



State Bar of Texas

12th Anniversary Bench/Bar Bankruptcy Conference

Modern Trends and Creative Uses of DIP Financing

Panel:

Judge Harlin D. Hale – Northern District of Texas

Brad Foxman – Vinson & Elkins LLP

Teresa Kohl – SSG Capital Advisors

Chuck Carroll – FTI Consulting

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Panel Introduction & Overview

Discussion Leader: Bench/Bar Representative

Panelists

Panelists:

Name	Background
Honorable Harlin Dewayne “Cooter” Hale	Judge Hale was born in Natchez, Mississippi, received his undergraduate and law degrees from LSU. He clerked for Honorable James Dennis who was Associate Justice for the Louisiana Supreme Court. Judge Hale was then in private practice in Dallas for approximately 20 years including time at Strasburger & Price and Baker Mckenzie. On November 1, 2002 he was appointed as the United States Bankruptcy Judge in the Northern District of Texas and heard numerous cases in a variety of industries since his appointment to the bench.
Brad Foxman	Brad Foxman is a Counsel in Vinson & Elkins’ Restructuring & Reorganization Practice and is based in Dallas. Brad has represented debtors, lenders, creditors and trustees. His experience includes corporate workout and restructuring transactions, distressed asset acquisitions and divestitures, bankruptcy litigation, and reorganization proceedings. Brad has a BBA from the University of Michigan and his law degree from the University of Texas School of Law.
Teresa Kohl	Teresa Kohl is a Managing Director for SSG Capital Advisors and is based in Philadelphia, PA. She is responsible for originating and leading investment banking transactions, as well as managing SSG’s litigation advisory practice. Teresa has completed over 75 restructuring matters including refinancing and sales transactions for middle market companies in bankruptcy proceedings and out-of-court workouts. She received her Bachelor of Science from Villanova University.
Chuck Carroll	Chuck Carroll is a Senior Managing Director with FTI Consulting and is based in Dallas. Chuck is a senior member of FTI’s global energy team and has been involved in numerous restructuring matters including Pacific Exploration & Production, American Midstream, SandRidge Energy, Midstates Petroleum, Energy Partners, Ltd., SemGroup, and Patriot Coal. He has an undergraduate degree in Finance from Texas State and a master’s in Accounting from the University of Texas at Austin.



Deconstructing the DIP

Discussion Leader: Teresa Kohl



Deconstructing the DIP

- Debtor-in-Possession (“DIP”) financing to fund operating and restructuring expenses during a bankruptcy proceeding is essential for most cash-strapped Chapter 11 debtors and provides assurance to the various stakeholders that post-petition claims will be paid. DIP financing is a critical component of pre-petition planning as the terms of the financing can determine the outcome of the bankruptcy case. The DIP is heavily negotiated prior to filing, but those negotiations often result in a document that requires significant interpretation when presented to the Court for interim approval at the first day hearing.
- DIP motions have become minefields for even the most experienced practitioners as the language becomes more imprecise, the concepts become more complex and the terms sought by DIP lenders push the edge or exceed the protections provided by the Bankruptcy Code.
- Post-petition borrowings are governed by Section 364 of the Bankruptcy Code.
 - Section 364(c) provides a super-priority administrative claim with liens on unencumbered property or junior liens on encumbered property.
 - Section 364(d) provides for the approval of DIP financing with a priming lien (assuming non-priming credit cannot be obtained) and provides adequate protection to the holder of any liens that are primed.
 - Debtor has burden of proof on adequate protection
- Types of DIP Financings
 - Defensive DIP Financings provided by one or more of the debtor’s existing pre-petition lenders or other creditor, often to preserve value of collateral and avoid a priming fight
 - Offensive DIP Financings provided by a lender with no pre-petition exposure or acquired pre-petition debt to serve as a DIP lender and execute a “loan to own” strategy due to administrative priority



Deconstructing the DIP, cont.

■ DIP Lenders

- Historical DIP lenders were large banks but also include private equity and hedge funds active in the acquisition of bonds in distressed companies

■ DIP Loan Terms

- Interest Rates and Maturity – private equity and hedge funds attracted by higher yield DIP loans and priority treatment with short maturities
- Milestones – deadlines are heavily negotiated and limit debtor's options
- Intercreditor Agreements – terms will influence discussions between and among creditors and impact junior lienholder's objection rights

■ Extraordinary Provisions

- Roll-ups - alternative to cross collateralization that allow secured lenders to obtain extension of security interest in previously unencumbered property of the estate, but only when the debtor has no other viable options
- Case milestones – can change the direction of the case through consequences of covenant breaches and create additional burden on debtors

■ Avoiding the DIP Minefield (case example discussion)

- Boilerplate documents
- Imprecise language
- Loose drafting
- Over reaching provisions
- Review by various constituencies



First Day Orders and DIP Financing

Discussion Leader: Judge Hale



First Day Orders and DIP Financing

■ For First Days:

■ Practical tips from the bench:

- Don't ask for too much.
- Know the judge.
- If the court has them, follow the checklist or guidelines closely.
- Confer with the major players and the UST before the hearing.
- Provide the court and law clerks with copies before the hearing.



Jevic Holding Corporation Discussion

Discussion Leader: Judge Hale



Jevic Holding Corporation Discussion

■ Impact of Jevic Holding Corp:

- Structured settlements are alive.
- The absolute priority rule appears to govern.
- Most first day matters, e.g. payroll orders, seem to have Supreme Court validation.
- Finally, one might argue that the Court knows a lot about Chapter 11 and is aware of some practical problems and solutions.



Current DIP Trends

Discussion Leaders: Foxman/Carroll



Opening Commentary

Current DIP Trends

- Industry Specific Considerations
 - Oil and gas
 - Services
 - Retail
 - Healthcare
- Budget
 - Variances
 - Carry forwards/carry backs
 - Testing
- Pricing/Fees/Maturity
 - Interest rate
 - Commitment/exit fees
- Creditors Primed
 - Taking of subordinate liens on encumbered collateral
 - Intercreditor agreement implications
 - Priming of financial vs. non-financial creditors
- Roll-ups
- Carve-outs

EMAS Chiyoda Subsea Limited

Current DIP Trends

Outlined below is a summary of the key terms of the Debtors' proposed DIP Financing. EMAS Chiyoda and certain subsidiaries filed for Chapter 11 protection on February 27, 2017. On March 1, 2017, an interim order was filed granting access to the Debtors DIP financing. The Final DIP hearing is scheduled for May 15, 2017.

Term	Description
Lenders	<ul style="list-style-type: none"> Subsea 7 Finance (UK) PLC ("Tranche A Lender") & Chiyoda Corporation ("Tranche B Lender")
Commitment	<ul style="list-style-type: none"> \$90 million TL Credit Facility: Tranche A – \$10 million for initial commitment period, \$15 million for additional commitment period; Tranche B – \$30 million for initial commitment period, \$35 million for additional commitment period \$25 million of Subsea's commitment guaranteed by EMAS Chiyoda
DIP Facility & Roll Up	<ul style="list-style-type: none"> \$20 million in DIP extensions of credit made under the First Interim Order on March 1, 2017 Additional \$21 million in DIP extensions of credit made under the Second Interim Order on March 28, 2017 The remainder to be made available upon entry of the Final Order Each DIP lender has the right to credit bid the amount of any outstanding DIP obligations in connection with any sale of DIP collateral, including, without limitation, any sale occurring pursuant to section 363 of the Bankruptcy Code or included as part of any plan of reorganization or included as part of any plan of compromise or arrangement recognized by the Court
Interest Rate	<ul style="list-style-type: none"> Tranche A – 8% per year Tranche B – 12% per year Default – 3% per year above the applicable interest rate
Priming of Liens & Collateral	<ul style="list-style-type: none"> Notably, the DIP Lenders are not seeking to prime any existing lienholder. In particular, no lien is being taken in either of the Debtors' owned vessels nor in the Debtors' Ingleside Spoolbase, although the Ingleside Spoolbase is subject to a 363 procedure within 120 days initial filing Lien on Debtors' unencumbered assets, which could include certain offshore marine and other equipment, office furniture, IT hardware, and any unpledged receivables, the DIP Lenders are relying primarily on their superpriority claim for satisfaction of the DIP Loan
Maturity Date	<ul style="list-style-type: none"> Approximately five months
DIP Budget Variance	<ul style="list-style-type: none"> Provided on a weekly basis, commencing one week after the Petition Date, reflecting (i) actual cash receipts and disbursements on a line item basis, (ii) the percentage variance of such amounts from those set forth on the Payment Schedule, and (iii) containing a narrative analysis of the Loan parties' performance for the preceding week and any variance from such period in the Payment Schedule Permitted net cash flow variances not to exceed 10%
Notable Fees	<ul style="list-style-type: none"> None identified
Emergence Treatment	<ul style="list-style-type: none"> TBD

Westinghouse Electric Company LLC

Current DIP Trends

Outlined below is a summary of the key terms of the Debtors' proposed DIP Financing. Westinghouse and its debtor affiliates filed for Chapter 11 protection on March 29, 2017. On March 31, 2017, an interim order was filed granting access to the Debtors DIP financing. The Final DIP hearing is scheduled for May 10, 2017.

Term	Description
Lenders	<ul style="list-style-type: none"> Certain affiliates of Apollo Global Management, LLC
Commitment	<ul style="list-style-type: none"> Senior secured superpriority term loans in aggregate amount of \$800 million which includes a Letter of Credit facility sublimit up to \$225 million
DIP Facility & Roll Up	<ul style="list-style-type: none"> Initial \$350 million of DIP loans <ul style="list-style-type: none"> Including \$100 million under the DIP LC Facility, made available upon entry of the Interim Order Additional \$450 million <ul style="list-style-type: none"> Including the remaining \$125 million under the DIP LC Facility, made available upon entry of a Final Order
Interest Rate	<ul style="list-style-type: none"> DIP Loans – accrue interest at either: <ul style="list-style-type: none"> (i) Base rate + 5.25% per year, or (ii) LIBOR + 6.25% per year Default interest is an additional 2% per year
Priming of Liens & Collateral	<ul style="list-style-type: none"> Collateral – all owned or hereafter acquired assets and property of the Borrower and DIP Guarantors (including, without limitation, inventory, accounts receivable, property, plant, equipment, rights under leases and other contracts, patents, copyrights, trademarks, tradenames and other intellectual property and capital stock of subsidiaries), and the proceeds thereof Priority – First priority lien on unencumbered assets, priming liens on all other assets. Junior liens on collateral subject to valid, perfected and unavoidable liens in favor of third parties that were in existence immediately prior to the Petition Date
Maturity Date	<ul style="list-style-type: none"> Twelve months after the Closing Date, subject to the Borrower's option to extend the term by additional 12 months
DIP Budget Variance	<ul style="list-style-type: none"> Variance analysis with respect to the Budget every four weeks, commencing with the fifth week after the DIP Closing Date <ul style="list-style-type: none"> Subject to permitted variances not identified in the DIP motion
Notable Fees	<ul style="list-style-type: none"> Unused Commitment Fee - 0.50% per year for undrawn DIP Loans OID - 2.50% Early Exit Fees - 103% (first 6 months); 102% (following 6 months), par (at scheduled termination date or thereafter) LC Facility Fees - Fronting fee of 0.125% payable to the LC Issuer on outstanding face amount of each LC Extension Fee – 3% (12 month extension)
Emergence Treatment	<ul style="list-style-type: none"> TBD

Payless Holdings, LLC

Current DIP Trends

Outlined below is a summary of the key terms of the Debtors' proposed DIP Financing. Payless ShoeSource, Inc. entered into a Restructuring Support Agreement on April 4, 2017. This Agreement proposes entry of the final DIP order on May 9, 2017 and emergence from Chapter 11 bankruptcy within 128 days of the Petition Date (August 10, 2017).

Term	Description
Lenders	<ul style="list-style-type: none"> ■ DIP ABL: Wells Fargo, TPG Specialty Lending, Bank of America, and CIT Finance ■ DIP Term Loan: Alden Global Capital, Axar Capital Management, Credit Suisse Asset Management, GSO Capital Partners, Hawkeye Capital Management, Invesco Senior Secured Management, Octagon Credit Investors
Commitment	<ul style="list-style-type: none"> ■ \$385 million composed of \$305 million ABL and an \$80 million DIP term loan
DIP Facility & Roll Up	<ul style="list-style-type: none"> ■ \$305 million ABL Facility – Tranche A: \$245 million, Tranche A-1: \$60 million; ABL facility rolls up pre-petition \$187 million ABL ■ DIP Term Loan – not to exceed \$80 million <ul style="list-style-type: none"> ■ \$30 million initial draw pursuant to the Final DIP Order ■ Up to \$50 million in additional draws available following entry of an order by the Bankruptcy Court approving the Disclosure Statement through the Effective Date (subject to the consent of the Required Lenders)
Interest Rate	<ul style="list-style-type: none"> ■ Tranche A: Libor + 4.00%, Tranche A-1: LIBOR+ 8.50% ■ DIP Term Loan: LIBOR + 9.00% (1.00% floor on LIBOR) ■ Default interest is an additional 2.00% per year
Priming of Liens & Collateral	<ul style="list-style-type: none"> ■ The DIP Liens securing the DIP ABL are senior in priority to all liens except Permitted Prior Liens, the DIP Term Loan Liens, the Prepetition Term Loan Liens, and the Prepetition Term Loan Adequate Protection Liens ■ The DIP Liens securing the DIP Term Loan are senior in priority to all liens except Permitted Prior Liens, the DIP ABL Liens, the Prepetition Revolver Liens, and the Prepetition Revolver Adequate Protection Liens.
Maturity Date	<ul style="list-style-type: none"> ■ Approximately 7 months after the closing date for both the DIP ABL and DIP Term Loan
DIP Budget Variance	<ul style="list-style-type: none"> ■ 13 week budget prepared prior to closing date. Weekly reporting showing actual receipts and disbursements for each line item compared to the Approved Budget. Permitted Variances tested after four weeks, and then on a rolling four week basis, include: <ul style="list-style-type: none"> ■ Actual net cash flow not to exceed budgeted net cash flow less a Test Amount initially set at \$25 million ■ Total Eligible Inventory and In-Transit shall be at least 87.5% of the amount set forth in the Approved Budget
Notable Fees	<ul style="list-style-type: none"> ■ ABL Facility: 0.375% Commitment Fee, 4.00% Standby L/C Fee, 3.5% Commercial L/C Fee, 0.125% Front Fee, \$150,000 Admin Agent Fees ■ Dip Term Loan: \$35,000 Admin Agency Fee, 2.00% Commitment Fee on drawn amounts, 3.00% Backstop Fee on drawn amounts, 2.50% Exit Fee on commitments at effective date
Emergence Treatment	<ul style="list-style-type: none"> ■ Tranche A holders convert claims into a new ABL facility at exit; Tranche A-1 holders to receive dollar-for-dollar share of new \$280 million first lien term loan; DIP Term Loan holders to receive dollar-for-dollar share of new \$280 million first lien term loan

Angelica Corp

Current DIP Trends

Outlined below is a summary of the key terms of the Debtors' proposed DIP Financing. Angelica Corporation filed for Chapter 11 protection on April 3, 2017. The debtors have entered into an asset purchase agreement with stalking horse bidder 9W Halo Holdings L.P., an affiliate of KKR. The company secured a DIP credit facility to fund the sale process.

Term	Description
Lenders	<ul style="list-style-type: none"> Wells Fargo Capital Finance, LLC and Regions Bank
Commitment	<ul style="list-style-type: none"> Aggregate principal amount of \$65 million
DIP Facility & Roll Up	<ul style="list-style-type: none"> Debtors permitted to draw up to \$37,625,000 upon entry of the Interim Order Additional \$27,375,000 made available upon entry of the Final Order "Creeping" roll-up of the outstanding funded obligations under the Prepetition ABL Facility (the "Roll-Up") in the amount of approximately \$53.7 million
Interest Rate	<ul style="list-style-type: none"> 4.00% (the "Applicable Margin") plus the greatest of <ul style="list-style-type: none"> LIBOR Rate plus 1% The Postpetition Agent's publicly announced "prime rate" One-half of one percent per annum above the Federal Funds Rate, and One-month LIBOR + 1% Default interest rate is 2% plus the applicable interest rate on such date
Priming of Liens & Collateral	<ul style="list-style-type: none"> First-priority priming lien on substantially all assets of the Debtors
Maturity Date	<ul style="list-style-type: none"> Three months
DIP Budget Variance	<ul style="list-style-type: none"> With respect to the aggregate amount of expenditures shown in any Approved Budget for any four week period, an amount not to exceed 107.5% of the amount shown in the applicable Approved Budget for such period With respect to Borrowers' aggregate income for any four week period shown in the applicable Approved Budget, an amount not less than 92.5% of the amount shown for such period
Notable Fees	<ul style="list-style-type: none"> 0.50% Unused Line Fee \$325,000 Closing Fee \$50,000 Arrangement Fee
Emergence Treatment	<ul style="list-style-type: none"> TBD



DIP Loans in the Context of Case Exit

Discussion Leader: Foxman/Carroll



Opening Commentary

DIP Loans in the Context of Case Exit

- Increasingly common to contemplate an exit transaction as part of the DIP
- Negotiating with uncertainty of case outcomes
 - Period between the case filing and final approval of the DIP
 - Risk of failure to consummate the desired exit transaction
- Often built into a pre-petition Restructuring Support Agreement (“RSA”)
- Examples
 - DIP to exit conversion features (i.e. Payless)
 - DIP equitization (i.e. Magnum Hunter)
 - Integrated into an M&A process or with credit bidding (i.e. Shoreline)
 - Rights offering paydown (i.e. C&J)
- Documentation considerations
 - Fiduciary outs
 - Binding the reorganized debtors
 - Cross defaulting to the RSA, bid procedures, purchase agreement, etc.
 - Interim vs. final order
 - Milestones

Shoreline Energy LLC

DIP Loans in the Context of Case Exit

Outlined below is a summary of the key terms of the Debtors' DIP Financing. Shoreline filed for Chapter 11 protection on November 2, 2016. The DIP Financing motion was approved on an interim basis on November 4, 2016. The Final DIP order was approved on December 15, 2016. Chapter 11 emergence occurred on March 6, 2017.

Term	Description
Lender	<ul style="list-style-type: none"> ■ Morgan Stanley (Administrative Agent), Pre-petition 1L RBL Lender and Agent (\$156.3 million outstanding)
Initial Commitment	<ul style="list-style-type: none"> ■ \$14 million
DIP Facility & Roll Up	<ul style="list-style-type: none"> ■ \$50 million DIP comprised of an initial \$14 million commitment, which can be increased by an additional \$4 million, plus a \$32 million roll-up of pre-petition first lien debt
Interest Rate	<ul style="list-style-type: none"> ■ LIBOR plus 9%
Priming of Liens & Collateral	<ul style="list-style-type: none"> ■ Super priority claims over Prepetition Secured Parties ■ First Lien on all unencumbered property
Maturity Date	<ul style="list-style-type: none"> ■ Five months
DIP Budget Variance	<ul style="list-style-type: none"> ■ Debtors will provide weekly updates to the DIP Budget and Testing Period (two weeks) analysis ■ Borrower shall not permit the following: <ul style="list-style-type: none"> ■ (i) Actual Total Receipts to be less than 95% of the Budgeted Total Receipts, (ii) Actual Operating Expenditures to be greater than 105% of the Budgeted Operating Expenditures, (iii) Actual Net Operating Expenditures to be greater than 105% of the Budgeted Net Operating Expenditures ■ All such requirements as set forth in the Budget for each two week Testing Period
Notable Fees	<ul style="list-style-type: none"> ■ Commitment Fees: 0.75% ■ Upfront Fees: \$160k ■ Administrative Agent Fees: Annual fee of \$50k
Emergence Treatment	<ul style="list-style-type: none"> ■ DIP Lender received \$35 million 2L position with 7% PIK interest, Preferred Equity, and Common Equity in the Buyer entity ■ Maturity Date: 5 years from Closing date ■ \$6 million of DIP borrowings and ~\$134k of accrued interest was paid to DIP Lender

C&J Energy Services

DIP Loans in the Context of Case Exit

Outlined below is a summary of the key terms of the Debtors' DIP Financing. C&J Energy Services filed for Chapter 11 protection on July 20, 2016. The DIP motion was approved on an interim basis on July 26, 2016. The Final DIP order was approved on September 25, 2016. Chapter 11 emergence occurred on December 16, 2016.

Term	Description
Lenders	<ul style="list-style-type: none"> ■ Cortland Capital Market Services LLC (Administrative Agent), Ascribe Capital LLC, GSO Capital Partners LP, Blue Mountain Capital Management LLC and Solus Alternative Asset Management LP, among other funds
Commitment	<ul style="list-style-type: none"> ■ \$100 million
DIP Facility	<ul style="list-style-type: none"> ■ Delayed draw term loan facility with an aggregate principal not to exceed \$100 million
Interest Rate	<ul style="list-style-type: none"> ■ Eurocurrency Rate Loans at LIBOR plus 9.0% ■ Base Rate Loans at the higher of (a) the Federal Funds Rate plus 0.5%, (b) the "Prime Rate" as quoted in the Wall Street Journal, and (c) the Eurocurrency Rate plus 1.0%, plus 8.0%
Priming of Liens & Collateral	<ul style="list-style-type: none"> ■ Super priority claims over Prepetition Secured Parties ■ First Lien on all unencumbered property
Maturity Date	<ul style="list-style-type: none"> ■ Approximately 8.5 months
DIP Budget Variance	<ul style="list-style-type: none"> ■ Debtors will provide variance reports every week and an Updated DIP Budget every four weeks. ■ The Testing Period is cumulative through four weeks and resets with each Updated DIP Budget. For example, the First Testing Period of a new DIP Budget covers one week while the Second Testing Period covers two weeks. ■ During the Testing Period the Borrower shall not permit the following: <ul style="list-style-type: none"> ■ Aggregate receipts to be less than 75% of Budgeted receipts for the First and Second Testing Periods of each DIP Budget and 80% for the Third and Fourth Testing Periods of each DIP Budget ■ Aggregate operating disbursements to be greater than 125% of Budgeted operating disbursements for the First and Second Testing Periods of each DIP Budget and 120% for the Third and Fourth Testing Periods of each DIP Budget ■ Additionally, the Debtors must comply with a cumulative capital expenditures cap
Notable Fees	<ul style="list-style-type: none"> ■ Commitment Fees: 5.0% ■ Original Issue Discount: 2.0% payable upon entry of DIP order
Emergence Treatment	<ul style="list-style-type: none"> ■ The DIP was paid off in full with proceeds from a \$200 million rights offering offered to the pre-petition secured lenders

Pacific Exploration and Production

DIP Loans in the Context of Case Exit

Outlined below is a summary of the key terms of the Debtors' proposed DIP Financing. Pacific Exploration commenced a multi-jurisdictional court-supervised restructuring on April 27, 2016. The DIP Financing motion closed on June 22, 2016, and the company announced successful implementation its plan of compromise and arrangement on November 2, 2016.

Term	Description
Lenders	<ul style="list-style-type: none"> ■ First lien facility – Various senior note holders (“Funding Creditors”) and Catalyst Capital Group Inc. (“Catalyst”) ■ LC facility – Various financial institutions
Commitment	<ul style="list-style-type: none"> ■ \$500 million first lien facility and \$134 million second lien LC facility
DIP Facility & Roll Up	<ul style="list-style-type: none"> ■ Funding Creditors and Catalyst provided \$500 million of financing, less an original issue discount of 4% ■ Committed Letter of Credit Facility of approximately \$116 million
Interest Rate	<ul style="list-style-type: none"> ■ 12% on first lien facility
Priming of Liens & Collateral	<ul style="list-style-type: none"> ■ DIP Financing secured by a super priority lien over the assets of the Company and the Pacific Group (including pledges or other security over shares of the Pacific Group, inventory, bank accounts, accounts receivable and economic rights under exploration and production contracts)
Maturity Date	<ul style="list-style-type: none"> ■ Six months
DIP Budget Variance	<ul style="list-style-type: none"> ■ Issuer shall prepare a cumulative variance report as at the end of each four week period set out in the Cash Flow Projection, in each case, in respect of the period beginning in the week in which the Commencement Date occurs and ending on the last day of the applicable cumulative period (each such period being a “Test Period”) ■ Borrower shall not permit the following: <ul style="list-style-type: none"> ■ (i) Cumulative adverse variance of 25% or more in Net disbursements on an aggregate basis from the projected amount for that Test Period, (ii) Cumulative adverse variance of 30% or more in Total Disbursements on an aggregate basis in respect of Joint Venture Funding for that Test , (iii) Cumulative adverse variance of 25% or more in Total Disbursements on an aggregate basis in respect of professional fees for that Test Period
Notable Fees	<ul style="list-style-type: none"> ■ OID of 4%
Emergence Treatment	<ul style="list-style-type: none"> ■ Funding Creditors and Catalyst receive a pro rata allocation of 25% of the common equity in the reorganized entity ■ In addition, Catalyst converted its \$250 million of DIP financing into an incremental 16.8% of the common equity in the reorganized entity ■ \$250 million provided by Funding Creditors converted into a five-year secured note on November 2, 2016 ■ \$116 million LC Facility provided post-emergence by the DIP LC Facility lenders

Magnum Hunter Resources Corporation

DIP Loans in the Context of Case Exit

Outlined below is a summary of the key terms of the Debtors' proposed DIP Financing. Magnum Hunter filed for Chapter 11 protection on December 15, 2015. On December 17, 2015, the Debtors obtained DIP financing on an interim basis. The Bankruptcy Court approved the Plan of Reorganization on April 18, 2016 and it became effective on May 6, 2016.

Term	Description
Lenders	<ul style="list-style-type: none"> Existing 2nd lien lenders and unsecured noteholders
Commitment	<ul style="list-style-type: none"> Non-amortizing senior secured multi-draw term loan credit facility in aggregate principal amount not to exceed \$200 million
DIP Facility & Roll Up	<ul style="list-style-type: none"> Aggregate Principal amount of \$40 million was borrowed on December 17, 2015 Aggregate Principal amount of \$100 million was borrowed on January 14, 2016 The remainder was made available on April 21, 2016
Interest Rate	<ul style="list-style-type: none"> Libor + 8%, subject to a 1% floor
Priming of Liens & Collateral	<ul style="list-style-type: none"> Up to \$70 million of obligations under the DIP Facility are secured by perfected first priority "priming liens" on the Company's prepetition liens Other obligations under the DIP facility were secured by perfected junior liens on the Company's prepetition liens, subject to certain exceptions and intercreditor arrangements Obligations under the DIP facility were secured by perfected first priority liens on the Company's unencumbered assets, subject to certain exceptions, including an exception for the Company's equity interest in Eureka Midstream Holdings
Maturity Date	<ul style="list-style-type: none"> May 6, 2016 (Effective Date of the Plan)
DIP Budget Variance	<ul style="list-style-type: none"> The Budget variance covenant will test three items (1) Receipts (i.e., not including royalties), (2) CapEx, and (3) Gross Disbursements Variance on these three items not to exceed 20% of the amount budgeted
Notable Fees	<ul style="list-style-type: none"> Commitment Fee, which will be made available to all Lenders (i.e. not just Backstoppers) of 2% payable in cash, earned upon entry of the Interim DIP Order, and payable upon entry of the Final DIP Order
Emergence Treatment	<ul style="list-style-type: none"> DIP Facility converted into 28.80% of the reorganized company's new common equity



Questions & Answers