



U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS

ENTERED

TAWANA C. MARSHALL, CLERK
THE DATE OF ENTRY IS
ON THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

Signed September 11, 2015


United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:	§	Chapter 11
ERG Intermediate Holdings, L.L.C., <i>et al.</i> , ¹	§	
	§	Jointly Administered
	§	
Debtors.	§	Case No.: 15-31858-hdh-11

**INTERIM ORDER PURSUANT TO SECTIONS 361, 362, 363 AND 364 OF THE
BANKRUPTCY CODE AND RULE 4001 OF THE FEDERAL RULES OF
BANKRUPTCY PROCEDURE APPROVING THIRD AMENDMENT TO DIP
FACILITY AND AMENDING FINAL DIP ORDER**

THIS MATTER having come before the Court upon the motion (the "Motion") of
ERG Intermediate Holdings, L.L.C. ("Intermediate Holdings") and the other above-captioned

¹ The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are ERG Intermediate Holdings, LLC (2521); ERG Resources, L.L.C. (0408); West Cat Canyon, L.L.C. (7377); ERG Interests, LLC (2081); and ERG Operating Company, LLC (7946). ERG Intermediate Holdings, LLC is the direct or indirect parent of each of its affiliated Debtors. The mailing address for each of the Debtors, with the exception of ERG Operating Company, LLC, is 333 Clay Street Suite 4400, Houston, TX 77002. The mailing address for ERG Operating Company, LLC is 4900 California Avenue Suite 300B, Bakersfield, CA 93309. The above addresses are listed solely for the purposes of notices and communications.

debtors and debtors-in-possession (collectively, the "Debtors") in the above-captioned chapter 11 cases (the "Cases"), for the entry of an order (A) approving the Third Amendment to DIP Facility attached hereto as Exhibit A (the "Third Amendment") and (B) amending the *Final Order Pursuant to Sections 361, 362, 363 and 364 of the Bankruptcy Code and Rule 4001 of the Federal Rules of Bankruptcy Procedure Authorizing the Debtors to (I) Use Cash Collateral of the Pre-Petition Secured Parties, (II) Obtain Post-Petition Financing and (III) Provide Adequate Protection to the Pre-Petition Secured Parties entered on June 15, 2015* (the "Final Order"). Capitalized terms used herein, but not defined herein, shall have the meanings ascribed to such terms in the Final Order.

The Court having considered the Motion, the terms of the Third Amendment, and the evidence submitted at the hearing held before this Court on September 1, 2015 (the "Interim Hearing"), to consider entry of this Order and in accordance with Bankruptcy Rules 2002, 4001(b), (c), and (d), and 9014 and the local rules of the Court, due and proper notice of the Motion and the Interim Hearing having been given; and the Interim Hearing having been held before the Court; 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 a final hearing and was 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, subject to the terms hereof; 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:

A. **Petition Date.** On April 30, 2015 (the "Petition Date"), the Debtors filed voluntary petitions under Chapter 11 of the Bankruptcy Code with the United States Bankruptcy

Court for the Northern District of Texas (the "Court"). The Debtors have continued in the management and operation of their businesses and properties as debtors-in-possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in the Cases.

B. **Jurisdiction and Venue.** The Court has jurisdiction over these proceedings, pursuant to 28 U.S.C. § 1334. Consideration of the Motion constitutes a core proceeding under 28 U.S.C. § 157(b)(2). Venue for the Cases and the proceedings on the Motion is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

C. **Committee Formation.** On May 12, 2015, the Office of the United States Trustee appointed the Creditors' Committee in the Cases.

D. **Interim Order.** At the Interim Hearing, the Court approved the Third Amendment on an interim basis pending a final hearing. Pursuant to the Interim Order, a final hearing (the "Final Hearing") to consider final approval of the Third Amendment was scheduled for September 21, 2015.

E. **Notice.** Notice of the Interim Hearing and the relief requested in the Motion complies with Section 102(1) of the Bankruptcy Code, Bankruptcy Rules 2002 and 4001(b) and (c) and the local rules of the Court.

F. **Immediate Need for Postpetition Financing and Use of Cash Collateral.** The Debtors have requested immediate entry of this Order pursuant to Bankruptcy Rule 4001(b)(2) and (c)(2). Good cause has been shown for entry of this Order. An immediate need exists for the Debtors to obtain funds and liquidity in order to continue operations and to administer and preserve the value of their estates pending a restructuring pursuant to a plan of reorganization approved by the DIP Agent and the Pre-Petition Agent (an "Approved Plan"). The ability of the

Debtors to finance their operations, to preserve and maintain the value of the Debtors' assets and to maximize the return for all creditors requires the availability of the DIP Facility and the use of Cash Collateral. In the absence of the availability of such funds and liquidity in accordance with the terms hereof, the continued operation of the Debtors' businesses would not be possible, and serious and irreparable harm to the Debtors and their estates and creditors would occur. Further, the possibility for a successful reorganization would be jeopardized in the absence of the availability of funds in accordance with the terms of this Order. Thus, the ability of the Debtors to preserve and maintain the value of their assets and maximize the return for creditors requires the availability of working capital from the DIP Facility and the use of Cash Collateral.

G. **No Credit Available on More Favorable Terms.** The Debtors have been unable to obtain on more favorable terms and conditions than those provided in this Order (a) adequate unsecured credit allowable under Bankruptcy Code Section 503(b)(1) as an administrative expense, (b) credit for money borrowed with priority over any or all administrative expenses of the kind specified in Sections 503(b) or 507(b) of the Bankruptcy Code, (c) credit for money borrowed secured by a lien on property of the estate that is not otherwise subject to a lien, or (d) credit for money borrowed secured by a junior lien on property of the estate which is subject to a lien. The Debtors are unable to obtain credit for borrowed money without confirming and ratifying the DIP Liens and the DIP Superpriority Claim to (or for the benefit of) the DIP Secured Parties.

H. **Business Judgment and Good Faith Pursuant to Section 364(e).**

(i) The terms and conditions of the DIP Facility (as amended by the Third Amendment), are fair, reasonable, and the best available under the circumstances, reflect the

Debtors' exercise of prudent business judgment consistent with their fiduciary duties, and are supported by reasonably equivalent value and consideration;

(ii) the DIP Facility (as amended by the Third Amendment) was negotiated in good faith and at arm's length among the Debtors, the DIP Agent and the DIP Secured Parties; and

(iii) the use of the proceeds to be extended under the DIP Facility (as amended by the Third Amendment) will be so extended in good faith and for valid business purposes and uses, as a consequence of which the DIP Secured Parties are entitled to the protection and benefits of Section 364(e) of the Bankruptcy Code.

I. **Relief Essential; Best Interest.** The relief requested in the Motion (and provided in this Order) is necessary, essential and appropriate for the continued operation of the Debtors' businesses and the management and preservation of the Debtors' assets and property. It is in the best interest of the Debtors' estates that the Debtors be allowed to enter into the DIP Facility (as amended by the Third Amendment), ratify and confirm the DIP Obligations and use the Cash Collateral as contemplated herein.

NOW, THEREFORE, on the Motion of the Debtors and the record before this Court with respect to the Motion, including the record made during the Interim Hearing, and with the consent of the Debtors, the Pre-Petition Agent and the Pre-Petition Secured Parties and the DIP Secured Parties, and good and sufficient cause appearing therefor,

IT IS ORDERED that:

1. **Motion Granted.** The Motion is granted on an interim basis in accordance with the terms and conditions set forth in this Order. Any objections to the Motion with respect to

entry of this Order to the extent not withdrawn, waived or otherwise resolved, and all reservation of rights included therein, are hereby denied and overruled.

2. **Third Amendment.** The Debtors are expressly and immediately authorized and empowered to enter into the Third Amendment and to incur and to perform all of their obligations thereunder in accordance with and subject to this Order, and to perform all of their obligations under the other DIP Loan Documents (as amended by the Third Amendment) and to execute and/or deliver the Third Amendment and all other instruments, certificates, agreements and documents, and to take all actions, which may be reasonably required or otherwise necessary for the performance by the Debtors under the DIP Loan Documents (as amended by the Third Amendment). The Debtors are hereby authorized and directed to continue to pay all DIP Obligations as such shall accrue and become due. The DIP Loan Documents (as amended by the Third Amendment) and all DIP Obligations shall represent, constitute and evidence, as the case may be, valid and binding obligations of the Debtors, enforceable against the Debtors, their estates and any successors thereto in accordance with their terms and shall have all of the protections afforded a party acting in good faith under Section 364(e) of the Bankruptcy Code.

3. **Obligations Order.** Except as modified in Paragraph 4 below, the Interim Order and the Final Order shall remain in full force and effect on a final basis in all respects and all of the rights of the Debtors and their estates in connection with the DIP Facility shall be governed by the terms of such Orders. Without limiting the generality of the foregoing, (a) the Debtors hereby ratify and confirm all of the releases set forth in the Final Order and reassert them as of the date of this Order, (b) the DIP Obligations and the Pre-Petition Facility Obligations are ratified and confirmed in all respects, shall have all of the rights and priorities set forth in the Interim Order and the Final Order, and are not subject to any defense or counterclaim of any kind

or nature whatsoever, and (c) the DIP Liens, the Pre-Petition Liens, the Adequate Protection, Liens, the DIP Superpriority Claim and the Adequate Protection Superpriority Claim are each ratified and confirmed in all respects and shall have all of the rights set forth in the Interim Order and the Final Order.

4. **Modifications to Final Order**. Upon the effective date of the Third Amendment, the Final Order shall be modified as follows:

(a) Paragraph J of the Final Order shall be deleted in its entirety and replaced with the following:

“Use of Cash Collateral and Proceeds of the DIP Facility, DIP Collateral and Pre-Petition Collateral. All Cash Collateral, all proceeds of the Pre-Petition Collateral and the DIP Collateral (defined below), including proceeds realized from a sale or disposition thereof, or from payment thereon, and all proceeds of the DIP Facility (net of any amounts used to pay fees, costs and expenses payable under the Interim Order or this Final Order) shall be used and/or applied in accordance with the terms and conditions of the Interim Order or this Final Order, the DIP Budget and the other DIP Loan Documents, for the expenditures in the DIP Budget and for no other purpose; provided, that, subject to the limitations set forth in the DIP Budget, on or before August 25, 2015, the proceeds of the DIP Facility, DIP Collateral, Pre-Petition Collateral or Cash Collateral, may be used by the Creditors’ Committee solely to investigate the matters covered by the Claims Stipulations (defined below).”

(b) Paragraph M of the Final Order shall be deleted in its entirety and replaced with the following:

“Extension of Financing. The DIP Secured Parties have indicated a willingness to provide financing to the Debtors in accordance with the DIP Credit Agreement and the other DIP Loan Documents (including the DIP Budget) and subject to (i) the entry of this Final Order and (ii) findings by this Court that such financing is essential to the Debtors' estate, that the DIP Secured Parties are good faith financiers, and that the DIP Secured Parties' claims, superpriority claims, security interests and liens and other protections granted pursuant to the Interim Order, this Final Order, and the DIP Facility (including the DIP Superpriority Claim and the DIP Liens) will not be affected by any subsequent reversal, modification, vacatur or amendment of, as the case may be, the Interim Order, this Final Order or any other order, as provided in Section 364(e) of the Bankruptcy Code.”

(c) Paragraph 3 of the Final Order shall be deleted in its entirety and replaced with the following:

“Authorization and Approval to Use Cash Collateral and Proceeds of DIP Facility. Subject to the terms and conditions of the Interim Order, this Final Order and the other DIP Loan Documents, and to the adequate protection granted to or for the benefit of the Pre-Petition Secured Parties as hereinafter set forth, each Debtor was authorized during the Interim Period and is hereby authorized on a final basis to (a) use the Cash Collateral and (b) request and use proceeds of the DIP Extensions of Credit, in each case in the amounts and for the line item expenditures set forth in the DIP Budget. The DIP Budget may only be amended, supplemented, modified, restated, replaced, or extended in accordance with the DIP Loan Documents and the prior written consent of the DIP Agent; provided, that the amount set aside for the professionals of the Creditors’ Committee shall be \$1,600,000 and shall not be subject to modification. Notwithstanding anything herein to the contrary, subject only to the Debtors’ rights under paragraph 17(b), the Debtors’ right to request or use proceeds of DIP Extensions of Credit or to use Cash Collateral shall terminate on the Termination Date. Nothing in this Final Order shall authorize the disposition of any assets of the Debtors or their estates or other proceeds resulting therefrom outside the ordinary course of business, except as permitted herein (subject to any required Court approval).”

(d) Paragraph 9 of the Final Order shall be deleted in its entirety and replaced with the following:

“Subject to the terms and conditions contained in this paragraph 9, the DIP Liens, the DIP Superpriority Claim, the Pre-Petition Liens, the Adequate Protection Liens and the Adequate Protection Superpriority Claim, which have the relative lien and payment priorities as set forth herein, shall, in any event, in all cases be subject and subordinate to a carve-out (the "Carve-Out"), which shall be composed of the following: (i) all fees required to be paid to the Clerk of the Court and to the Office of the United States Trustee pursuant to 28 U.S.C. § 1930(a) plus (ii) an amount equal to the unpaid professional fees and expenses incurred by the Debtors and the Creditors’ Committee on or after the Petition Date through the date (if any) upon which the DIP Agent provides written notice (a "Carve Out Trigger Notice") to counsel to the Debtors and counsel to the Creditors’ Committee that the Maturity Date (as defined in the DIP Credit Agreement) has occurred, plus (iii) \$300,000 (the "Default Carve-Out Amount"), which amount may be used subject to the terms of the Interim Order and this Final Order to pay any allowed fees or expenses incurred by the Debtors and the Creditors’ Committee after the date of delivery of the Carve-Out Trigger Notice. The ability of any party to object to the fees, expenses, reimbursement or compensation described above shall not be impaired by the terms of the Carve-Out. No portion of the Carve-Out, no proceeds of the DIP Facility or DIP Extensions of Credit, and no proceeds of the Pre-Petition Collateral, including Cash Collateral, or any other amounts, may be used for the payment of the fees and expenses of any person incurred (i) in challenging any of the Pre-Petition Secured Parties’ or the DIP Secured Parties’ liens or claims (or the value of their respective Pre-Petition Collateral or the DIP Collateral), or the initiation or prosecution of any claim or action against any of the Pre-Petition Secured Parties or DIP Secured Parties, including, without limitation, any claim under Chapter 5 of the Bankruptcy Code, or any state law or foreign law, in respect of the Pre-Petition Secured Obligations or the DIP Facility, or in preventing, hindering or delaying the realization by the Pre-Petition Secured Parties or the DIP Secured Parties upon any Pre-Petition Collateral or DIP Collateral, respectively, or the enforcement of their respective rights under the Interim Order, this Final Order, any other DIP

Loan Document or any Pre-Petition Loan Document, (ii) in requesting authorization, or supporting any request for authorization, to obtain postpetition financing (whether equity or debt) or other financial accommodations pursuant to Section 364(c) or (d) of the Bankruptcy Code, or otherwise, other than (x) from the DIP Lenders or (y) if such financing is sufficient to indefeasibly pay and satisfy all DIP Obligations in full in cash and such financing is immediately so used or (iii) in connection with any claims or causes of actions against the Releasees, including formal or informal discovery proceedings in anticipation thereof, and/or in challenging any Pre-Petition Secured Obligations, DIP Obligations, Pre-Petition Liens, Adequate Protection Liens or DIP Liens.”

(e) Paragraph 15 of the Final Order shall be hereby deleted in its entirety and replaced with the following:

“Disposition of DIP Collateral. The Debtors shall not sell, transfer, lease, encumber or otherwise dispose of any portion of the DIP Collateral, except as permitted by the DIP Loan Documents. Upon the effective date of an Approved Plan, the reorganized Debtors shall assume the following obligations: (i) any accrued but unpaid U.S. Trustee fees, plus (ii) any unfunded professional fees and costs set forth in the DIP Budget.”

(f) Paragraph 18(a) of the Final Order shall be deleted in its entirety and replaced with the following:

“(a) As a condition to the DIP Extensions of Credit and the authorization to use Cash Collateral, each Debtor has agreed that proceeds of any DIP Collateral and Pre-Petition Collateral, any amounts held on account of the DIP Collateral or Pre-Petition Collateral, and all payments and collections received by the Debtors with respect to all proceeds of DIP Collateral and Pre-Petition Collateral, shall be used and applied in accordance with the DIP Loan Documents (including repayment and reduction of the DIP Obligations) and the DIP Budget.”

5. **Certain References.** On and after the effective date of the Third Amendment, all references in the Final Order and the other DIP Loan Documents to the “Final Order” shall be references to the Final Order as amended by this Order.

6. **DIP Budget.** The “DIP Budget” shall be the budget attached hereto as Exhibit B. Such budget may be updated from time to time pursuant to the DIP Loan Documents and, in each case, subject to the prior approval of the DIP Agent; provided that the amount set aside for the professionals of the Creditors’ Committee shall be \$1,600,000 and shall not be subject to modification.

7. **Other Rights and Obligations.**

(a) **Good Faith Under Section 364(e) of the Bankruptcy Code; No Modification or Stay of this Final Order.** Based on the findings set forth herein and in accordance with Section 364(e) of the Bankruptcy Code, which is applicable to the DIP Facility as approved by the Interim Order, the Final Order and this Order, in the event any or all of the provisions of this Order are hereafter modified, amended or vacated by a subsequent order of this Court or any other court, the DIP Secured Parties are entitled to the protections provided in Section 364(e) of the Bankruptcy Code, and no such appeal, modification, amendment or vacation shall affect the validity and enforceability of any advances made hereunder or the liens or priority authorized or created pursuant to the Interim Order, the Final Order or this Order.

(b) **Binding Effect.** The provisions of this Order shall be binding upon and inure to the benefit of the DIP Secured Parties and the Pre-Petition Secured Parties, the Debtors, and their respective successors and assigns (including any trustee or other fiduciary hereinafter appointed as a legal representative of the Debtors or with respect to the property of the estates of the Debtors) whether in the Cases, in any Successor Cases, or upon dismissal of any such Chapter 11 or Chapter 7 case.

(c) **No Waiver.** The failure of the DIP Secured Parties or the Pre-Petition Secured Parties to seek relief or otherwise exercise their rights and remedies under the Interim Order, the Final Order, this Order, the other DIP Loan Documents or the Pre-Petition Loan Documents or otherwise, as applicable, shall not constitute a waiver of any of the DIP Secured Parties' or Pre-Petition Secured Parties' rights hereunder, thereunder, or otherwise. Notwithstanding anything herein, the entry of the Interim Order, the Final Order and this Order are without prejudice to, and do not constitute a waiver of, expressly or implicitly, or otherwise

impair any of the rights, claims, privileges, objections, defenses or remedies of the DIP Secured Parties or the Pre-Petition Secured Parties under the Bankruptcy Code or under non-bankruptcy law against any other person or entity in any court, including without limitation, the rights of the DIP Agent, the Pre-Petition Agent and the Pre-Petition Collateral Agent (i) to request conversion of the Cases to cases under Chapter 7, dismissal of the Cases, or the appointment of a trustee in the Cases, or (ii) to propose, subject to the provisions of Section 1121 of the Bankruptcy Code, a Plan, or (iii) to exercise any of the rights, claims or privileges (whether legal, equitable or otherwise) on behalf of the DIP Secured Parties or the Pre-Petition Secured Parties.

(d) **No Third Party Rights.** Except as explicitly provided for herein, this Final Order does not create any rights for the benefit of any third party, creditor, equity holder or any direct, indirect, third party or incidental beneficiary.

(e) **Survival of Order.** The provisions of this Order and any actions taken pursuant hereto shall survive entry of any order which may be entered (i) confirming any Plan in the Cases, (ii) converting any of the Cases to a case under Chapter 7 of the Bankruptcy Code, (iii) to the extent authorized by applicable law, dismissing any of the Cases, (iv) withdrawing of the reference of any of the Cases from this Court or (v) providing for abstention from handling or retaining of jurisdiction of any of the Cases in this Court. The terms and provisions of the Interim Order, the Final Order and this Order, and any protections granted to or for the benefit of the Pre-Petition Secured Parties (including the Adequate Protection Liens and the Adequate Protection Superpriority Claim), shall continue in full force and effect notwithstanding the entry of such order, and such DIP Liens and DIP Superpriority Claim and protections for the Pre-Petition Secured Parties (including the Adequate Protection Liens and the Adequate Protection Superpriority Claim) shall maintain their priority as provided by the Interim Order, the Final

Order, this Order, the other DIP Loan Documents and the Pre-Petition Loan Documents (as the case may be), including any intercreditor arrangement or agreements in respect thereof, until all of the DIP Obligations and the Pre-Petition Secured Obligations have been indefeasibly paid and satisfied in full in cash and discharged.

(f) **Enforceability.** This Final Order shall constitute findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052 and shall take effect and be fully enforceable *nunc pro tunc* to the Petition Date immediately upon execution hereof.

(g) **No Waivers or Modification of Order.** The Debtors irrevocably waive any right to seek any modification or extension of this Order without the prior written consent of the DIP Agent, the Pre-Petition Agent and the Pre-Petition Collateral Agent, and no such consent shall be implied by any other action, inaction or acquiescence of the DIP Agent, the Pre-Petition Agent and the Pre-Petition Collateral Agent.

(h) **Waiver of any Applicable Stay.** Any applicable stay (including, without limitation, under Bankruptcy Rule 6004(h)) is hereby waived and shall not apply to this Final Order.

(i) **Retention of Jurisdiction.** The Court has and will retain jurisdiction to enforce this Final Order according to its terms.

###END OF ORDER###

Submitted by:

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ATTORNEYS FOR CHEVRON U.S.A.
INC. AND UNION OIL COMPANY OF
CALIFORNIA

EXHIBIT A
THIRD AMENDMENT

THIRD AMENDMENT TO SENIOR SECURED SUPERPRIORITY DEBTOR-IN-POSSESSION CREDIT AGREEMENT

THIS THIRD AMENDMENT TO SENIOR SECURED SUPERPRIORITY DEBTOR-IN-POSSESSION CREDIT AGREEMENT (this “Amendment”) is made as of [●], 2015, by and among ERG Resources, L.L.C., a Texas limited liability company (“Company”), the Guarantors party hereto, CLMG Corp., as administrative agent (“Administrative Agent”), and the Lenders party hereto. Capitalized terms used herein and not otherwise defined herein shall have the meanings given to them in the Credit Agreement referred to below, as amended by this Amendment. References to Sections are references to Sections of the Credit Agreement, as applicable, unless otherwise stated.

WITNESSETH:

WHEREAS, Company, Administrative Agent and Lenders entered into that certain Senior Secured Superpriority Debtor-in-Possession Credit Agreement dated as of May 7, 2015 (as amended, restated, amended and restated, supplemented and/or otherwise modified prior to, but not including, the date hereof, the “Credit Agreement”), for the purpose and consideration therein expressed, whereby Lenders became obligated to make loans to Company as therein provided; and

WHEREAS, Company has requested that the Administrative Agent and Lenders amend certain provisions of the Credit Agreement, and, subject to the satisfaction of the conditions set forth herein, the Administrative Agent and the Lenders signatory hereto are willing to do so, on the terms set forth herein.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto do hereby agree as follows:

ARTICLE I.

AMENDMENTS AND AGREEMENTS

Section 1.1. Section 1.1 of the Credit Agreement is hereby amended by deleting the following definitions in their entirety:

“Acceptable Sale Process”

“Approved Sale”

“Auction”

“Bid Procedures”

“Bid Procedures Motion”

“Bid Procedures Order”

“Break-Up Fee”

“Post-Sale Carve-Out”

“Sale”

“Sale Motion”

“Sale Order”

Section 1.2. Section 1.1 of the Credit Agreement is hereby amended by inserting the following definitions in the appropriate alphabetical order:

(a) “Approved Plan” means a Reorganization Plan which is in form and substance satisfactory to the Lenders and shall include (i) payment in full in cash of all Commitments and Obligations under the DIP Facility on or prior to the Maturity Date and (ii) treatment of the Pre-Petition Facility Obligations in a manner acceptable to the Pre-Petition Agent.

(b) “Committee Settlement Agreement” means that certain Settlement and Transaction Support Agreement dated August 6, 2015, by and among the Official Committee of Unsecured Creditors appointed in the chapter 11 cases jointly administered as *In re ERG Intermediate Holdings, LLC*, et al., No. 15-31858-HDH currently pending before the United States Bankruptcy Court for the Northern District of Texas, CLMG Corp. and LNV Corporation.

(c) “Reorganization Plan” means a plan of reorganization in the Chapter 11 Case.

Section 1.3. The definition of “Approved Budget” appearing in Section 1.1 of the Credit Agreement is hereby amended by inserting the text “, provided that the set aside for the professional fees of the Committee shall be as set forth in the Committee Settlement Agreement” following the text “and any Supplemental Approved Budget” appearing therein.

Section 1.4. The definition of “Change of Control” appearing in Section 1.1 of the Credit Agreement is hereby amended by deleting the reference to “Acceptable Sale Process” appearing therein and inserting “Approved Plan” in lieu thereof.

Section 1.5. Clauses (1), (2) and (3) of the definition of “Final Order” appearing in Section 1.1 of the Credit Agreement are hereby amended as follows:

(a) clause (1) is hereby deleted in its entirety;

(b) clause (2) is hereby amended by renumbering such clause as clause (1) and deleting the reference to “Acceptable Sale Process” appearing therein and inserting “Approved Plan” in lieu thereof; and

(c) clause (3) is hereby amended by renumbering such clause as clause (2).

Section 1.6. The definition of “Stated Maturity Date” appearing in Section 1.1 of the Credit Agreement is hereby amended by deleting “August 31, 2015” and inserting “November 15, 2015” in lieu thereof.

Section 1.7. Section 2.6(a)(iii), Section 2.6(a)(v), Section 2.7(b), Section 2.15, Section 7.17, Section 7.21(d), Section 7.21(e) and Section 10.1(a) of the Credit Agreement are hereby amended by deleting the references to “Acceptable Sale Process” appearing therein and inserting “Approved Plan” in lieu thereof.

Section 1.8. Section 2.16(a) of the Credit Agreement is hereby amended by:

(a) deleting the following sentence appearing therein:

“In addition to the foregoing, upon the closing of the Approved Sale (and only upon the closing of the Approved Sale), a fund shall be established by the Credit Parties in accordance with the terms of the Orders in an amount equal to \$750,000 (the “Post-Sale Carve-Out”) to be used solely for professional fees and expenses incurred by the Credit Parties’ estates after the closing of the Approved Sale, including in connection with a plan of reorganization permitted under the Interim Order or the Final Order; provided that, the use of the Post-Sale Carve-Out shall be consistent with the Approved Budget; provided further, that the Post-Sale Carve Out shall be reduced on a dollar for dollar basis by the amount of the Default Carve-Out Amount in the event that the Administrative Agent delivers a Carve-Out Trigger Notice”; and

(b) deleting the text “or the Post-Sale Carve Out” following the text “Notwithstanding anything herein to the contrary, no portion of the Carve-Out” appearing therein.

Section 1.9. Section 4.1(b) of the Credit Agreement is hereby amended by deleting the text “Without limiting the foregoing, the CRO shall have full authority to (i) direct the Acceptable Sale Process and (ii) direct or instruct the Company and its Subsidiaries to take or cause the actions necessary or appropriate to achieve the Milestones” appearing therein.

Section 1.10. Section 4.1(l) of the Credit Agreement is hereby deleted in its entirety.

Section 1.11. Section 6.24 of the Credit Agreement is hereby amended by amending and restating it in its entirety as follows:

“Section 6.24. Approved Plan Milestone. Company shall cause, or shall cause one or more of the Guarantors (as applicable) to cause the Approved Plan to be effective no later than November 15, 2015 (the “Milestone”).”

Section 1.12. Section 7.5 of the Credit Agreement is hereby amended by deleting the following text appearing therein:

“Notwithstanding anything else provided in this Section 7.5, the Company and any Grantor may Dispose of its Oil and Gas Properties constituting California Assets pursuant to an Approved Sale, which, for the avoidance of doubt, must be conducted pursuant to

an Auction pursuant to the Bid Procedures which preserve the right of the Administrative Agent and the Pre-Petition Agent to Credit Bid in connection with any sale of Collateral or Pre-Petition Collateral (as the case may be).”

Section 1.13. Section 7.13(c) of the Credit Agreement is hereby amended by inserting the text “except as set forth in the Committee Settlement Agreement,” following the text “Notwithstanding anything in any Approved Budget,” appearing therein.

Section 1.14. Section 8.1(l) of the Credit Agreement is hereby amended by deleting the clause “, except pursuant to the Acceptable Sale Process” appearing therein.

Section 1.15. Section 8.1(q) of the Credit Agreement is hereby amended by deleting the clause “other than pursuant to the Acceptable Sale Process” appearing therein.

Section 1.16. Section 8.1(t) of the Credit Agreement is hereby amended by deleting the clause “, except that the Credit Parties are entitled to conduct the Acceptable Sale Process in a manner consistent with the Bid Procedures” appearing therein.

Section 1.17. Section 8.1 of the Credit Agreement is hereby amended by deleting the word “or” at the end of subsection 8.1(x), deleting the period at the end of subsection 8.1(y), inserting a semicolon at the end of subsection 8.1(y) followed by the word “or” and inserting the following subsection 8.1(z):

“(z) a Reorganization Plan other than an Approved Plan shall be filed by any Credit Party in the Chapter 11 Case.”

ARTICLE II.

CONDITIONS OF EFFECTIVENESS

Section 2.1. Effective Date

This Amendment shall become effective when each of the following conditions shall have been satisfied:

(a) Counterparts. Borrower, each Guarantor, Administrative Agent and the Required Lenders shall have signed a counterpart hereof (whether the same or different counterparts) and shall have delivered (including by way of facsimile, pdf or other electronic transmission) the same to Administrative Agent c/o White & Case LLP, 1155 Avenue of the Americas, New York, New York 10036, Attention: John Gawey (facsimile number: (212) 354-8113 / email: john.gawey@whitecase.com);

(b) Representations and Warranties. All of the representations and warranties made pursuant to Article IV hereof shall be true and correct in all material respects on the Third Amendment Effective Date (after giving effect to this Amendment); and

(c) Bankruptcy Court Approval. The Bankruptcy Court shall have entered an order, reasonably satisfactory in form and substance to the Required Lenders, approving

this Amendment, which order shall be in full force and effect and shall not have been amended, modified, stayed or reversed.

(d) No Default. No event shall have occurred and be continuing that would constitute an Event of Default or a Default (after giving effect to this Amendment) (the date on which such conditions have been satisfied the “Third Amendment Effective Date”)

ARTICLE III.

REPRESENTATIONS AND WARRANTIES

Section 3.1. Representations and Warranties of Company

In order to induce Administrative Agent and each Lender party hereto to enter into this Amendment, Company represents and warrants to Administrative Agent and each Lender party hereto that:

(a) All representations and warranties made by any Person in any Loan Document are true and correct in all respects on the Third Amendment Effective Date (after giving effect to this Amendment) as if such representations and warranties had been made on the Third Amendment Effective Date (after giving effect to this Amendment) (except to the extent that such representation or warranty was made as of a specific date, in which case such representation or warranty is true and correct in all respects as of such specific date).

(b) Each Credit Party has duly taken all action necessary to authorize the execution and delivery by it of this Amendment and to authorize the consummation of the transactions contemplated hereby and the performance of its obligations hereunder, and such transactions are within each Credit Party’s corporate, partnership, limited liability company or other powers.

(c) The execution and delivery by the various Credit Parties of this Amendment does not and will not (a) conflict with any provision of (i) any Law, (ii) the Organizational Documents of any Credit Party, or (iii) any material agreement, judgment, license, order or permit applicable to or binding upon any Credit Party or its property, (b) result in the acceleration of any Indebtedness owed by any Credit Party, or (c) result in or require the creation of any Lien upon any assets or properties of any Credit Party except as expressly contemplated or permitted in the Loan Documents. Except as expressly contemplated in the Loan Documents no permit, consent, approval, authorization or order of, and no notice to or filing with, any Governmental Authority or third party is required in connection with the execution, delivery or performance by any Credit Party of this Amendment or to consummate any transactions contemplated hereby.

ARTICLE IV.

Acknowledgement and Confirmation

Section 4.1. Acknowledgement and Confirmation

Each of the Credit Parties party hereto hereby reaffirms, acknowledges and agrees that, with respect to each Loan Document to which it is a party, after giving effect to this Amendment (and the deemed effectiveness hereof as of [●], 2015):

(a) all of its obligations, liabilities and indebtedness under such Loan Document, including guarantee obligations, shall remain in full force and effect on a continuous basis;

(b) all of the liens and security interests created and arising under such Loan Document remain in full force and effect on a continuous basis, and the perfected status and priority to the extent provided for in Section 2.16 of the Credit Agreement of each such lien and security interest continues in full force and effect on a continuous basis, unimpaired, uninterrupted and undischarged as collateral security for the Obligations;

in each case as if the amendment made pursuant hereto had become effective as of [●], 2015 and hereby waive any and all defenses of any kind or nature as a result of this Amendment having been entered into after [●], 2015.

ARTICLE V.

MISCELLANEOUS

Section 5.1. Ratification of Agreements

This Amendment is limited precisely as written and, except as expressly set forth herein, shall not constitute or be deemed to constitute a modification, acceptance or waiver of any other provision of the Credit Agreement or any other Loan Document and shall not operate as a waiver of any right, power or remedy of the Administrative Agent or any Lender under the Credit Agreement, the Notes, or any other Loan Document.

Section 5.2. Effect on Loan Documents

On and after the Third Amendment Effective Date, each reference in the Credit Agreement to “this Agreement”, “hereunder”, “hereof”, “herein”, or words of like import, and each reference to the Credit Agreement in any other Loan Document shall be deemed a reference to the Credit Agreement as modified hereby. This Amendment shall constitute a “Loan Document” for all purposes of the Credit Agreement and the other Loan Documents.

Section 5.3. GOVERNING LAW

THIS AMENDMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEVADA, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW.

Section 5.4. Interpretive Provisions

Section 1.4 of the Credit Agreement is incorporated herein by reference herein as if fully set forth.

Section 5.5. Severability

Any provision hereof which is held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without rendering the remaining provisions hereof invalid, illegal or unenforceable in such jurisdiction and without effecting the validity, legality or enforceability of any provision in any other jurisdiction.

Section 5.6. Successors; Assignment

The terms of this Amendment shall be binding upon, and shall inure for the benefit of, the parties hereto and their respective successors and assigns.

Section 5.7. Counterparts

This Amendment may be executed in counterparts (and by different parties hereto in different counterparts), each of which when so executed shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page of this Amendment by facsimile or in electronic (i.e., “pdf” or “tif”) format shall be effective as delivery of a manually executed counterpart of this Amendment.

THIS AMENDMENT REPRESENTS THE FINAL AGREEMENT AMONG THE PARTIES HERETO AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN OR AMONG THE PARTIES HERETO.

[The remainder of this page has been intentionally left blank.]

IN WITNESS WHEREOF, this Amendment is executed as of the date first above written.

COMPANY:

ERG RESOURCES, L.L.C.

By: _____
Name: R. Kelly Plato
Title: Chief Financial Officer

ERG INTERMEDIATE HOLDINGS, LLC

By: _____
Name: R. Kelly Plato
Title: Chief Financial Officer

WEST CAT CANYON, L.L.C.

By: _____
Name: R. Kelly Plato
Title: Chief Financial Officer

ERG OPERATING COMPANY, LLC

By: _____
Name: R. Kelly Plato
Title: Chief Financial Officer

ERG INTERESTS, LLC

By: _____
Name: R. Kelly Plato
Title: Chief Financial Officer

[Signature Page to Third Amendment To Senior Secured Superpriority Debtor-In-Possession
Credit Agreement]

ADMINISTRATIVE AGENT:

CLMG CORP.

By: _____

Name: James Erwin

Title: President

LENDER:

LVN CORPORATION

By: _____

Name: Jacob Cherner

Title: Executive Vice President

[Signature Page to Third Amendment To Senior Secured Superpriority Debtor-In-Possession
Credit Agreement]

EXHIBIT B
DIP BUDGET

ERG Intermediate Holdings, LLC, et al. ("Debtors in Possession")

Cash Flow Forecast for the Plan of Reorganization for the Weeks Ending 05/08/2015 - 10/30/2015

USD'000 Forecast Week Week Ending	Plan of Reorganization																										Reorg 8-May 30-Oct
	Actual 1	Actual 2	Actual 3	Actual 4	Actual 5	Actual 6	Actual 7	Actual 8	Actual 9	Actual 10	Actual 11	Actual 12	Actual 13	Actual 14	Actual 15	Actual 16	Fcast 17	Fcast 18	Fcast 19	Fcast 20	Fcast 21	Fcast 22	Fcast 23	Fcast 24	Fcast 25	Fcast 26	
	8-May	15-May	22-May	29-May	5-Jun	12-Jun	19-Jun	26-Jun	3-Jul	10-Jul	17-Jul	24-Jul	31-Jul	7-Aug	14-Aug	21-Aug	28-Aug	4-Sep	11-Sep	18-Sep	25-Sep	2-Oct	9-Oct	16-Oct	23-Oct	30-Oct	
Beginning cash	35	1,108	1,263	3,111	2,356	1,839	1,405	818	2,880	1,672	981	3,264	4,715	3,484	2,483	1,521	1,882	4,134	3,239	1,787	2,512	1,764	600	598	545	1,267	35
Operating Receipts:	84	-	2,395	0	-	-	-	3,166	34	9	-	2,280	6	-	-	576	-	-	-	1,509	-	-	-	-	1,425	-	11,483
Operating Disbursements:																											
Payroll and Benefits	-	(289)	(12)	(232)	(65)	(66)	(177)	(20)	(279)	-	(332)	-	(271)	(13)	(236)	(12)	-	(313)	-	(263)	-	(313)	-	(351)	-	(2,313)	(5,555)
Field Expenses	(110)	(159)	(146)	(394)	(295)	(353)	(402)	(287)	(376)	(674)	(467)	(556)	(446)	(464)	(373)	(604)	(433)	(447)	(1,327)	(447)	(447)	(527)	(527)	(527)	(527)	(1,647)	(12,961)
General, administrative and other	(1)	(98)	(388)	(130)	(156)	(15)	(8)	(756)	(588)	(26)	(12)	(15)	(520)	(23)	(7)	(11)	(314)	(136)	(75)	(75)	(301)	(136)	(75)	(75)	(175)	(475)	(4,591)
Total Operational Disbursements	(111)	(545)	(546)	(755)	(516)	(434)	(587)	(1,062)	(1,242)	(700)	(811)	(571)	(1,237)	(501)	(615)	(627)	(747)	(896)	(1,402)	(785)	(748)	(976)	(602)	(953)	(702)	(4,435)	(23,108)
Operating cash flow	(27)	(545)	1,849	(755)	(516)	(434)	(587)	2,103	(1,209)	(690)	(811)	1,709	(1,231)	(501)	(615)	(51)	(747)	(896)	(1,402)	724	(748)	(976)	(602)	(953)	723	(4,435)	(11,624)
Non-Operating Cash Flows:																											
Debtor Professionals	-	-	-	-	-	-	-	-	-	-	(906)	-	-	(438)	(347)	(88)	-	-	-	-	-	(590)	-	-	-	(650)	(3,019)
UCC Professionals	-	-	-	-	-	-	-	-	-	-	-	(246)	-	-	-	(473)	-	-	-	-	-	(280)	-	-	-	(132)	(1,132)
Other Professionals	-	-	-	-	-	-	-	(41)	-	-	-	-	(12)	-	(62)	-	-	-	-	(50)	-	(180)	-	-	-	(50)	(396)
Total Professional Fees	-	-	-	-	-	-	-	(41)	-	-	(906)	-	-	(500)	(347)	(561)	-	-	(50)	-	(1,050)	-	-	-	-	(832)	(4,546)
Agent Commitment Fee	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
DIP Interest	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Net cash flow	(27)	(545)	1,849	(755)	(516)	(434)	(587)	2,062	(1,209)	(690)	(1,717)	1,451	(1,231)	(1,001)	(962)	(639)	(747)	(896)	(1,452)	724	(748)	(2,064)	(602)	(953)	723	(5,312)	(16,279)
DIP loan incremental drawdown	1,100	700	-	-	-	-	-	-	-	-	4,000	-	-	-	-	1,000	3,000	-	-	-	-	900	600	900	-	4,600	16,800
Closing cash	1,108	1,263	3,111	2,356	1,839	1,405	818	2,880	1,672	981	3,264	4,715	3,484	2,483	1,521	1,882	4,134	3,239	1,787	2,512	1,764	600	598	545	1,267	556	
Facility availability	5,000	5,000	5,000	5,000	17,500	17,500	17,500	17,500	17,500	17,500	17,500	17,500	17,500	17,500	17,500	17,500	17,500	17,500	17,500	17,500	17,500	17,500	17,500	17,500	17,500	17,500	17,500
DIP loan incremental drawdown	1,100	700	-	-	-	-	-	-	-	-	4,000	-	-	-	-	1,000	3,000	-	-	-	-	900	600	900	-	4,600	16,800
DIP loan remaining availability	3,900	3,200	3,200	3,200	15,700	15,700	15,700	15,700	15,700	15,700	11,700	11,700	11,700	11,700	11,700	10,700	7,700	7,700	7,700	7,700	7,700	6,800	6,200	5,300	5,300	700	700
Total Liquidity	5,008	4,463	6,311	5,556	17,343	16,850	16,518	18,580	17,372	16,681	14,964	16,415	15,184	14,183	13,221	12,582	11,834	10,939	9,487	10,212	9,464	7,400	6,798	5,845	6,567	1,256	1,256
Total Borrowings	1,100	1,800	1,800	1,800	1,800	1,800	1,800	1,800	1,800	1,800	5,800	5,800	5,800	5,800	5,800	6,800	9,800	9,800	9,800	9,800	9,800	10,700	11,300	12,200	12,200	16,800	16,800