

**EXHIBIT B**

**DEBTOR-IN-POSSESSION LOAN AND SECURITY AGREEMENT**

This Debtor-in-Possession Loan and Security Agreement (the “**Agreement**” or the “**DIP Loan Agreement**”) is entered into this \_\_\_ day of October, 2016, between Wells Fargo Energy Capital, Inc., a Texas corporation (“**Lender**”) and Mountain Divide, LLC, a Montana limited liability company (“**Borrower**”). Capitalized terms that are not defined herein shall have the meaning ascribed to the terms in the Secured Note or the Financing Orders (each defined below) unless the context requires otherwise.

**RECITALS**

A. On October 14, 2016, Borrower filed a voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the District of Montana (the “**Court**”) in a bankruptcy case identified as Bky Case No. 16-61015 (the “**Bankruptcy Case**”).

B. Borrower has requested Lender to provide a credit facility to enable Borrower to obtain postpetition advances and other financial accommodations from Lender in the maximum principal amount of \$450,000 (the “**DIP Loan**” or “**DIP Financing**”), and that Borrower’s right and entitlement to borrow against this credit facility shall be subject to the terms and conditions of this Agreement, the Secured Note, the Financing Orders and the DIP Credit Documents (as defined below).

C. All amounts advanced by Lender to Borrower shall be evidenced by the Secured Promissory Note (the “**Secured Note**”).

D. Lender has agreed to allow Borrower to use up to \$450,000 as may be advanced under the Secured Note and this Agreement for debtor-in-possession financing to preserve and protect Borrower’s assets in its Bankruptcy Case, subject to approval of the terms of the DIP Financing by the Court and a Budget approved by Lender (the “**Budget**”).

E. To provide security for and assure the repayment of the DIP Loan and all of Borrower’s obligations to Lender incurred under the Financing Orders, the Secured Note and the DIP Credit Documents (as defined below) (the “**DIP Obligations**”), Borrower will grant and Lender will obtain a superpriority administrative expense claim status pursuant to Section 364(c)(1) of the Bankruptcy Code, and a first priority, priming, valid, perfected and enforceable mortgage, lien and security interest in the all of its real and personal property assets, whether now owned or hereafter acquired, as more fully described below and set forth in the Financing Orders.

F. All of the above-referenced documents including the Secured Note and this Agreement, together with all other agreements, documents and instruments contemplated hereby (in each case as the same may be amended, modified, extended, renewed, or supplemented from time to time, collectively, referred to as the “**DIP Credit Documents**”).

G. Subject to the terms and conditions set forth below, and entry of the Bankruptcy Court of the Interim Order and the Final Order authorizing postpetition, secured financing pursuant to Section 364 of the Bankruptcy Code, Lender is willing to provide a DIP Loan.

### AGREEMENT

**NOW, THEREFORE**, for good and valuable consideration, the sufficiency of which is hereby acknowledged, Lender and Borrower hereby agree as follows:

1. Borrower and Lender acknowledge that the Recitals herein are true and correct statements of fact.

2. Borrower has requested that Lender provide a credit facility in the maximum principal amount of \$450,000 pursuant to the terms of the Secured Note and this Agreement. All advances shall be evidenced by the Secured Note.

3. Subject to the terms and conditions of this Agreement, the other DIP Credit Agreements and the terms conditions and agreements set forth in the Financing Orders:

a. Lender shall, from time to time, at the request of Borrower, make advances to Borrower as evidenced by the Secured Promissory Note in the maximum principal amount of \$450,000. The Secured Note and all obligations thereunder shall mature upon an Event of Maturity (defined below).

b. The principal amount outstanding under the Secured Note and this Agreement shall bear interest at the fixed rate of eight percent (8%) per annum, computed on the basis of a 360-day year for the actual number of days elapsed, commencing on the date the first advance under the Secured Note.

c. Lender will make advances under the Secured Note, so long as, before and after such advance, the amount owed to Lender under the Secured Note does not exceed the maximum amount set forth above and is made consistent with the terms of the Interim Order (the “**Interim Order**”) or Final Order (the “**Final Order**” and together with the Interim Order, the “**Financing Orders**”) authorizing, among other things, Borrower to obtain postpetition, secured financing and consistent with the Budget; provided, however, that Borrower acknowledges and agrees that Lender will be under no obligation to make any advances upon the occurrence of any Event of Default or an Event of Maturity.

d. To secure all unpaid postpetition obligations incurred under the Financing Orders, the Secured Note and the other DIP Credit Documents (collectively, the “**DIP Obligations**”), Borrower hereby pledges, assigns and grants to Lender a mortgage, lien on and security interest in (collectively, “**Liens**”) upon any and all assets and properties of Borrower and Borrower’s bankruptcy estate, wherever located, now owned or after acquired, real and personal, tangible and intangible, and all proceeds, accessions, substitutions, products, rents, or profits thereof, and for further description only without limitation, shall include any and all assets of the Borrower of the types described in the Prepetition Loan Documents delivered by Borrower in favor

of Lender, including but not be limited to the Prepetition Collateral (as defined in the Financing Orders), and shall also include the following: (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 (without the requirement to specify such commercial tort claim in order for the lien to attach thereto), (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) 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) money (as each such term may be defined in the Uniform Commercial Code as of the date hereof “UCC”), (ai) contract rights, and (aj) all interests and rights associated with all oil and gas production, operating rights and revenue interests in and to the production of hydrocarbons and otherwise; and (2) all presently owned or after acquired real property and improvements thereon, mineral interests, mineral leases and other leases of real property, wells and oil and gas properties, production facilities and fixtures (collectively, the “Collateral”). Notwithstanding anything to the contrary in this Order or in the DIP Credit Documents, the Lender shall not be granted any liens on or security interests in (1) avoidance actions brought under Sections 542, 545, 547, 548, 549 or 550 of the Bankruptcy Code to secure the DIP Obligations, or (2) Borrower’s 2015 Ford F-350 pickup truck to the extent subject to a prior and perfected lien in favor of Ford Motor Credit.

e. Borrower acknowledges that the Liens granted in favor of Lender in all of the Collateral shall be perfected without the recordation of any UCC financing statements, notices of Lien or other instruments of mortgage or assignment. Notwithstanding the foregoing, Borrower authorizes and agrees to execute such financing statements, instruments and notices as may be requested by Lender from time to time. Borrower further agrees that (i) Lender shall have the rights and remedies set forth in Section 12 of this Agreement and the Financing Orders in respect of the Collateral, and (ii) if requested by Lender, Borrower shall execute and/or deliver to Lender any additional assignments, control agreements, leasehold mortgages, mortgages on real property, deeds of trust, security agreements, pledge agreements, control agreements, UCC Financing Statements, and other security instruments which Lender may request or deem necessary or advisable to perfect or further perfect or protect its interests in the Collateral, including such instruments as may be recorded in the public records.

4. The obligation of Lender to make the initial advance and any other advance under the DIP Credit Agreements shall be subject to the prior or simultaneous fulfillment of each of the following conditions, unless Lender has previously waived any such condition precedent in writing:

a. The Bankruptcy Court shall have entered an Interim Order and Final Order approving this Agreement and the other DIP Credit Documents and granting the superpriority claim status and Liens described herein and finding that Lender is extending credit to Borrower in good faith within the meaning of Bankruptcy Code § 364(e), which Interim Order (i) shall be in form and substance satisfactory to Lender in all respect, (ii) shall be in full force and effect, and (iii) shall not have been stayed, reversed, vacated, rescinded, modified or amended in any respect,

and, if the Interim Order or Final Order is the subject of a pending appeal in any respect, none of the making of such DIP Loan, the granting of Liens and the superpriority claims herein or the performance by Borrower of any of its obligations hereunder or under the other DIP Credit Documents or under any other instrument or agreement referred to herein shall be the subject of a presently effective stay pending appeal.

b. Lender shall have received (i) this Agreement, executed and delivered by a duly authorized officer of Borrower, (ii) the Secured Note conforming to the requirements hereof and executed by a duly authorized officer of Borrower, and (iii) such other documents that are customary in such transactions, in form and substance satisfactory to Lender.

c. The Bankruptcy Court shall have entered an Interim Order and Final Order, in form and substance satisfactory to Lender, pursuant to Section 363(c)(2)(B), authorizing the use by Borrower of any Cash Collateral, which order(s) shall be in full force and effect and shall not have been stayed, reversed, vacated, rescinded, modified or amended in any respect without the prior written consent of Lender.

5. Proceeds of the DIP Loan shall be used exclusively to preserve and protect the value of the Borrower's business and assets as set forth in the Budget and in the order of priority hereinafter set forth. The proceeds of the DIP Loan shall not, directly or indirectly, be used for any payments, expenses or disbursements of Borrower except for (i) payments for well reworking expenses for the protection and preservation of the Borrower's assets consistent with the Budget, (ii) disbursements for certain ongoing operational expenses of Borrower incurred during the course of the Bankruptcy Case that are reasonably necessary to operate the business and implement a sale transaction. The proceeds of the DIP Loan and Cash Collateral shall only be used in accordance with the Budget, the DIP Loan Agreement and the Financing Orders and shall not be used, directly or indirectly, for any other purposes.

6. Borrower hereby agrees to execute and deliver and/or cause to be executed and delivered all such other instruments, documents or other consents as shall be required by Lender in order to effectuate and carry out the terms and conditions of this Agreement and any Interim Order or Final Order authorizing Borrower to obtain postpetition financing.

7. Borrower agrees to cooperate and to assist Lender with the preservation and protection of the Collateral to Lender as security for Borrower's obligations to Lender, now or hereafter incurred.

8. Borrower and Lender acknowledge and represent that this Agreement is fully effective and enforceable only upon execution and entry of by the Bankruptcy Court of the Interim Order or Final Order authorizing Borrower to obtain postpetition financing pursuant to Financing Orders pursuant to terms and conditions that are acceptable in all respects to Lender.

9. Borrower acknowledges, confirms and adopts all of the statements, stipulations, covenants and agreements set forth in the Financing Orders, all of which are incorporated into this Agreement as if fully set forth herein. Borrower further acknowledges and agrees that Lender is

not an insider of Borrower and is entering into this Agreement solely in its capacity as a lender and not as a partner, joint venturer, agent, or affiliate of Borrower.

10. The happening of any of the following events or conditions shall constitute an event of default under the DIP Credit Documents (“**Event of Default**”), unless waived in writing by Lender:

a. Borrower shall fail to make any payment of principal or interest under the Secured Note or otherwise when due, including the payments that are due upon any Event of Maturity.

b. Borrower shall fail to perform or comply with any obligation, covenant, term or provision contained or referred to in the DIP Credit Documents or the Financing Orders.

c. The incurrence or payment by the Debtor of any fees, expenses or obligations in excess of the line-item amount budgeted for such fees, expenses or obligations in the Budget (subject to permitted variances).

d. The Bankruptcy Case is dismissed or converted to a case under Chapter 7 of the Bankruptcy Code or a trustee or other responsible officer under Chapter 11 of the Bankruptcy Code shall be appointed in the bankruptcy case.

e. An order of the Bankruptcy Court shall be entered granting another superpriority claim or Lien pari passu with or senior to that granted to Lender pursuant to this Agreement and the Financing Orders, or an order of a court of competent jurisdiction shall be entered reversing, staying, vacating or rescinding either of the Financing Orders, or an order of a court of competent jurisdiction shall be entered amending, supplementing or otherwise modifying either of the Financing Orders without the consent of Lender.

f. Borrower or any other person shall attempt to vacate or modify the Financing Orders or seeking to surcharge any of the Collateral pursuant to Section 506(c) of the Bankruptcy Code or otherwise.

g. The entry of the Final Order shall not have occurred within thirty (30) days after the date the Motion seeking approval of the DIP Loan has been filed (unless the Lender consents to a longer period).

11. The happening of any of the following events or conditions shall constitute an event of maturity under the DIP Credit Documents (“**Event of Maturity**”):

a. the Closing Date of any sale of all or substantially all of Borrower’s assets pursuant to any order of the Bankruptcy Court (it being acknowledged that any order entered in connection with any sale is required to provide for the indefeasible payment in full of all amounts due to Lender in connection with the DIP Loan);

b. the effective date of any plan filed in the Bankruptcy Case that is confirmed by order of the Bankruptcy Court; or

c. expiration of the Budget on February 4, 2017.

12. If an Event of Default shall occur, in addition to any other remedy contained in the DIP Credit Documents and applicable law, Lender may do any one or more of the following:

a. Terminate any existing loans to and/or agreements with Borrower and/or cease making any further advances or loans to Borrower or extend any other financial accommodations.

b. Accelerate and declare immediately due and payable all remaining balance(s) of the DIP Loan and the Secured Note due Lender.

c. Enforce and/or foreclose any mortgage, security interest or Lien given or provided for under this Agreement and the Financing Orders or any other document relating to any and all Collateral securing Borrower's indebtedness to Lender under the DIP Credit Documents, in such manner and such order, as to all or any part of said Collateral, as Lender, in its sole judgment, deems to be necessary or appropriate and Borrower hereby waives any and all rights under Section 506(c) of the Bankruptcy Code with respect to the Collateral.

d. Exercise any and all legal or equitable remedies afforded to Lender as provided in any of the Financing Orders or the DIP Credit Documents, any agreement or other documents hereafter entered into between Lender and Borrower, or as provided for in the UCC or under any other applicable law.

The rights and remedies granted to Lender in this Paragraph are cumulative, and Lender shall have the right to exercise any one or more of such rights and remedies alternatively, successively or concurrently as Lender may, in its sole and absolute discretion, deem advisable.

13. Lender's waiver or forbearance of any existing or future default by Borrower, of any of the terms and/or conditions of the DIP Credit Documents, or the acceptance of any late payments shall not be deemed a waiver or forbearance of any such future default. No waiver or forbearance of any of the provisions of this Agreement or the other DIP Credit Documents shall be deemed, or shall constitute, a waiver or forbearance of any other provisions thereof and no waiver or forbearance of any type shall be binding unless evidenced by a writing signed by Lender.

14. All notices, requests and demands, required to be given hereunder, shall be in writing and shall be deemed to have been duly given upon the date of such service if served personally upon the party for whom intended, or, if mailed by first class, registered or certified mail, return receipt requested, postage prepaid, upon three (3) days after the date of such mailing, to such party at its address as shown below or otherwise hereafter designated by such party in writing:

If to Lender: Wells Fargo Energy Capital, Inc.

Attn: Michael Nepveux  
Attn: Charles O'Brien  
MAC C3700-061  
1700 Lincoln Street, Sixth Floor  
Denver, CO 80274  
Facsimile: (303) 863-5196  
Email: michael.nepveux@wellsfargo.com  
Email: charles.c.obrien@wellsfargo.com

With a copy to: George H. Singer  
Lindquist & Vennum LLP  
4200 IDS Center  
80 South Eighth Street  
Minneapolis, Minnesota 55402  
Facsimile: 612-371-3207  
Email: gsinger@lindquist.com

If to Borrower: Mountain Divide, LLC  
Attn: Patrick M. Montalban, Manager  
P.O. Box 190  
Cut Bank, MT 59301

With a copy to: Jeffrey A. Hunnes  
Guthals, Hunnes & Ruess, P.C.  
PO BOX 1977  
Billings, MT 59103-1977  
Facsimile: (406) 245-3074  
Email: jhunnes@ghrlawfirm.com

15. Time is of the essence and the performance of this Agreement.

16. This Agreement shall not be assigned by Borrower to any other person or entity without Lender's prior written consent and any such assignment shall be in violation of this Agreement and shall be null and void. This Agreement shall be binding upon and shall inure to the benefit of the respective parties hereto and their respective heirs, estates, and successors, and permitted assigns.

17. All exhibits and schedules attached hereto and any provisions of this Agreement that are recitals are incorporated into and are part of this Agreement.

18. All statement, representations and warranties of Borrower set forth herein shall survive the execution of this Agreement and shall be in full force and effect until the entire indebtedness owed to Lender has been repaid in full.

19. This Agreement shall be governed by and construed in accordance with the laws of the State of Montana (without reference to conflicts of law rules) except with respect to laws



governing any Collateral and in such event the laws of the situs of the collateral shall apply to such Collateral subject to federal law and the Financing Orders. The parties consent to the jurisdiction and authority of the Bankruptcy Court to resolve all matters related to this Agreement and the other DIP Credit Documents.

20. The parties agree that each party has reviewed and had an opportunity to comment upon this Agreement and the other DIP Credit Documents. Therefore, the parties agree that any rule of construction, to the effect that ambiguities are to be resolved against the drafting party, shall not apply in the interpretation of this Agreement, the other DIP Credit Documents, or any amendment thereto or exhibits therein.

21. This Agreement and the other DIP Credit Documents are the result of a full and complete negotiation at arms' length between Lender and Borrower.

22. This Agreement may be executed in any number of counterparts and by facsimile, which together shall constitute one instrument, and shall be fully effective if so executed.

23. If any provision of this Agreement, or the other DIP Credit Documents shall be invalid, illegal, or otherwise unenforceable, such provision shall be severable from the remainder thereof and the validity, legality, enforceability of the remaining provisions shall not be adversely affected or impaired thereby, and shall remain in full force and effect.

24. This Agreement and all documents and exhibits referred to herein shall constitute the complete agreement of the parties hereto with respect to the subject matters referred to in this Agreement, and shall supersede all prior or contemporaneous negotiations, promises, covenants, agreements, or representations of every kind of nature whatsoever with respect thereto, all of which have become fully merged and fully integrated into this Agreement and the documents and exhibits referred to herein. This Agreement cannot be amended, modified, or supplemented except by a written document signed by the appropriate parties hereto.

\*\*\*\*\* Signature Page to Follow\*\*\*\*\*

**IN WITNESS WHEREOF**, Wells Fargo Energy Capital, Inc. and Mountain Divide, LLC have caused this Agreement to be duly executed the day and year first written.

**WELLS FARGO ENERGY CAPITAL, INC.**

By \_\_\_\_\_  
Michael Nepveux  
Its: Authorized Representative

**MOUNTAIN DIVIDE, LLC**

By \_\_\_\_\_  
Patrick M. Montalban, Manager

[Signature Page to Loan Agreement]

**SECURED PROMISSORY NOTE**

\$450,000

October [\_\_\_], 2016

FOR VALUE RECEIVED, the undersigned, MOUNTAIN DIVIDE, LLC, a Montana limited liability company (the “**Borrower**”), promises to pay to the order of WELLS FARGO ENERGY CAPITAL, INC., its successors or assigns (the “**Lender**”), at its offices at 1700 Lincoln, 6th Floor, MAC C7300-061, Denver, Colorado 80274, or such other place as Lender may from time to time designate to Borrower in writing, the principal amount of FOUR HUNDRED FIFTY THOUSAND DOLLARS (\$450,000) or, if less, the aggregate unpaid principal amount of all loans or advances made by Lender to Borrower under the terms of this Secured Promissory Note (the “**Secured Note**”), plus interest on the unpaid balance, from the date hereof until paid in accordance with the terms of this Secured Note. This Secured Note is issued pursuant to, in accordance with and reliance upon one or more orders entered by the United States Bankruptcy Court for the District of Montana (the “**Court**”) issued in the bankruptcy case commenced by Borrower on October 14, 2016 and identified as Bky. Case No. 16-61015 (the “**Bankruptcy Case**”) Capitalized terms that are not defined herein shall have the meaning ascribed to the term set forth in the Debtor-in-Possession Loan and Security Agreement entered into in connection with this Note (the “**DIP Loan Agreement**”) unless the context requires otherwise.

The following is a statement of the rights of Lender and the terms and conditions to which this Secured Note is subject:

1. Promissory Note.

1.1 Advances. This Secured Note possesses a draw feature. Subject to and upon satisfaction of the conditions set forth in this Secured Note, the DIP Loan Agreement, and the Financing Orders entered in the Bankruptcy Case approving this Secured Note, the DIP Loan Agreement and the transactions contemplated hereby and thereby (in each case with the terms of such orders being acceptable to Lender in its sole and absolute discretion) and which Financing Orders authorize postpetition, secured financing, Borrower shall be entitled to draw one or more times under this Secured Note. The aggregate amount of such draws shall not exceed the full principal amount of this Secured Note. Information with regard to any loans or advances under this Secured Note shall be recorded and maintained by Lender in its internal records and such records shall be conclusive of the principal and interest owed by Borrower under this Secured Note unless there is a material error in such records. Lender’s failure to record the date or amount of any advance shall not limit or otherwise affect the obligation of Borrower under this Secured Note to repay the principal amount of loans or advances hereunder together with all accrued interest.

1.2 Interest. The principal amount outstanding under this Secured Note shall bear interest at the fixed rate of eight percent (8%) per annum, computed on the basis of a 360-day year for the actual number of days elapsed, commencing on the date of the first advance under this Secured Note.

1.3 Payment. All outstanding principal hereof, any unpaid accrued interest and expenses due under this Secured Note shall be due and payable upon occurrence of an Event of

Maturity as set forth in the DIP Loan Agreement and according to the terms of repayment therein. All payments of amounts due under this Secured Note shall be made by wire transfer, in immediately available funds, to such account as Lender may specify in writing, without any presentation of this Secured Note. All payments due and payable shall be made without offset, deduction or counterclaim of any kind. All payments made hereunder shall be applied first to the payment of any legal fees, expenses or costs of collection or enforcement that may be due hereunder, and the balance shall be applied first to interest accrued, if any, then to principal outstanding.

1.4 Prepayment. Borrower may prepay this Secured Note in whole or in part at any time without premium or penalty. Any partial prepayment shall be applied first to the payment of any legal fees, expenses or costs of collection or enforcement that may be due hereunder, and the balance shall be applied first to interest accrued, if any, then to principal outstanding.

1.5 Security. The obligations of Borrower under this Secured Note are secured by first priority priming, valid, perfected, enforceable and continuing security interests and Liens upon all of the Collateral as set forth in the DIP Loan Agreement and as provided in the Financing Orders entered by the Court in the Bankruptcy Case authorizing postpetition, secured financing.

2. Miscellaneous.

2.1 Waivers and Agreements by the Borrower. Borrower:

(a) waives diligence, presentment, demand for payment, notice of dishonor, notice of non-payment, protest, notice of protest, and any and all other demands in connection with the delivery, acceptance, performance, default or enforcement of this Note;

(b) agrees that no failure on the part of Lender to exercise any power, right or privilege hereunder, or to insist upon the prompt compliance with the terms of this Note, will constitute a waiver of that power, right or privilege; and

(c) agrees that the acceptance at any time by Lender of any past due amounts will not be deemed to be a waiver of the requirements to make prompt payment when due of any other amounts then or thereafter due and payable.

2.2 Titles and Subtitles. The titles and subtitles used in this Note are for convenience only and are not to be considered in construing or interpreting this Note.

2.3 Notices. Any notice required or permitted under this Note shall be given in writing and in accordance with Section 14 of the DIP Loan Agreement, except as otherwise expressly provided in this Secured Note.

2.4 Amendments and Waivers. Other than the right to payment of the outstanding principal amount of this Secured Note and all accrued but unpaid interest thereon, which may only be amended or waived with the written consent of Lender, any other term of this Secured Note may be amended and the observance of any other term of this Secured Note may be waived (either generally or in a particular instance and either retroactively or prospectively), only with the written consent of the Borrower and Lender and in accordance with the DIP Loan Agreement.

2.5 Severability. If any provision of this Secured Note is determined to be illegal, invalid or unenforceable by a court of competent jurisdiction, the legality, validity and enforceability of the remaining provisions of this Secured Note shall not be affected thereby but shall continue in full force and effect. In lieu of such illegal, invalid or unenforceable provision, there shall be automatically added as part of this Secured Note a provision as similar in terms to such illegal, invalid or unenforceable provision as may be legal, valid and enforceable.

2.6 Legal Fees and Collection Costs. Borrower will pay on demand all of Lender's reasonable out-of-pocket costs, including, without limitation, reasonable attorneys' fees and costs (whether or not any suit or enforcement proceeding is commenced) in connection with the protection, defense, enforcement and collection of the DIP Obligations and the Lender's interest in the Collateral as well as all such costs in the event of any dispute under this Secured Note or the DIP Credit Agreements.

2.7 Governing Law. This Secured Note shall be governed by and construed and enforced in accordance with the substantive laws of the State of Montana, without giving effect to the conflicts of laws principles of any jurisdiction, and to the extent applicable, the United States Bankruptcy Code.

2.8 Waiver of Jury Trial. EACH PARTY WAIVES THE RIGHT TO A TRIAL BY JURY IN ANY ACTION BASED ON OR PERTAINING TO THIS SECURED NOTE AND THE TRANSACTIONS CONTEMPLATED HEREBY.

2.9 Execution in Counterparts. This Secured Note may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

2.10 DIP Loan Agreement. This Secured Note is issued in connection with, and is entitled to the benefits of, the DIP Loan Agreement which, among other things, contains provisions for the acceleration of the maturity hereof upon the happening of certain events, and for the amendment or waiver of certain provisions of the DIP Loan Agreement, all upon the terms and conditions therein specified.

[Signatures on following page]

IN WITNESS WHEREOF, the parties have caused this Secured Promissory Note to be issued on the date first written above.

**BORROWER:**

MOUNTAIN DIVIDE, LLC

**LENDER:**

WELLS FARGO ENERGY CAPITAL, INC.

By: \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Its: \_\_\_\_\_