

THE SECURITIES ACT) Order No. 4609
)
Section 20(1)) November 24, 2004

MIDNIGHT OIL & GAS

WHEREAS:

(A) Application has been made on behalf of Midnight Oil & Gas Ltd. ("Midnight") to the Manitoba Securities Commission for an order pursuant to Section 20(1) of The Securities Act R.S.M. 1988, c.S50, as amended (the "Act") that the registration requirement and the prospectus requirement contained in sections 6 and 37 of the Act shall not apply to all trades in securities to be made in connection with a proposed plan of arrangement (the "Arrangement") under the provisions of section 193 of the Business Corporations Act (Alberta) (the "ABCA") involving Midnight, Daylight Energy Trust (the "Trust"), Daylight Acquisition Corp. ("AcquisitionCo"), Daylight ExchangeCo Ltd. ("ExchangeCo") and Midnight Oil Exploration Ltd. ("ExploreCo") , including all trades made subsequent to the completion of the Arrangement pursuant to the provisions of the exchangeable shares (the "Exchangeable Shares") of AcquisitionCo and its successor, Daylight Energy Ltd. ("AmalgamationCo")

(B) It has been represented to the Commission that:

1. Midnight is a corporation amalgamated under the ABCA.
2. The head and principal office of Midnight is located at Suite 1000, 140 – 4th Avenue S.W., Calgary, Alberta, T2P 3N3 and the registered office is located at Suite 1400, 350 – 7th Avenue S.W., Calgary, Alberta, T2P 3N9.
3. Midnight is engaged in the business of exploration, development and production of natural gas and crude oil in Western Canada.
4. The authorized share capital of Midnight consists of an unlimited number of common shares (the "Common Shares") and an unlimited number of first preferred shares and second preferred shares, each issuable in series. As of October 27, 2004, there were 23,994,900 Common Shares issued and outstanding and no first preferred or second preferred shares issued and outstanding. Options (the "Options") to acquire 1,876,100 Common Shares were also outstanding as of October 27, 2004.
5. The Common Shares are listed and posted for trading on the Toronto Stock Exchange (the "TSX"). Midnight has applied to have the Common Shares delisted from the TSX and to have the trust units of the Trust (the "Trust Units") listed in substitution for the Common Shares as soon as possible after the effective date of the Arrangement (the "Effective Date").

6. Midnight is a reporting issuer in the Provinces of British Columbia, Alberta, Ontario and Québec.
7. The Trust was established pursuant to a trust indenture dated October 1, 2004.
8. The Trust is, for the purposes of the Income Tax Act (Canada), an unincorporated, open-end investment trust.
9. The capital structure of the Trust includes an unlimited number of Trust Units and an unlimited number of special voting units.
10. As of October 28, 2004, one (1) Trust Unit was issued and outstanding.
11. The Trust has applied to list the Trust Units on the TSX as soon as possible after the Effective Date.
12. The Trust is not a reporting issuer in any Province, but will become a reporting issuer in certain Provinces as a consequence of the Arrangement.
13. ExploreCo was incorporated pursuant to the ABCA.
14. The head and principal office of ExploreCo is located at Suite 1000, 140 – 4th Avenue S.W., Calgary, Alberta, T2P 3N3, and the registered office is located at Suite 1400, 350 – 7th Avenue S.W., Calgary, Alberta, T2P 3N9.
15. ExploreCo is the primary vehicle through which shareholders of Midnight (the "Shareholders") and holders of series U subscription receipts of the Trust (the "Series U Subscription Receipts") will participate in an oil and natural gas exploration and development company focused on high levels of growth through reinvestment of cash flows.
16. Pursuant to the Arrangement, certain oil and gas assets will be transferred to ExploreCo.
17. The authorized capital of ExploreCo consists of an unlimited number of common shares (the "ExploreCo Shares"). Prior to the Arrangement being implemented, ExploreCo will amend its Articles to create non-voting shares ("ExploreCo Non-Voting Shares") which will be converted into ExploreCo Shares pursuant to the Arrangement and deleted from ExploreCo's share capital. As of October 28, 2004 one (1) ExploreCo Share was issued and outstanding.
18. Shareholders will be asked to consider and, if thought advisable, approve an initial private placement (the "Midnight Oil Exploration Initial Private Placement") of up to 9,333,333 ExploreCo Non-Voting Shares (4,666,667 ExploreCo Shares after giving effect to the Arrangement, one of the steps of which includes a consolidation as described below) and 4,666,667 ExploreCo

warrants ("ExploreCo Warrants") (2,333,333 ExploreCo Warrants after giving effect to the Arrangement, one of the steps of which includes a consolidation as described below) to certain directors, officers and employees of ExploreCo and certain other service providers, including directors, officers and employees of AmalgamationCo (the "Placees"). The Midnight Oil Exploration Initial Private Placement will be made in reliance on applicable private placement exemptions.

19. ExploreCo has applied to list the ExploreCo Shares on the TSX as soon as possible after the Effective Date.

20. ExploreCo is not a reporting issuer in any Province, but will become a reporting issuer in certain Provinces as a consequence of the Arrangement.

21. AcquisitionCo was incorporated pursuant to the ABCA.

22. The head and principal office of AcquisitionCo is located at Suite 1000, 140 – 4th Avenue S.W., Calgary, Alberta, T2P 3N3, and the registered office is located at Suite 1400, 350 – 7th Avenue S.W., Calgary, Alberta, T2P 3N9.

23. AcquisitionCo was incorporated for the sole purpose of participating in the Arrangement, including issuing the Exchangeable Shares.

24. The Exchangeable Shares are intended to be, to the extent possible, the economic equivalent of Trust Units and will be exchangeable for Trust Units. Holders of Exchangeable Shares will not receive distributable cash from the Trust. Rather, on each distribution payment date, the number of Trust Units into which one Exchangeable Share is exchangeable shall be increased on a cumulative basis in respect of the distribution and/or decreased on a cumulative basis in respect of any dividend paid on the Exchangeable Shares. The Exchangeable Shares shall be entitled to preference over the common shares and any other shares of AmalgamationCo ranking junior to the Exchangeable Shares with respect to the payment of dividends and the distribution of assets in the event of the liquidation, dissolution or winding up of AmalgamationCo. The holders of Exchangeable Shares shall be entitled to receive, in priority to the common shares and any other shares of AmalgamationCo, dividends if, as and when declared by the board of directors of AmalgamationCo. The Exchangeable Shares will also be redeemable and retractable in certain circumstances.

25. The exchange rights of the Exchangeable Shares will be governed by a voting and exchange trust agreement to be entered into on the Effective Date of the Arrangement among the Trust, AcquisitionCo, ExchangeCo and a trustee (the "Trustee") chosen by the Trust to act as trustee, pursuant to which the Trust and ExchangeCo will grant to the Trustee, as trustee for and on behalf of, and for the use and benefit of, the holders of Exchangeable Shares, certain ancillary rights (the "Ancillary Rights") which include:

(a) the right, upon the occurrence and during the continuance of:

(i) an Insolvency Event (being the institution by AmalgamationCo of any proceeding to be adjudicated to be a bankrupt or insolvent or to be wound up, or the consent of AmalgamationCo to the institution of bankruptcy, dissolution, insolvency or winding up proceedings against it, or the filing of a petition, answer or consent seeking dissolution or winding-up under any bankruptcy, insolvency or analogous laws, and the failure of AmalgamationCo to contest in good faith any such proceedings commenced in respect of AmalgamationCo within 15 days of becoming aware thereof, or the consent by AmalgamationCo to the filing of any such petition or to the appointment of a receiver, or the making of AmalgamationCo of a general assignment for the benefit of creditors, or the admission in writing by AmalgamationCo of its inability to pay its debts generally as they become due, or AmalgamationCo not being permitted, pursuant to solvency requirements of applicable law, to redeem any Exchangeable Shares that are subject to a right of retraction); or

(ii) the Trust or ExchangeCo electing not to exercise a right to purchase, redeem or retract the Exchangeable Shares, such right being provided pursuant to the provisions of the Exchangeable Shares; and

(b) to require the Trust or ExchangeCo to purchase from the holder of Exchangeable Shares all or any part of the Exchangeable Shares held by such holder; and

(c) an automatic exchange for Trust Units upon the occurrence of certain events relating to the liquidation of the Trust or AmalgamationCo.

26. The Exchangeable Shares will be subject to a support agreement to be entered into among the Trust, AcquisitionCo and ExchangeCo pursuant to which the Trust and ExchangeCo will take certain actions and make certain payments and will deliver or cause to be delivered Trust Units in satisfaction of the obligations of AcquisitionCo.

27. The maximum number of Exchangeable Shares to be issued pursuant to the Arrangement will be equal to the lesser of (i) 3,900,000 and (ii) the number of Exchangeable Shares duly elected to be received by eligible Shareholders.
28. In the event that Exchangeable Shares are issued and more Exchangeable Shares are requested than are available, the Exchangeable Shares will be prorated and those Shareholders who have elected to receive Exchangeable Shares will receive Trust Units in lieu of Exchangeable Shares.
29. AcquisitionCo is currently authorized to issue an unlimited number of common shares. As of October 28, 2004, 100 common shares of AcquisitionCo were issued and outstanding, the sole holder of which is the Trust.
30. AcquisitionCo is not a reporting issuer in any jurisdiction.
31. ExchangeCo was incorporated pursuant to the ABCA.
32. The head and principal office of ExchangeCo is located at Suite 1000, 140 – 4th Avenue S.W., Calgary, Alberta, T2P 3N3, and the registered office is located at Suite 1400, 350 – 7th Avenue S.W., Calgary, Alberta, T2P 3N9.
33. ExchangeCo was incorporated for the sole purpose of participating in the Arrangement.
34. ExchangeCo is authorized to issue an unlimited number of common shares. As of October 28, 2004, 100 common shares of ExchangeCo were issued and outstanding, the sole holder of which is the Trust.
35. ExchangeCo is not a reporting issuer in any jurisdiction.
36. On September 22, 2004, Midnight and certain vendors (the "Sellers") entered into a stock purchase agreement (the "Acquisition Agreement") pursuant to which Midnight agreed to purchase all of the issued and outstanding shares of Vintage Petroleum Canada, Inc. ("Vintage") from the Sellers (the "Vintage Acquisition"). The effective date of the transaction is June 30, 2004 and the anticipated closing date of the transaction is November 30, 2004 (coincident with the closing of the Arrangement). The Sellers or Midnight may terminate the Acquisition Agreement if closing has not occurred on or before December 15, 2004. Closing is subject to a number of customary conditions precedent.
37. The purchase price for the Vintage Acquisition will be paid in cash funded by a combination of credit facilities and the proceeds of a recently completed private placement. On October 21, 2004, the Trust completed a private placement (the "Private Placement") of 18,229,167 Series U Subscription Receipts and 80,000 series D subscription receipts (the "Series D Subscription Receipts") (collectively, the "Subscription Receipts"), for aggregate gross proceeds of approximately

\$255,000,000. Under the Private Placement, the residents of Manitoba that purchased Subscription Receipts were "accredited investors" (within the meaning of Multilateral Instrument 45-103 – Capital Raising Exemptions, and purchased through a registrant. Holders of Subscription Receipts were sent a copy of the Information Circular.(as defined below).

38. The Arrangement is conditional upon, among other things, the closing of the Vintage Acquisition.

39. Pursuant to the Arrangement and the terms of the Subscription Receipts, each Series U Subscription Receipt will be exchanged and converted into one Trust Unit and 0.5 of an ExploreCo Share (post-consolidation) and each Series D Subscription Receipt will be exchanged and converted into a series A 8.5% convertible unsecured subordinated debentures of the Trust ("Convertible Debentures"). The Convertible Debentures will have a face value of \$1,000 per debenture and will mature December 1, 2009. The Convertible Debentures will pay a coupon of 8.5% per annum, payable semi-annually on June 1 and December 1 of each year and will be convertible into Trust Units at a conversion price of \$9.50 per Trust Unit.

40. The proceeds of the Private Placement (the "Escrowed Funds") are being held in escrow pending completion of the Vintage Acquisition and the Arrangement. The Escrowed Funds will be returned to the holders of Subscription Receipts in the event that the Vintage Acquisition and Arrangement does not close.

41. Management of Midnight has concluded that the reorganization of Midnight (after giving affect to the Vintage Acquisition) into an income trust and a junior exploration company in the manner contemplated by the Arrangement is a viable and optimal strategy to maximize value to Shareholders.

42. Pursuant to the Arrangement, each of the events set out below shall occur and shall be deemed to occur in the following order:

(a) the Common Shares and Options held by dissenting securityholders of Midnight (the "Dissenting Securityholders") who have exercised dissent rights under the ABCA ("Dissent Rights") which remain valid immediately prior to the effective time of the Arrangement (the "Effective Time") shall, as of the Effective Time, be deemed to have been transferred to AcquisitionCo and as of the Effective Time, such Dissenting Securityholders shall cease to have any rights as securityholders of Midnight other than the right to be paid the fair market value of their Common Shares or Options, as the case may be;

(b) AcquisitionCo will issue an unsecured, subordinated interest bearing promissory note (the "Trust Note") to the Trust in

exchange for the Escrowed Funds and AcquisitionCo will complete the Vintage Acquisition;

(c) AcquisitionCo and Midnight will, directly or indirectly, convey certain oil and natural gas assets to ExploreCo in exchange for non interest bearing demand promissory notes of ExploreCo (the "ExploreCo Notes") and the assumption of up to \$2,000,000 in debt;

(d) Midnight and Vintage will transfer to AcquisitionCo that number of ExploreCo Notes necessary to allow AcquisitionCo to satisfy its obligations under the Arrangement in exchange for non interest bearing demand promissory notes of AcquisitionCo (the "AcquisitionCo Notes");

(e) Midnight and Vintage will transfer to the Trust that number of ExploreCo Notes necessary to allow the Trust to satisfy its obligations under the Arrangement in exchange for unsecured, subordinated, non interest bearing promissory notes of the Trust (the "Trust ExploreCo Notes");

(f) each Common Share, other than Common Shares held by tax exempt shareholders and non residents, will be transferred to AcquisitionCo in accordance with the election or deemed election of the holder of such Common Shares and in consideration therefore such holder shall receive in aggregate (i) one (1) unsecured subordinated promissory note of Midnight (a "Midnight Note") or (ii) one (1) Exchangeable Share (together with the Ancillary Rights) and one (1) ExploreCo Note;

(g) each Common Share held by tax-exempt shareholders and non-residents will be transferred to AcquisitionCo and in consideration therefore such holder shall receive one (1) Midnight Note and one (1) ExploreCo Note;

(h) each Midnight Note shall be transferred by the holders thereof to the Trust in exchange for one (1) Trust Unit;

(i) the Trust shall subscribe for one hundred (100) ExploreCo Shares;

(j) each Option (whether vested or unvested) shall cease to represent the right to acquire a Common Share and shall thereafter only entitle the holder to acquire an option to purchase one half of one ExploreCo Share and an option to purchase one (1) Trust Unit, subject to certain adjustments in the exercise price thereof;

(k) AcquisitionCo, Midnight, Midnight Energy Inc. ("MEI"), Midnight Resources Corporation ("MRC"), Vintage and Vintage Petroleum NWT Ltd. ("VPNWT") shall be amalgamated and continued as one corporation, AmalgamationCo, in accordance with the following:

(i) the stated capital of the Common Shares shall be reduced to \$1.00 in aggregate immediately prior to the amalgamation;

(ii) the articles of AmalgamationCo shall be the same as the articles of AcquisitionCo except the authorized capital of AmalgamationCo shall consist of an unlimited number of common shares and an unlimited number of exchangeable shares, issuable in series, the first series of which shall be the Exchangeable Shares and the name of AmalgamationCo shall be "Daylight Energy Ltd.";

(iii) all of the shares of Midnight and all of the shares of Vintage which are owned by AcquisitionCo shall be cancelled without any repayment of capital;

(iv) all of the outstanding securities of MRC, all of which are owned by MEI, shall be cancelled, without any repayment of capital;

(v) all of the outstanding securities of MEI, all of which are owned by Midnight, shall be cancelled without any repayment of capital;

(vi) all of the outstanding securities of VPNWT, all of which are owned by Vintage, shall be cancelled without any repayment of capital;

(vii) the shares of AcquisitionCo shall be cancelled and the following shares of AmalgamationCo shall be issued:

A. one hundred (100) common shares of AmalgamationCo shall be issued to the Trust; and

B. one (1.0) Exchangeable Share shall be issued for each issued and

outstanding AcquisitionCo
Exchangeable Share;

(viii) for greater certainty:

A. the Trust Note and the Midnight Notes held by the Trust shall merge and continue as promissory notes of AmalgamationCo (the "Notes") without amendment, except that the aggregate value of the Notes shall be reduced by the value of the Trust ExploreCo Notes and the Trust Note, Midnight Note and Trust ExploreCo Notes shall be cancelled; and

B. the AcquisitionCo Notes shall be cancelled;

(ix) the property of each of the amalgamating corporations shall continue to be the property of AmalgamationCo;

(x) AmalgamationCo shall continue to be liable for the obligations of each of the amalgamating corporations;

(xi) any existing cause of action, claim or liability to prosecution of either of the amalgamating corporations shall be unaffected;

(xii) any civil, criminal or administrative action or proceeding pending by or against either of the amalgamating corporations may be continued to be prosecuted by or against AmalgamationCo;

(xiii) a conviction against, or ruling, order or judgment in favour of or against, either of the amalgamating corporations may be enforced by or against AmalgamationCo;

(xiv) the Articles of Amalgamation of AmalgamationCo shall be deemed to be the Articles of Incorporation of AmalgamationCo and the Certificate of Amalgamation of AmalgamationCo

shall be deemed to be the Certificate of Incorporation of AmalgamationCo;

(xv) the by-laws of AmalgamationCo shall be the by-laws of AcquisitionCo;

(xvi) the first directors of AmalgamationCo shall be the directors of AcquisitionCo;

(xvii) the first officers of AmalgamationCo shall be the officers of AcquisitionCo; and

(xviii) the registered office of AmalgamationCo shall be the registered office of AcquisitionCo;

(l) pursuant to the terms of the Series U Subscription Receipts, each Series U Subscription Receipt will automatically be converted and exchanged into one (1) Trust Unit and one (1) ExploreCo Note for each outstanding Series U Subscription Receipt and the Series U Subscription Receipts shall be and shall be deemed to have been cancelled;

(m) pursuant to the terms of the Series D Subscription Receipts, each Series D Subscription Receipt will automatically be converted and exchanged into one (1) Convertible Debenture for each outstanding Series D Subscription Receipt and the Series D Subscription Receipts shall be and shall be deemed to have been cancelled;

(n) the ExploreCo Notes held by the former holders of Common Shares and the former holders of Series U Subscription Receipts shall be repaid by ExploreCo through the issuance of one (1) ExploreCo Share for each ExploreCo Note and the ExploreCo Notes so repaid shall be cancelled;

(o) AmalgamationCo will grant a net profits interest (the "NPI") on certain assets to the Trust in consideration of the return of Notes in an amount equal to the fair market value of the NPI as determined by AmalgamationCo;

(p) each ExploreCo Non-Voting Share shall be exchanged for one (1) ExploreCo Share pursuant to a reorganization of the capital of ExploreCo;

(q) each ExploreCo Share will be consolidated on the basis of one (1) ExploreCo Share for each two (2) outstanding ExploreCo Shares; and

(r) ExploreCo will repurchase all ExploreCo Shares held by the Trust for an aggregate purchase price equal to the original subscription price paid for the ExploreCo Shares repurchased and, upon the completion of such purchase and sale, the ExploreCo Shares shall be cancelled and shall no longer be outstanding for any purpose.

The trades in securities referred to in this paragraph 42, together with all trades in securities made subsequent to the completion of the Arrangement pursuant to the provisions of the Exchangeable Shares, are herein collectively referred to as the "Arrangement Trades".

43. Following the steps outlined above:

(a) the Vintage Acquisition will have been completed;

(b) Shareholders, holders of Series U Subscription Receipts and Places under the Midnight Oil Exploration Initial Private Placement will own all of the issued and outstanding ExploreCo Shares and ExploreCo Warrants;

(c) Shareholders and holders of Series U Subscription Receipts will own all of the issued and outstanding Trust Units of the Trust;

(d) holders of Series D Subscription Receipts will own all of the issued and outstanding Convertible Debentures of the Trust;

(e) Shareholders will own all of the Exchangeable Shares of AmalgamationCo;

(f) the Trust will own all of the issued and outstanding common shares of AmalgamationCo; and

(g) the Trust will be the holder of all of the issued and outstanding Notes of AmalgamationCo and the NPI.

44. Midnight made application for, and obtained, an interim order (the "Interim Order") of the Alberta Court of Queen's Bench dated October 28, 2004 under the ABCA which specifies, among other things, certain procedures and requirements to be followed in connection with the calling and holding of a meeting of securityholders of Midnight to approve the Arrangement. The completion of the

Arrangement is subject to receipt of the final order of the Alberta Court of Queen's Bench following the receipt of all required approvals, including that of the securityholders of Midnight at the meeting.

45. In connection with the meeting and pursuant to the Interim Order, Midnight has mailed on November 1, 2004 to each securityholder of Midnight a management information circular dated October 28, 2004 (the "Information Circular") which provides sufficient information about the Arrangement to enable a Midnight securityholder to make an informed decision. In addition, Midnight securityholders will be granted the Dissent Rights under the ABCA. The Information Circular contains prospectus-level disclosure regarding the business and affairs of the Trust, Midnight, ExploreCo, and AcquisitionCo.

46. An opinion of GMP Securities Ltd. dated October 28, 2004 relating to the fairness of the Arrangement was obtained and is attached to the Information Circular sent to securityholders of Midnight. In addition, the board of directors of Midnight has unanimously recommended that securityholders of Midnight approve the Arrangement.

47. The precise mechanics of various issuances and exchanges in securities pursuant to the Arrangement Trades do not or may not satisfy the technical requirements of the registration and prospectus exemptions provided for under the Act.

(C) The Commission is satisfied in the circumstances of this particular case that it would not be prejudicial to the public to grant the relief requested;

IT IS ORDERED:

- 1. THAT**, pursuant to Section 20(1) of the Act, the Arrangement Trades are exempt from sections 6 and 37 of the Act, and
- 2. THAT** the fee for this order shall be \$1,000.00.

BY ORDER OF THE COMMISSION

DEPUTY DIRECTOR – LEGAL