

January 13, 2010

**Response of the Office of Chief Counsel**  
**Division of Corporation Finance**

Re: Section 3(a)(9) Upstream Guarantees  
Incoming letter dated January 12, 2010

The Division will not recommend enforcement action to the Commission if the parent securities in the convertible note and exchange offer fact patterns set forth in your letter are issued without registration under the Securities Act, in reliance on your opinion of counsel that the exemption provided in Section 3(a)(9) of the Securities Act will be available for the exchange. In reaching this position, we note that the subsidiary guarantors are "100% owned" subsidiaries, as that term is defined in Rule 3-10 of Regulation S-X.

This position is based on the representations made to the Division in your letter. Any different facts or conditions might require the Division to reach a different conclusion. Further, this response expresses the Division's position on enforcement action only and does not express any legal conclusion on the question presented.

Sincerely,

A handwritten signature in black ink, appearing to read 'TJK', with a horizontal line extending to the left.

Thomas J. Kim  
Chief Counsel and Associate Director