the Debtors.

88. All post-petition advances under the DIP Agreement are made in reliance on this Financing Order and so long as the DIP Obligations and the Lenders' Pre-Petition Claim remain unpaid, there shall not at any time be entered in the Debtors' Cases any other order that, except as consented to by the Agent in writing, (a) authorizes the use of Cash Collateral or the sale, lease, or other disposition of the Collateral unless the cash proceeds will indefeasibly pay the Lenders' Pre-Petition Claim and the DIP Obligations in full, (b) authorizes the obtaining of credit or the incurring of indebtedness secured by a lien or security interest in property in which the Agent or the Lenders hold or assert liens or security interests, or (c) grants to any claim a priority administrative claim status that is equal or superior to the superpriority status granted to the Agent and the Lenders herein.

89. The terms hereunder and under the DIP Facility Documents, the security interests and liens granted to the Agent and the Lenders under this Financing Order, and the rights of the Agent and the Lenders pursuant to this Financing Order with respect to the Collateral, and treatment of the Lenders' Pre-Petition Claim shall not be altered, modified, extended, impaired, or affected by any plan of reorganization of the Debtors without the prior written approval of the Agent.

90. The terms and provisions of this Financing Order and any actions taken pursuant hereto shall survive entry of any order that may be entered converting to chapter 7 or dismissing the Debtors' Cases, except for the Debtors' authority to use Cash Collateral and any obligations of the Post-Petition Agent and the Post-Petition Lenders under the DIP Facility Documents (all of which shall immediately terminate upon entry of such an order). The terms and provisions of this Financing Order, as well as the priorities in payment, liens, and security interests granted pursuant to this Financing Order and the DIP Facility Documents, shall continue in this or any superseding case under the Bankruptcy Code of any of the Debtors, and such priorities in payment, liens, and security interests shall maintain their priority as provided by this Financing Order until such time as the Lenders' Pre-Petition Claim and the

DIP Obligations shall have been indefeasibly paid and satisfied in full in accordance with the terms of the Pre-Petition Claim Documents and the DIP Facility Documents and the Agent and the Lenders shall have no further obligation or financial accommodation to any of the Debtors.

91. The provisions of this Financing Order shall inure to the benefit of the Debtors, the Agent, and the Lenders, and they shall be binding upon (a) the Debtors and their successors and assigns, including, without limitation, any trustee or other fiduciary hereafter appointed as legal representative of the Debtors or with respect to property of the estates of the Debtors, whether under chapter 11 of the Bankruptcy Code, any confirmed plan, or any subsequent chapter 7 case, and (b) all creditors of any of the Debtors and other parties in interest.

92. If any or all of the provisions of this Financing Order are hereafter modified, vacated, or stayed without the prior written agreement of the Agent, such modification, vacation, or stay shall not affect (a) the validity of any obligation, indebtedness or liability incurred by the Debtors to the Agent and the Lenders before the effective date of such modification, vacation, or stay or (b) the validity or enforceability of any security interest, lien, priority or other protection authorized, granted, or created hereby or pursuant to any of the DIP Facility Documents. Notwithstanding any such modification, vacation, or stay, any indebtedness, obligations, or liabilities incurred by the Debtors to the Agent, for itself or for and on behalf of the Lenders, before the effective date of such modification, vacation, or stay shall be governed in all respects by the original provisions of this Financing Order, and the Agent, for itself and for and on behalf of the Lenders, shall be entitled to all the liens, rights, remedies, privileges, and benefits granted herein and pursuant to the DIP Facility Documents with respect to all such indebtedness, obligations, or liabilities.

93. To the extent the terms and conditions of the DIP Facility Documents are in express conflict (as opposed to being additive, limiting, or more specific than this Financing Order) with the

terms and conditions of this Financing Order, the terms and conditions of this Financing Order shall control.

94. No approval, agreement, or consent requested of the Agent by the Debtors pursuant to the terms of this Financing Order or otherwise shall be inferred from any action, inaction, or acquiescence of the Agent other than a writing acceptable to the Agent that is signed by the Agent and expressly shows such approval, agreement or consent, without limitation. Nothing herein shall in any way affect the rights of the Agent or the Lenders as to any non-Debtor entity, without limitation.

95. Nothing herein shall be deemed or construed to waive, limit, or modify the rights of the Agent, for itself or for and on behalf of the Lenders, to obtain further adequate protection and other statutory protections for the use of the Collateral and Cash Collateral, or to seek other relief in these Cases in accordance with any provision of the Bankruptcy Code or applicable law.

96. Unless expressly and specifically provided otherwise herein, nothing herein shall be deemed or construed to waive, limit, modify or prejudice the claims, rights, protections, privileges and defenses of the Agent and the Lenders afforded pursuant to the Bankruptcy Code.

97. This Financing Order, and the findings of fact and conclusions of law contained herein, shall be effective upon signature by the Court, and may be relied upon by the Agent, the Lenders, and the Debtors without the necessity of entry into the docket sheet of these Cases. To the extent any findings may constitute conclusions, and vice versa, they are hereby deemed as such.

98. This Court hereby expressly retains jurisdiction over all persons and entities, co-extensive with the powers granted to the United States Bankruptcy Court under the Bankruptcy Code, to enforce the terms of this Financing Order and to adjudicate any and all disputes in connection therewith by motion and without necessity of an adversary proceeding.

99. All headings in this Financing Order are descriptive and for reference only, and do not have separate meaning or change any terms therein.

RESERVATION OF RIGHTS OF PARTIES IN INTEREST/DEADLINE TO ACT

100. All parties-in-interest (other than the Debtors) that have or have been granted standing shall have 45 days from the date of entry of this Financing Order (or, in the case of any official committee appointed in these Cases, if appointed within 30 days of the Petition Date, 30 days from the date of appointment of any such committee) to file a complaint pursuant to Bankruptcy Rule 7001 asserting a claim or cause of action arising out of the Pre-Petition Claim Documents, or otherwise challenging the extent, priority, validity, perfection, amount, or allowability of the Pre-Petition Agent's or the Pre-Petition Lenders' claims or security interests, arising out of or related to the Pre-Petition Claim Documents or the transactions related thereto. Such complaint, if filed, shall be diligently pursued by such party in interest or any official committee appointed in these Cases, as applicable. Otherwise, if no action is commenced or pursued in accordance with the deadlines in the immediately preceding paragraph or such deadlines are not extended in writing by the Agent in its sole and absolute discretion, all of the Debtors' stipulations and affirmations of the allowance, priority, extent, and validity of the Agent's and the Lenders' claims, liens, and interests, of any nature set forth in this Financing Order and the Debtors' waivers and releases as contained in the Pre-Petition Claim Documents or otherwise incorporated or set forth in this Financing Order shall be of full force and effect and forever binding upon the Debtors' bankruptcy estates and all creditors and parties-in-interest of these Cases, including, without limitation, upon any creditors or parties-in-interest that did not have or were not granted standing prior to such deadlines. Notwithstanding the foregoing and regardless of the timely commencement of an action as contemplated in this paragraph, the Debtors' stipulations and affirmations of the allowance, priority, extent, and validity of the Agent's and the Lenders' claims,

liens, and interests, of any nature set forth in this Financing Order and the Debtors' waivers and releases as contained in the Pre-Petition Claim Documents or otherwise incorporated or set forth in this Financing Order shall be in full force and effect with respect to any claims or causes of action not timely raised within the deadlines set forth in this paragraph.

WAIVER OF CLAIMS

101. EACH OF THE DEBTORS (IN THEIR OWN RIGHT AND, SUBJECT TO THE RESERVATION OF RIGHTS OF PARTIES IN INTEREST/DEADLINE TO ACT IN THE PARAGRAPH IMMEDIATELY ABOVE, ON BEHALF OF THEIR ESTATES, REPRESENTATIVES, DIRECTORS, OFFICERS, EMPLOYEES, INDEPENDENT CONTRACTORS, ATTORNEYS AND AGENTS, AND THEIR SUCCESSORS AND ASSIGNS, IN EACH CASE TO THE EXTENT PERMITTED BY APPLICABLE LAW) (COLLECTIVELY, THE "RELEASING PARTIES") HEREBY RELEASES, ACQUITS, FOREVER DISCHARGES AND COVENANTS NOT TO SUE THE AGENT, THE LENDERS, THE SECURED SWAP PROVIDER, AND THE AGENT'S, THE LENDERS', AND THE SECURED SWAP PROVIDER'S REPRESENTATIVES, DIRECTORS, OFFICERS, EMPLOYEES, INDEPENDENT CONTRACTORS, ATTORNEYS AND AGENTS, AND THEIR SUCCESSORS AND ASSIGNS (THE "RELEASED PARTIES") FROM ANY AND ALL ACTS AND OMISSIONS OF THE RELEASED PARTIES, AND FROM ANY AND ALL CLAIMS, CAUSES OF ACTION, AVOIDANCE ACTIONS, COUNTERCLAIMS, DEMANDS, CONTROVERSIES, COSTS, DEBTS, SUMS OF MONEY, ACCOUNTS, RECKONINGS, BONDS, BILLS, DAMAGES, OBLIGATIONS, LIABILITIES, OBJECTIONS, LEGAL PROCEEDINGS, EQUITABLE PROCEEDINGS, AND EXECUTIONS OF ANY NATURE, TYPE, OR DESCRIPTION WHICH THE RELEASING PARTIES HAVE OR MAY COME TO HAVE AGAINST THE RELEASED PARTIES THROUGH

THE DATE OF THIS FINANCING ORDER, AT LAW OR IN EQUITY, BY STATUTE OR COMMON LAW, IN CONTRACT, IN TORT, INCLUDING, WITHOUT LIMITATION, BANKRUPTCY CODE CHAPTER 5 CAUSES OF ACTION, WHETHER THE LAW OF THE UNITED STATES OR ANY OTHER COUNTRY, UNION, ORGANIZATION OF FOREIGN COUNTRIES OR OTHERWISE, KNOWN OR UNKNOWN, SUSPECTED OR UNSUSPECTED, BUT EXCLUDING OBLIGATIONS UNDER THE DIP FACILITY ARISING AFTER THE DATE OF THIS FINANCING ORDER (COLLECTIVELY, THE "RELEASED CLAIMS"). THE DEBTORS ON BEHALF OF THE RELEASING PARTIES FURTHER COVENANT NOT TO SUE THE RELEASED PARTIES ON ACCOUNT OF ANY RELEASED CLAIM. THIS PARAGRAPH IS IN ADDITION TO AND SHALL NOT IN ANY WAY LIMIT ANY OTHER RELEASE, COVENANT NOT TO SUE, OR WAIVER BY THE RELEASING PARTIES IN FAVOR OF THE RELEASED PARTIES. NOTWITHSTANDING THE RELEASES AND COVENANTS IN FAVOR OF THE RELEASED PARTIES CONTAINED ABOVE IN THIS PARAGRAPH, SUCH RELEASES AND COVENANTS IN FAVOR OF THE RELEASED PARTIES SHALL BE DEEMED ACKNOWLEDGED AND REAFFIRMED BY THE DEBTORS EACH TIME THERE IS AN ADVANCE OF FUNDS, EXTENSION OF CREDIT, OR FINANCIAL ACCOMMODATION UNDER THIS FINANCING ORDER AND THE DIP FACILITY DOCUMENTS.

INDEMNIFICATION

102. THE DEBTORS SHALL AND DO HEREBY, JOINTLY AND SEVERALLY, INDEMNIFY AND HOLD EACH OF THE RELEASED PARTIES HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITIES, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS, JUDGMENTS, COSTS, AND EXPENSES, INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEYS' FEES, ARISING OUT OF OR FROM OR RELATED TO ANY OF

THE PRE-PETITION CLAIM DOCUMENTS AND DIP FACILITY DOCUMENTS. IF ANY ACTION, SUIT, OR PROCEEDING IS BROUGHT AGAINST ANY OF THE RELEASED PARTIES, DEBTORS SHALL, AT THE AGENT'S OR THE LENDERS' REQUEST, DEFEND THE SAME AT THEIR SOLE COST AND EXPENSE, SUCH COST AND EXPENSE TO BE A JOINT AND SEVERAL LIABILITY OF DEBTORS, BY COUNSEL SELECTED BY LENDER.

103. Notwithstanding any due diligence period granted to other parties in interest herein, as a result of the Debtors' review of the Pre-Petition Claim Documents and the facts related thereto, the Debtors shall have no right to file a complaint pursuant to Bankruptcy Rule 7001 or otherwise, or any other pleading asserting a claim or cause of action arising out of or related to the Pre-Petition Claim Documents, the DIP Agreement, or any transactions or dealings related to same.

NOTICE

104. The Debtors' proposed counsel shall serve this Financing Order on all of the following parties: (a) the Office of the United States Trustee; (b) the attorneys for the Agent and the Lenders; (c) all creditors known to the Debtors who have or may assert liens against any of the Debtors' assets; (d) the United States Internal Revenue Service; (e) the 20 largest unsecured creditors of the Debtors; and (f) all parties in interest who have filed a notice of appearance or upon whom service must be effected under the Federal Rules of Bankruptcy Procedure or the Local Rules. Any notice required hereunder to the Debtors or any official committee appointed in these Cases shall be deemed given when delivered by email, other electronic delivery, fax, or hard copy, to their respective counsel of record in these cases.

EXPIRATION DATE/MATURITY

105. Subject to the Post-Petition Agent's and the Post-Petition Lenders' rights to make protective advances as provided in the DIP Agreement, the Post-Petition Agent's consent and Debtors' authority to use Cash Collateral and the Post-Petition Lenders' commitment to provide credit under the DIP Agreement and this Financing Order, subject to the funding and Budget limitations above, shall be effective upon entry of this Financing Order to and including, without limitation, the earlier of: (a) the continued existence of an Event of Default after the Default Notice Period, (b) the entry of an order pursuant to section 363 of the Bankruptcy Code approving the sale of substantially all of the Debtors' assets, (c) the effective date of any plan of reorganization, or (d) 30 days after the Petition Date, April 21, 2016, at 5:00 p.m. Eastern Time, at which time all of the Debtors' authority to use Cash Collateral and to obtain credit under the DIP Agreement and this Financing Order shall terminate, as shall the Post-Petition Agent's and the Post-Petition Lenders' obligation to continue funding the DIP Facility, unless extended by written agreement of the parties hereto, a copy of which with an updated Budget shall be promptly filed with this Court by the Debtors (the "Expiration Date", and (b), (c), and (d) of this paragraph, the "Termination Date").

106. THIS ORDER IS EFFECTIVE IMMEDIATELY.

Dated: March __, 2016

Wilmington Delaware

THE HONORABLE KEVIN GROSS
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT 1 to EXHIBIT A

Form of DIP Financing Agreement

[FORTHCOMING]

EXHIBIT 2 to EXHIBIT A

Budget

Emerald Oil

13-Week Forecast

(\$'s in 000's)

Week Ending

	1	2	3	4	5	6	7	8	9	10	11	12	13
	25-Mar-16	1-Apr-16	8-Apr-16	15-Apr-16	22-Apr-16	29-Apr-16	6-May-16	13-May-16	20-May-16	27-May-16	3-Jun-16	10-Jun-16	17-Jun-16

Monthly Net Crude Production (MMbbls)

94

102

Beginning Cash	\$	3,187	\$	3,557	\$	332	\$	3,213	\$	2,443	\$	833	\$	1,794	\$	395	\$	389	\$	393	\$	3,405
Total O&G Collections (Net of Taxes and Trans.)		519		(479)		3,379		-		(232)		6		3,000		306		(21)		3,324		-
Operating Disbursements																						
Accounts Payable - Critical		-		(2,283)		-		(557)		(1,340)		(557)		(370)		(370)		(286)		(286)		(2,059)
Royalties & Other Related Revenue		-		(1,389)		-		-		-		(1,282)		-		-		-		-		-
Salaries & Benefits		-		(240)		-		(210)		-		(210)		(30)		(210)		(30)		(26)		(184)
Bonuses		-		-		-		-		-		(132)		-		-		-		-		-
Rent & Utilities		-		(65)		-		-		-		-		(65)		-		(65)		-		-
Other		(9)		(165)		-		-		(38)		-		-		(246)		-		-		(38)
Total Operating Disbursements		(9)		(4,142)		-		(767)		(1,378)		(2,201)		(465)		(580)		(381)		(312)		(2,281)
Net Operating Cash Flow		510		(4,621)		3,379		(767)		(1,610)		(2,195)		2,535		(274)		(402)		3,012		(2,281)
Non-Operating																						
Transaction Fees		-		-		-		(3)		-		-		-		(3)		-		-		(3)
Professional Fees		(140)		(1,200)		-		-		-		(2,055)		-		-		(1,855)		-		-
Total Non-Operating		(140)		(1,200)		-		(3)		-		(2,055)		-		(3)		(1,855)		-		(3)
Debt Service																						
Interest on Revolver		-		-		(498)		-		-		-		(482)		-		(482)		-		-
Forbearance Fee		-		(489)		-		-		-		-		-		-		-		-		-
DIP Loan Interest and Fees		-		(415)		-		-		-		(65)		-		-		(112)		-		-
Total Debt Service		-		(904)		(498)		-		-		(65)		(482)		-		(594)		-		-
Paydowns/Borrowings																						
Draw from DIP		-		3,500		-		-		-		3,500		500		-		1,000		-		-
Total Paydowns/Borrowings		-		3,500		-		-		-		3,500		500		-		1,000		-		-
Net Cash Flow		370		(3,225)		2,881		(770)		(1,610)		(815)		2,053		(277)		(6)		4		(2,284)
Ending Cash	\$	3,557	\$	332	\$	3,213	\$	2,443	\$	833	\$	18	\$	2,071	\$	1,794	\$	389	\$	393	\$	1,121

EXHIBIT 3

SCHEDULE OF CREDIT AGREEMENT DOCUMENTS

1. Credit Agreement, dated as of November 20, 2012, among Emerald Oil, Inc., as Borrower, Wells Fargo Bank, N.A., as Administrative Agent, and the Lenders from time to time party thereto.
2. First Amendment to Credit Agreement, dated as of February 18, 2013.
3. Second Amendment to Credit Agreement, dated as of March 24, 2014.
4. Amended and Restated Credit Agreement, dated as of May 1, 2014
5. First Amendment to Amended and Restated Credit Agreement, dated as of September 2, 2014
6. Limited Waiver and Second Amendment to Amended and Restated Credit Agreement, dated as of April 30, 2015
7. Guaranty and Collateral Agreement, dated as of November 20, 2012, made by Emerald Oil, Inc., Emerald WB LLC, Emerald GRB LLC, Emerald TR LLC, and Emerald Heath LLC, as Grantors, in favor of Wells Fargo Bank, National Association, as Administrative Agent.
8. First Amendment to Guaranty and Collateral Agreement, dated as of May 1, 2014, made by Emerald Oil, Inc. and each of the other Grantors signatory thereto, in favor of Wells Fargo Bank, National Association, as Administrative Agent.
9. Assumption Agreement and Supplement, dated as of November 24, 2014, made by EOX Marketing, LLC in favor of Wells Fargo Bank, National Association, as Administrative Agent.
10. Assumption Agreement, dated as of July 28, 2015 made by Emerald DB, LLC and Emerald NWB, LLC in favor of Wells Fargo Bank, N.A., as Administrative Agent.
11. Limited Forbearance Agreement, dated as of November 5, 2015, among Emerald Oil, Inc., Emerald WB LLC, Emerald DB, LLC, Emerald NWB, LLC, EOX Marketing, LLC, Wells Fargo Bank, N.A., as Administrative Agent and the Lenders party thereto.
12. First Amendment to Limited Forbearance Agreement, dated December 18, 2015
13. Deposit Account and Sweep Investment Control Agreement, dated as of November 6, 2015, made by Emerald Oil, Inc. and EOX Marketing, LLC, in favor of Wells Fargo Bank, National Association, as Administrative Agent.
14. Mortgage, Mortgage – Collateral Real Estate Mortgage, Assignment of As-Extracted Collateral, Security Agreement, Line of Credit Mortgage, Fixture Filing and Financing Statement, dated as of November 20, 2012, from Emerald Oil, Inc., a Montana corporation, as Mortgagor, to Wells Fargo Bank, National Association, as Administrative Agent, for McKenzie County, North Dakota.
15. First Amendment to Mortgage, Mortgage – Collateral Real Estate Mortgage, Assignment of As-Extracted Collateral, Security Agreement, Line of Credit Mortgage, Fixture Filing and Financing Statement, dated as of October 24, 2013, from Emerald Oil, Inc., a Montana corporation, as Mortgagor, to Wells Fargo Bank, National Association, as Administrative Agent, for McKenzie County, North Dakota.
16. Amendment and Ratification of Mortgage, Mortgage-Collateral Real Estate Mortgage, Assignment of As-Extracted Collateral, Security Agreement, Line of Credit Mortgage, Fixture Filing and Financing Statement dated as of March 13, 2014 from Emerald WB

- LLC, a Colorado limited liability company, as Mortgagor, to Wells Fargo Bank, National Association; as Mortgagee, ratifying the assignment of all North Dakota properties from Emerald Oil, Inc. to Emerald WB LLC.
17. Second Amendment to Mortgage, Mortgage – Collateral Real Estate Mortgage, Assignment of As-Extracted Collateral, Security Agreement, Line of Credit Mortgage, Fixture Filing and Financing Statement, dated as of May 1, 2014, from Emerald WB LLC, a Colorado limited liability company, as Mortgagor, to Wells Fargo Bank, National Association, as Administrative Agent, for McKenzie County, North Dakota.
 18. Third Amendment to Mortgage, Mortgage – Collateral Real Estate Mortgage, Assignment of As-Extracted Collateral, Security Agreement, Line of Credit Mortgage, Fixture Filing and Financing Statement, dated as of September 22, 2014, from Emerald WB LLC, a Colorado limited liability company, as Mortgagor, to Wells Fargo Bank, National Association, as Administrative Agent, for McKenzie County, North Dakota.
 19. Fourth Amendment to Mortgage, Mortgage – Collateral Real Estate Mortgage, Assignment of As-Extracted Collateral, Security Agreement, Line of Credit Mortgage, Fixture Filing and Financing Statement, dated as of October 2, 2015, from Emerald WB LLC, a Colorado limited liability company, as Mortgagor, to Wells Fargo Bank, National Association, as Administrative Agent, for McKenzie County, North Dakota.
 20. Fifth Amendment to Mortgage, Mortgage – Collateral Real Estate Mortgage, Assignment of As-Extracted Collateral, Security Agreement, Line of Credit Mortgage, Fixture Filing and Financing Statement, dated as of November 9, 2015, from Emerald WB LLC, a Colorado limited liability company, as Mortgagor, to Wells Fargo Bank, National Association, as Administrative Agent, for McKenzie County, North Dakota.
 21. Mortgage, Mortgage – Collateral Real Estate Mortgage, Assignment of As-Extracted Collateral, Security Agreement, Line of Credit Mortgage, Fixture Filing and Financing Statement, dated as of November 20, 2012, from Emerald WB LLC, a Colorado limited liability company, as Mortgagor, to Wells Fargo Bank, National Association, as Administrative Agent, for Dunn County, North Dakota.
 22. First Amendment to Mortgage, Mortgage – Collateral Real Estate Mortgage, Assignment of As-Extracted Collateral, Security Agreement, Line of Credit Mortgage, Fixture Filing and Financing Statement, dated as of May 1, 2014, from Emerald WB LLC, a Colorado limited liability company, as Mortgagor, to Wells Fargo Bank, National Association, as Administrative Agent, for Dunn County, North Dakota.
 23. Second Amendment to Mortgage, Mortgage – Collateral Real Estate Mortgage, Assignment of As-Extracted Collateral, Security Agreement, Line of Credit Mortgage, Fixture Filing and Financing Statement, dated as of September 22, 2014, from Emerald WB LLC, a Colorado limited liability company, as Mortgagor, to Wells Fargo Bank, National Association, as Administrative Agent, for Dunn County, North Dakota.
 24. Mortgage, Mortgage – Collateral Real Estate Mortgage, Assignment of As-Extracted Collateral, Security Agreement, Line of Credit Mortgage, Fixture Filing and Financing Statement, dated as of September 22, 2014, from Emerald WB LLC, a Colorado limited liability company, as Mortgagor, to Wells Fargo Bank, National Association, as Administrative Agent, for Bowman County, North Dakota and Golden Valley County, North Dakota.
 25. Mortgage, Mortgage – Collateral Real Estate Mortgage, Assignment of As-Extracted Collateral, Security Agreement, Line of Credit Mortgage, Fixture Filing and Financing

Statement, dated as of September 22, 2014, from Emerald WB LLC, a Colorado limited liability company, as Mortgagor, to Wells Fargo Bank, National Association, as Administrative Agent, for Billings County, North Dakota and Stark County, North Dakota.

26. First Amendment to Mortgage, Mortgage -- Collateral Real Estate Mortgage, Assignment of As-Extracted Collateral, Security Agreement, Line of Credit Mortgage, Fixture Filing and Financing Statement, dated as of October 2, 2015, from Emerald WB LLC, a Colorado limited liability company, as Mortgagor, to Wells Fargo Bank, National Association, as Administrative Agent, for Billings County, North Dakota and Stark County, North Dakota.
27. Mortgage, Mortgage -- Collateral Real Estate Mortgage, Assignment of As-Extracted Collateral, Security Agreement, Line of Credit Mortgage, Fixture Filing and Financing Statement, dated as of October 2, 2015, from Emerald WB LLC, a Colorado limited liability company, as Mortgagor, to Wells Fargo Bank, National Association, as Administrative Agent, for Richland County, Montana.

EXHIBIT B

Hart Declaration

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

(Joint Administration Requested)

**DECLARATION OF MATTHEW J. HART IN SUPPORT
OF THE DEBTORS' MOTION FOR ENTRY OF INTERIM AND
FINAL ORDERS (I) AUTHORIZING THE DEBTORS TO OBTAIN
POSTPETITION SECURED FINANCING PURSUANT TO SECTION 364 OF THE
BANKRUPTCY CODE, (II) GRANTING LIENS AND PROVIDING SUPERPRIORITY
ADMINISTRATIVE EXPENSE STATUS, (III) AUTHORIZING THE DEBTORS
TO USE CASH COLLATERAL, (IV) GRANTING ADEQUATE PROTECTION
TO THE PRE-PETITION LENDERS, (V) MODIFYING THE AUTOMATIC STAY,
(VI) SCHEDULING A FINAL HEARING, AND (VII) GRANTING RELATED RELIEF**

I, Matthew J. Hart, hereby declare under penalty of perjury as follows:

1. I submit this declaration (this “Declaration”) in support of the Debtors’ Motion for Entry of Interim and Final Orders (I) Authorizing the Debtors to Obtain Postpetition Secured Financing Pursuant to Section 364 of the Bankruptcy Code, (II) Granting Liens and Providing Superpriority Administrative Expense Status, (III) Authorizing the Debtors to Use Cash Collateral, (IV) Granting Adequate Protection to the Pre-Petition Lenders, (V) Modifying the Automatic Stay, (VI) Scheduling a Final Hearing, and (VII) Granting Related Relief (the “Motion”),² which seeks approval of the Debtors’ \$7.5 million secured loan credit facility

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, include: Emerald Oil, Inc. (9000); Emerald DB, LLC (2933); Emerald NWB, LLC (7528); Emerald WB LLC (8929); and EOX Marketing, LLC (4887). The location of the Debtors' service address is: 200 Columbine Street, Suite 500, Denver, Colorado 80206.

2 Capitalized terms used but not defined herein have the meanings given to such terms in the Motion or the Interim DIP Order, as applicable.

on an interim basis and \$129,928,000 in the aggregate on a final basis (the "DIP Facility") and the consensual use of cash collateral.³

2. The statements in this Declaration are, except where specifically noted, based on my personal knowledge or opinion, on information that I have received from the Debtors' employees or advisors, or employees of Intrepid Partners, LLC ("Intrepid") working directly with me or under my supervision, direction, or control, or from the Debtors' books and records maintained in the ordinary course of their businesses. I am not being specifically compensated for this testimony other than through payments received by Intrepid as a professional retained by the Debtors, which payments include a fee for raising debtor-in-possession ("DIP") financing. If I were called upon to testify, I could and would competently testify to the facts set forth herein on that basis. I am authorized to submit this Declaration on behalf of the Debtors.

Professional Background and Qualifications

3. I am a Managing Director in the Restructuring Advisory Group at Intrepid, an independent, energy-focused merchant bank with its principal offices at 540 Madison Avenue, 21st Floor, New York, New York 10022. Intrepid's senior professionals have extensive experience providing strategic and financial advisory services to energy companies and their investors, including restructuring, mergers and acquisitions, and capital-raising. At Intrepid, I specialize in advising public and private companies and creditor groups in complex financial restructurings and in raising capital for, selling or acquiring financially distressed businesses.

4. I have more than 14 years of restructuring experience as an advisor and investor, and over 17 years of experience in the debt capital markets. Prior to joining Intrepid in 2015,

³ The material terms of the DIP Facility are set forth in detail in the Motion. For the avoidance of doubt, any description of the DIP Facility herein or in the Motion is qualified in its entirety by reference to the DIP Financing Documents.

I was a Director at Lazard Frères & Co. ("Lazard") and a senior member of the firm's restructuring group, where I advised numerous debtors and creditors in in- and out-of-court restructurings. Prior to joining Lazard in 2008, I served as a Managing Director at Eos Partners and a partner in the firm's credit investment funds, where I invested in distressed companies in the United States and Europe and assisted in the general management of the funds. From 2001 to 2006, I was employed by Merrill Lynch, most recently as a Vice President and investment analyst in the firm's principal investments area, where I invested in and lent capital to distressed companies on behalf of the firm. Earlier in my career, I was involved in the mortgage-backed and asset-backed securities market as a credit analyst and trader.

5. I have advised companies, creditors and investors in connection with numerous in-court and out-of court restructurings and recapitalizations, including those of Eastman Kodak, Nortel Networks, Lehman Brothers, American Airlines, Cooper Standard Automotive, Sirius XM, Radioshack, Quicksilver Resources, Quiznos, OGX Oil & Gas, LNR Property Corp., Essar Steel Algoma, White Birch Paper, Homex, SatMex, IMPSA, and Maxcom Telecommunications. I have previously submitted declarations and/or affidavits or have had testimony proffered in Eastman Kodak, Quiznos, White Birch Paper, and SatMex.

6. I have an M.B.A. in finance and accounting from the University of Chicago Booth School of Business and a B.A. in economics from the University of Michigan. I am a Certified Insolvency & Restructuring Advisor (CIRA) and a Chartered Financial Analyst (CFA). I hold FINRA Series 7 General Securities and Series 63 State Law licenses. I am a member of the Association of Insolvency & Restructuring Advisors, the American Bankruptcy Institute, the CFA Institute, and the New York Society of Securities Analysts.

Intrepid Retention

7. Intrepid has been engaged as an investment banker to the Debtors since October 2015, most recently pursuant to an engagement letter dated March 17, 2016. During its engagement, Intrepid has rendered financial advisory services to the Debtors in connection with the evaluation of strategic and financial alternatives with respect to improving their capital structure, liquidity, and overall financial condition. Additionally, Intrepid has worked closely with the Debtors' management and other professionals retained by the Debtors with respect to these chapter 11 cases and has become well-acquainted with the Debtors' capital structure, liquidity needs, and business operations.

The Debtors' Immediate Liquidity Needs

8. The Debtors are in need of an immediate capital infusion. As of the Petition Date, the Debtors lack sufficient funds to operate their enterprise and continue paying their debts as they come due. As of the Petition Date, the Debtors' total cash balance was approximately \$3.5 million and they do not have readily available sources of additional financing.

9. In light of the Debtors' liquidity position, Intrepid commenced an evaluation of the Debtors' financing needs and funding alternatives. Intrepid worked closely with the Debtors, their management, and their advisors to determine the Debtors' cash requirements for their businesses. Intrepid also assessed the state of the market in which the Debtors would be seeking financing. While the Debtors are in need of an immediate infusion of liquidity and the current market conditions are, as further discussed herein, extremely challenging, the Debtors have valuable assets and an experienced management team. Thus, I believe that time and funding will permit the Debtors to successfully navigate the chapter 11 process.

10. Intrepid determined that the availability of, and options for, postpetition financing would be restricted by the Debtors' existing capital structure, long-term liquidity needs,

projected cash burn, and the current, challenged state of the oil and gas commodity markets, with its highly adverse impact on cash flows and asset values. Exploration and production companies like the Debtors face significant headwinds created by record-low commodity prices. Unfavorable market conditions have already led to bankruptcy filings by a variety of the Debtors' peers, such as Quicksilver Resources, Inc., Sabine Oil & Gas Corporation, Samson Resources Corporation, and Magnum Hunter Resources Corporation, Swift Energy Company, American Eagle Energy Corporation, Saratoga Resources Inc., and Energy and Exploration Partners, LLC.

11. As part of Intrepid's evaluation, Intrepid worked with the Debtors' other advisors, including Opportune LLP, the Debtors' proposed restructuring advisor, to develop and analyze the Debtors' long-term and 13-week cash flow forecasts, which take into account anticipated cash receipts and disbursements during the projected period and consider a number of factors, including the effect of the chapter 11 filing on the operations of the business, fees, and interest expenses associated with the DIP Facility, professional fees, and required operational payments. Based upon these forecasts and discussions with the Debtors' management and other advisors, I do not believe it would be possible to administer the Debtors' chapter 11 estates on a "cash collateral" basis.

12. Without access to the DIP Facility, the Debtors have insufficient cash on hand, and based on the Debtors' liquidity forecast, I do not expect the Debtors to be able to generate sufficient levels of operating cash flow in the ordinary course of business to cover their working capital needs and the projected costs of these chapter 11 cases. As a result, Intrepid and the Debtors agreed that procuring sufficient financing at the start of these chapter 11 cases would be necessary for the Debtors.

The Proposed DIP Financing

13. In light of the foregoing, and the fact that I understand that all of the Debtors' existing producing reserves are asserted by the Debtors' Pre-Petition Lenders to be encumbered under their existing credit facility, Intrepid concluded that any workable DIP financing likely would require the support of, or be provided by, the Pre-Petition Lenders. Starting in the fall of 2015, the Debtors' management and advisors, including Intrepid, initiated discussions with the Pre-Petition Lenders regarding a potential chapter 11 process as well as a variety of out-of-court restructuring options. During this process, the Pre-Petition Lenders made it clear that they would not consent to a "priming" DIP financing provided by a third party.

14. When it became clear in early March 2016 that an out-of-court option would not be feasible, the Debtors and their advisors accelerated discussions with the Pre-Petition Lenders with respect to DIP financing. As the direct result of these discussions, the DIP Agreement contemplates postpetition financing in the form of a secured loan in the principal amount of \$7.5 million on an interim basis and \$129,928,000 on a final basis. Further, the DIP Facility will provide the Debtors with access to the use of the Pre-Petition Lenders' cash collateral on a consensual basis.

15. Based on the foregoing and current market conditions, it is my belief that the DIP Facility represents the best option available to address the Debtors' immediate liquidity needs, and that the terms and conditions of the DIP Facility are reasonable and appropriate under the circumstances. The DIP Facility is the product of extensive good-faith, arms'-length negotiations with the Post-Petition Lenders and is an essential component of the Debtors' chapter 11 strategy.

16. The DIP Agreement contains certain milestones that the Debtors must meet throughout their chapter 11 cases, and failure to meet such milestones constitutes an Event of

Default under the DIP Agreement. These milestones were negotiated and required by the Post-Petition Lenders as a condition to the DIP Facility—and are necessary to meet the liquidity needs of the Debtors' businesses. I believe that these milestones are fair and appropriate, are achievable, and, by providing approximately four months to close on a sale transaction, will permit sufficient time to pursue a value-maximizing transaction that can be followed by a chapter 11 plan.

17. The proposed DIP Facility will provide the Debtors with immediate access to liquidity that is necessary to ensure that the Debtors' businesses are stabilized and value is maximized. Obtaining DIP financing with the support of a supermajority of the holders of the Debtors' funded debt will send a strong, positive signal to the Debtors' employees and business partners regarding the Debtors' prospects, which will benefit the smooth administration and success of these chapter 11 cases. A well-supported DIP financing will provide comfort to the Debtors' vendors, suppliers, customers, and employees that the Debtors will be able to continue to meet their commitments while running a sale process and are not likely to languish in bankruptcy. Accordingly, I believe that the DIP Facility is in the best interests of the Debtors' estates and should be approved on the terms and conditions described in the Motion.

The Fees in Connection with the DIP Facility Are Reasonable

18. I understand that the Debtors have agreed, subject to Court approval, to pay certain fees to the Agent and the Post-Petition Lenders pursuant to the DIP Financing Documents.

19. I believe these fees are reasonable, customary, and appropriate under the circumstances.

The Debtors Do Not Have Readily Available Sources of Alternative Financing

20. As discussed further herein, in the course of exploring and negotiating restructuring and financing alternatives, the Pre-Petition Lenders expressed an unwillingness to have their liens primed by a third party DIP financing. In my professional judgment and experience, the Debtors would be highly unlikely to be able to provide strong enough evidence of a sufficient equity cushion to allow for DIP financing that would prime the Pre-Petition Lenders liens over their objections. For the same reason, I believe it is highly unlikely that any lender would be willing to provide DIP financing junior to the Pre-Petition Lenders' liens or on an unsecured basis, and almost certainly not on more attractive terms to the Debtors.

21. As a result, I do not believe that alternative sources of financing with terms as favorable as those of the DIP Facility are readily available to the Debtors.

Need for Interim Relief

22. The Debtors' businesses are cash intensive, with significant daily costs to produce oil and gas, satisfy obligations to employees, and maintain the safety of their drilling rigs and other facilities. As such, and due to their current limited liquidity, the Debtors require immediate access to postpetition financing and the use of cash collateral to operate their businesses, preserve value, and pursue their restructuring goals in the interim period, as set forth in the 13-week forecast, and to avoid irreparable harm pending the Final Hearing. Absent funds available from the DIP Facility, access to cash collateral, and the cooperation of key business partners at this critical early stage, the Debtors could face a value-destructive interruption to their businesses and lose support from important stakeholders on whom the Debtors' businesses depend—which, in turn, would hinder their ability to maximize the value of their estates—and be forced to curtail their operations significantly and to the detriment of the Debtors, their estates, and their creditors.

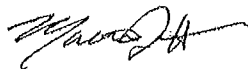
Conclusion

23. I believe that, given the circumstances, the process to obtain debtor-in-possession financing produced the best financing option available and that the terms of the DIP Facility are reasonable and appropriate. I also believe that, based on the Debtors' projections, the proposed DIP Facility will provide the Debtors with the necessary liquidity to effectively manage their chapter 11 process.

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Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge, information, and belief.

Dated: March 23, 2016



Matthew J. Hart
Managing Director
Intrepid Partners, LLC

Proposed Financial Advisor to the Debtors