

BETA OIL & GAS INC
Form DEF 14A
April 23, 2004

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

SCHEDULE 14A

Proxy Statement Pursuant to Section 14(a) of
the Securities Exchange Act of 1934 (Amendment No.)

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

- Preliminary Proxy Statement
- Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))**
- Definitive Proxy Statement
- Definitive Additional Materials
- Soliciting Material Pursuant to Section 240.14a-12

BETA OIL & GAS, INC.

(Name of Registrant as Specified In Its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

- No fee required.
- Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.
 - (1) Title of each class of securities to which transaction applies:

(2) Aggregate number of securities to which transaction applies:

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(1) Amount Previously Paid:

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BETA OIL & GAS, INC.
6120 South Yale Avenue
Suite 813
Tulsa, Oklahoma 74136

April 23, 2004

Dear Stockholder:

You are cordially invited to attend a special meeting of the stockholders of Beta Oil & Gas, Inc. to be held on May 25, 2004, at 10:00 a.m., local time, in the 19th Floor Conference Room A, Warren Place Two, 6120 South Yale Avenue, Tulsa, Oklahoma.

On December 12, 2003, we entered into a securities purchase agreement with Petrohawk Energy, LLC pursuant to which we have agreed to sell to Petrohawk 15,151,515 shares of our common stock together with five-year warrants entitling the holders to purchase up to 10,000,000 shares of common stock at an exercise price of \$1.65 per share all for an aggregate purchase price of \$25,000,000, and our five year convertible promissory note in the amount of \$35,000,000 which will, after two years, be convertible into shares of our common stock at a conversion price of \$2.00 per share.

The special meeting has been called to present to our stockholders proposals to approve the issuance of the shares of our common stock pursuant to the securities purchase agreement (including any shares to be issued upon exercise of the warrants and conversion of the note) and to approve an amendment to our articles of incorporation to increase the number of authorized shares of common stock to 100,000,000.

Approval of the Petrohawk transaction will result in a change of control of the company. Immediately following the closing of the Petrohawk transaction, Petrohawk will hold approximately 54% of our outstanding voting securities. In addition, upon conversion of the note and exercise of all of the warrants, Petrohawk would hold approximately 77% of our voting securities assuming no other shares are issued prior to those actions. Stockholders holding approximately 28% of the currently outstanding common stock have agreed to vote in favor of the Petrohawk transaction.

Our board of directors has determined that the terms of the Petrohawk transaction are fair to Beta and in the best interests of our stockholders. Our board of directors has approved the issuance and sale of the new securities in the Petrohawk transaction and the amendment to our articles of incorporation to increase our authorized capital stock. The board recommends that you vote **FOR** each of the proposals to be considered at the special meeting. In considering this transaction and its recommendation, our board was aware that Joe Burnett, our chief financial officer, and I would both be entitled to certain severance benefits if the transaction is consummated and our employment is terminated. Mr. Robert C. Stone, Jr., the only Beta director who will continue to serve on our board after the closing of the Petrohawk transaction, is expected to receive, along with all of the non-employees who become directors of Beta following the closing, a grant of 15,000 shares of our common stock as consideration for his service on our board. These interests are discussed in the proxy statement under the caption "Proposal No. 1: The Petrohawk Transaction Interests of Certain Persons in the Petrohawk Transaction."

The enclosed Notice of Special Meeting of Stockholders and Proxy Statement contain details concerning the Petrohawk transaction and the proposal to amend our articles of incorporation to increase our authorized capital stock. We urge you to read and consider these documents carefully. Whether or not you are able to attend the special meeting, it is important that your shares be represented and voted. Accordingly, be sure to complete, sign and date the enclosed proxy card and mail it in the envelope provided as soon as possible so that your shares may be represented at the meeting and voted in accordance with your wishes.

If you attend the meeting, you may vote in person, even if you previously returned your proxy card. If your shares are held in the name of a bank, brokerage firm or other nominee, please contact the party responsible for your account and direct him or her to vote your shares on the enclosed proxy card. Your vote is important regardless of the number of shares you own.

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On behalf of the board of directors and management, thank you for your continued support of Beta.

Sincerely,

David A. Wilkins,
President and Chief Executive Officer

The accompanying proxy statement is dated April 23, 2004 and is first being mailed, along with the proxy, to stockholders on or about April 23, 2004.

BETA OIL & GAS, INC.

**NOTICE OF SPECIAL MEETING OF STOCKHOLDERS
TO BE HELD ON MAY 25, 2004**

TO THE STOCKHOLDERS OF BETA OIL & GAS, INC.:

NOTICE IS HEREBY GIVEN that a special meeting of the stockholders of Beta Oil & Gas, Inc., a Nevada corporation, is scheduled to be held on May 25, 2004 at 10:00 a.m., local time, in the 19th Floor Conference Room A, Warren Place Two, 6120 South Yale Avenue, Tulsa, Oklahoma for the following purposes:

1. To consider and act upon a proposal that the following issuances of shares of our common stock pursuant to the transactions described below be approved:

the issuance to Petrohawk Energy, LLC, a Delaware limited liability company, of 15,151,515 shares of Beta's common stock, par value \$0.001 per share;

the issuance to Petrohawk of up to 10,000,000 shares of common stock upon the exercise of five-year common stock purchase warrants which are exercisable at a price of \$1.65 per share, subject to possible adjustments for stock dividends, stock splits and similar events; and

the issuance to Petrohawk of shares of common stock upon the conversion of the outstanding principal and accrued but unpaid interest payable under the terms of our five-year convertible promissory note in the original principal amount of \$35,000,000 at a conversion price of \$2.00 per share, subject to possible adjustments for stock dividends, stock splits and similar events.

These securities are all issuable to Petrohawk under the terms of a securities purchase agreement dated December 12, 2003. Under this agreement, Petrohawk will pay an aggregate of \$60,000,000 in cash for the common stock, warrants and convertible note;

2. To consider and act upon a proposal to approve an amendment to our articles of incorporation to increase our authorized common stock from 50,000,000 shares to 100,000,000 shares;
3. To consider and act upon any proposal to adjourn and reconvene the Special Meeting of Stockholders at a later date, but not later than July 24, 2004.
4. To transact such other business as may properly come before the special meeting and any adjournment thereof.

If item 2 is not approved, the transactions described in item 1 will still be consummated and the proposal to amend the articles of incorporation will be presented again to our stockholders after Petrohawk has been issued the securities provided for in the securities purchase agreement. If item 1 is not approved, item 2 will not be implemented even if it is approved.

Approval of proposal 1 and consummation of the proposed transaction will effectively transfer control of Beta Oil & Gas, Inc. to Petrohawk Energy, LLC.

Stockholders of record at the close of business on April 16, 2004 are entitled to notice of and to vote at the special meeting and any adjournment thereof. All stockholders are cordially invited to attend the special meeting in person. However, to assure your representation at the meeting, you are

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urged to complete, sign and date the enclosed form of proxy and return it promptly in the envelope provided. Stockholders attending the meeting may revoke their proxy and vote in person.

BY ORDER OF THE BOARD OF DIRECTORS

Joseph L. Burnett, Secretary

April 23, 2004

BETA OIL & GAS, INC.

**PROXY STATEMENT
FOR A
SPECIAL MEETING OF THE STOCKHOLDERS TO BE HELD MAY 25, 2004**

TABLE OF CONTENTS

	Page No.
SUMMARY OF PROXY STATEMENT	1
The Special Meeting	1
Proposal 1: The Petrohawk Transaction	1
Proposal 2: Increase in Authorized Capital Stock	4
Stockholder Approval	4
Recommendations by the Board	4
Proposal 3: Adjournments of Special Meeting	5
GENERAL INFORMATION	6
Proxy Solicitation	6
Revocability and Voting of Proxy	6
Record Date and Voting Rights	6
FORWARD-LOOKING STATEMENTS	7
SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT	8
Current Beneficial Ownership	8
PROPOSAL NO. 1: THE PETROHAWK TRANSACTION	12
Certain Risks Associated with the Proposed Petrohawk Transaction	12
Use of Proceeds	15
Background of the Petrohawk Transaction	15
Reasons for the Petrohawk Transaction and Board Recommendation	22
Recent Developments	22
Petro Capital Advisors, LLC Fairness Opinion	23
Interests of Certain Persons in the Petrohawk Transaction	33
Information About Petrohawk	33
Transaction Documents	35
Terms of the Purchase Agreement	35
Description of Our Common Stock	45
Terms of the Convertible Note	46
Terms of the Warrants	47
Terms of the Registration Rights Agreement	47
Terms of the Stockholders Agreement	48
Unaudited Pro Forma Consolidated Financial Information	49
Tax Consequences	54
Stockholder Approval	55
Director and Executive Officer Information	55

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	Page No.
PROPOSAL NO. 2: INCREASE IN AUTHORIZED CAPITAL STOCK	67
Overview	67
Reasons for Proposal	67
Principal Effects on Outstanding Common Stock	68
Board Recommendation	68
PROPOSAL NO. 3: ADJOURNMENTS OF SPECIAL MEETING	69
STOCKHOLDER PROPOSALS	69
MATERIALS INCORPORATED BY REFERENCE	69
OTHER MATTERS	70

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APPENDIX A:	Securities Purchase Agreement	A-1
APPENDIX B:	Form of Convertible Note	B-1
APPENDIX C:	Form of Warrant	C-1
APPENDIX D:	Registration Rights Agreement	D-1
APPENDIX E:	Stockholders Agreement	E-1
APPENDIX F:	Form of Articles of Amendment to Articles of Incorporation	F-1
APPENDIX G:	Opinion of Petro Capital Advisors, LLC	G-1

SUMMARY OF PROXY STATEMENT

The following is a brief summary of certain information contained elsewhere in this proxy statement. This summary is not intended to be a complete description of the matters covered in this proxy statement and is qualified in its entirety by reference to the more detailed information contained or incorporated by reference in this proxy statement or in the documents attached as appendices hereto. Stockholders are urged to read this proxy statement, including all materials incorporated herein by reference, and the appendices hereto in their entirety.

This proxy statement contains forward-looking statements that involve risks and uncertainties. Actual results could differ materially from those discussed in the forward-looking statements as a result of certain factors. See the section of this proxy statement entitled "Forward-Looking Statements."

The Special Meeting

A special meeting of the stockholders of Beta Oil & Gas, Inc., a Nevada corporation ("Beta", the "Company" or "we" or "us"), will be held on May 25, 2004, at 10:00 a.m., local time, in the 19th Floor Conference Room A, Warren Place Two, 6120 South Yale Avenue, Tulsa, Oklahoma. Stockholders of record at the close of business on April 16, 2004, the record date for the special meeting, may vote at the special meeting.

At the special meeting, Beta's stockholders will be asked to approve:

the issuance of shares of our common stock in connection with a financing transaction in which we will issue and sell common stock, a convertible note and warrants to Petrohawk Energy, LLC ("Petrohawk"); and

an amendment to our articles of incorporation to increase our authorized capital stock.

For additional information regarding the special meeting and voting at the special meeting, see "General Information" beginning on page 6.

This proxy statement and the accompanying proxy card are first being mailed to stockholders on or about April 23, 2004.

Proposal 1: The Petrohawk Transaction

On December 12, 2003, we entered into a securities purchase agreement (which we generally refer to as the purchase agreement) with Petrohawk pursuant to which we have agreed to issue to Petrohawk for an aggregate of \$60,000,000 in cash:

15,151,515 shares of our common stock;

five year warrants to purchase up to an additional 10,000,000 shares of our common stock at an exercise price of \$1.65 per share; and

a convertible promissory note in the face amount of \$35,000,000 which will be convertible after two years into shares of our common stock at a conversion price of \$2.00 per share.

Because issuance of the shares of common stock to Petrohawk in connection with this transaction will result in a change of control of Beta, we are required by the rules of The Nasdaq Stock Market to obtain stockholder approval of the issuance of the shares.

The transactions contemplated by the purchase agreement are required to be consummated at a closing that we expect to occur immediately following the approval of the proposal by our stockholders.

The proceeds from the sale of the securities will be added to our working capital and be available for the acquisition, development and exploration of oil and gas properties.

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Background of Transaction (see discussion beginning on page 15)

For a description of the events leading to the approval by our board of directors of the Petrohawk transaction and the agreements related thereto, see "Proposal No. 1: The Petrohawk Transaction Background of the Petrohawk Transaction," below.

Petro Capital Advisors, LLC Fairness Opinion (see discussion beginning on page 23)

In connection with its consideration and approval of the Petrohawk transaction, our board of directors received an opinion from Petro Capital Advisors, LLC with respect to the fairness, from a

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financial point of view, of the Petrohawk transaction to Beta. For important information regarding the Petro Capital opinion, including the limitations of the opinion, see "Proposal No. 1: The Petrohawk Transaction Petro Capital Advisors, LLC Fairness Opinion," below.

Certain Risks Associated with the Proposed Petrohawk Transaction (see discussion beginning on page 12)

The proposed Petrohawk transaction involves risks, including risks related to:

the dilutive effect on the ownership interests and voting power of existing stockholders;

the influence of Petrohawk and its affiliates on us and our board of directors following the transaction;

our outstanding long-term indebtedness, which will increase substantially, and our debt-to-equity ratio, which will be negatively affected;

our ability to deploy profitably the new capital that will be invested by Petrohawk;

the possible deterrence of any other offers to acquire us;

a "market overhang" which may be presented by the outstanding warrants and convertible note which could restrict or limit increases in the market value of our common stock;

the decision by our board of directors not to request an update of the fairness opinion delivered by Petro Capital in November 2003, despite a substantial increase in our proved oil and gas reserves as of December 31, 2003;

restrictions on our ability to utilize our current net operating loss carry-forwards for federal income tax purposes that will result from the change of control contemplated by the transaction; and

the substantial fee that our financial advisor will be entitled to receive if the transaction is consummated.

For detailed information regarding these risks, see "Proposal No. 1: The Petrohawk Transaction Certain Risks Associated with the Proposed Petrohawk Transaction" below.

Interests of Certain Persons in the Petrohawk Transaction (see discussion beginning on page 33)

In considering the recommendation of the board with respect to the Petrohawk transaction, stockholders should be aware that David A. Wilkins, our president and chief executive officer and a director, Robert C. Stone, Jr., a director, and Joseph L. Burnett, our chief financial officer, have interests in the Petrohawk transaction that are in addition to the interests of stockholders in general. Mr. Wilkins and Mr. Burnett hold stock options and warrants covering 600,000 shares (which are currently vested with respect to 133,000 shares) and 255,000 shares (which are currently vested with respect to 188,333 shares) respectively which will, upon consummation of the transaction, vest in full. The period in which they may exercise their options after termination of employment has been extended from 90 days after termination of employment to five years from the date of closing of the Petrohawk transaction or until they would have otherwise expired absent termination of employment, whichever is earlier. In addition, Mr. Wilkins and Mr. Burnett will be eligible to receive severance payments of \$160,000 and \$125,000 respectively, which equal one year's salary, upon termination of their employment. The board was aware of these interests and considered them along with the other matters described herein in approving the Petrohawk transaction and determining to recommend the Petrohawk transaction to the stockholders for approval. Mr. Stone and all of the other persons who are not employees of Beta who will be serving on our board after the closing are each expected to receive grants of 15,000 shares of our common stock as consideration for their board service. This proposal was not decided upon and announced by Petrohawk until March of 2004, long after our board approved the purchase agreement.

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Purchase Agreement (see discussion beginning on page 35)

The issuance of the securities and the other transactions contemplated by the purchase agreement are subject to several closing conditions, including:

the approval by our stockholders of the issuance of the common stock contemplated by the Petrohawk transaction at the special meeting; and

our taking of all action necessary to effect the appointment of new directors as designated by Petrohawk and a Petrohawk stockholder pursuant to the purchase agreement.

We are required to pay a termination fee of \$1,000,000 if:

the purchase agreement is terminated before closing pursuant to its terms because we accept a superior proposal which the board of directors determines would be more favorable to our stockholders;

stockholder approval is not obtained or the transaction otherwise fails to close by May 31, 2004 and a proposal to acquire us has been made or another person has made publicly known an intention to make such a proposal, and within 12 months of the termination of the purchase agreement, we consummate a merger, acquisition, consolidation or other business combination or a person acquires beneficial ownership of 50% of the power to vote for our directors; or

the agreement is terminated because of a material breach of our representations, warranties, covenants or agreements which is not cured within 20 days.

Petrohawk is required to pay us a termination fee of \$1,000,000 if we terminate the purchase agreement because of a material breach in Petrohawk's representations, warranties, covenants or agreements which is not cured within 20 days.

Convertible Note (see discussion beginning on page 46)

The convertible note is in the original principal amount of \$35,000,000, is unsecured and matures on the fifth anniversary of the closing. This note will bear interest at an annual rate of 8%, payable quarterly.

Any time after the two-year period following the closing, we may prepay the note without penalty or premium. Also at any time after the two-year period following the closing, the holder of the note may convert the outstanding principal and accrued but unpaid interest on the note into shares of common stock at a conversion price of \$2.00 per share, subject to adjustment for stock dividends, stock splits and similar events.

Warrants (see discussion beginning on page 47)

The warrants entitle the holder, upon exercise, to purchase up to 10,000,000 shares of common stock at an exercise price of \$1.65 per share, subject to possible adjustments for stock dividends, stock splits and similar events. The warrants are exercisable, in whole or in part, at any time before the fifth anniversary of the closing. The warrant exercise price may be paid in cash, by delivering to us warrants or common stock having a fair market value equal to the warrant exercise price, by offsetting the principal balance of the convertible note, or a combination of the foregoing.

Registration Rights (see discussion beginning on page 47)

At the closing, we will enter into a registration rights agreement with Petrohawk which will give Petrohawk the right to require us to register for public sale the shares of common stock acquired at the time of the closing and any shares acquired upon the exercise of the warrants and conversion of the convertible note. The registration rights agreement also provides Petrohawk with piggyback registration rights with respect to registrations of the offer and sale of any shares of common stock we may effect for our own account.

New Board of Directors and Management (see discussion beginning on page 55)

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Under the purchase agreement, a new board of directors will be appointed effective upon the closing. There will be seven directors, six of whom will be designated by Petrohawk and its principal

owners and one of whom will be designated by our existing board of directors. At the closing, all of our officers and all of our directors other than Robert C. Stone, Jr. are required to deliver their resignations. By voting in favor of the Petrohawk transaction, stockholders are also in effect voting to replace the current board of directors. Floyd C. Wilson will become the new chairman of the board, president and chief executive officer. It is expected that our headquarters will be moved to Houston, Texas within a short time following the closing.

Proposal 2: Increase in Authorized Capital Stock (see discussion beginning on page 67)

In order to provide a sufficient number of shares of capital stock to meet our current and future needs, including shares of common stock to be issued and reserved for issuance in the Petrohawk transaction, the board of directors has proposed that our articles of incorporation be amended to increase our authorized shares of common stock from 50,000,000 shares to 100,000,000 shares.

Stockholder Approval

Issuance of Shares of Common Stock. We are seeking stockholder approval of the issuance of shares of common stock pursuant to the Petrohawk transaction under the rules of The Nasdaq Stock Market. The Nasdaq Marketplace Rules require stockholder approval for transactions involving the issuance or potential issuance of securities which results in a change of control of the company. See "Proposal No. 1: The Petrohawk Transaction Stockholder Approval," below. Stockholder approval of the transaction is not otherwise required under Nevada law or our articles of incorporation or by-laws. If the Petrohawk transaction is not approved by our stockholders, we may elect to terminate the purchase agreement, or we may attempt to renegotiate the terms of the Petrohawk transaction with Petrohawk and, if successful, in our attempts to renegotiate submit the revised transaction to our stockholders for approval. If the stockholders fail to approve the Petrohawk transaction, Petrohawk will have the right to unilaterally terminate the purchase agreement.

Increase In Our Authorized Common Stock. We are seeking stockholder approval of an amendment to our articles of incorporation which will increase our authorized common stock in accordance with applicable Nevada corporate law. As described more fully in "Proposal No. 2: Increase in Authorized Capital Stock," the increase in common stock under Proposal No. 2 is necessary to provide for a sufficient number of shares of common stock to be issued or reserved for issuance in the Petrohawk transaction and for current employee stock options, as well as to provide for additional shares of common stock and preferred stock which could be used in connection with acquisitions or additional financing. If Proposal No. 2 is approved, we will not file the Certificate of Amendment to increase our authorized capital stock unless Proposal No. 1 is also approved and we believe it is likely that the Petrohawk transaction will be consummated. If Proposal No. 2 is not approved, the Petrohawk transaction will still be consummated. Petrohawk has agreed that if Proposal No. 2 is not approved at this special meeting, it will cause the proposal to be considered again at a stockholder meeting held after the closing and it has agreed to vote its shares for approval of the amendment. This would assure approval of the amendment at such meeting.

Recommendations by the Board

The board of directors, including all of the independent directors, has determined that both the proposed Petrohawk transaction and increase in our authorized capital stock are in the best interests of us and our stockholders and recommends approval of both of those proposals by our stockholders. Mr. Wilkins, one of our directors who is also an employee, will have his options covering 600,000 shares vested in full and extended for five years after the closing if the Petrohawk transaction is approved and consummated and he will be entitled to a severance payment of \$160,000 upon termination of his employment. In addition, Mr. Burnett, our chief financial officer, will have his options covering 255,000 shares vested in full and extended for five years after the closing if the Petrohawk transaction is approved and consummated, and he will be entitled to a severance payment of \$125,000 upon termination of his employment. The board was aware of these interests and considered them along with the other matters described herein in approving the Petrohawk transaction and

determining to recommend the Petrohawk transaction to the stockholders for approval. Mr. Stone, Jr., one of our directors, who will be serving on our board after the closing is expected to receive a grant of 15,000 shares of our common stock as consideration for his board service. This decision was not made and announced by Petrohawk until March of 2004, long after our board approved the purchase agreement. See "Proposal No. 1: The Petrohawk Transaction Interests of Certain Persons in the Petrohawk Transaction."

Proposal 3: Adjournments of Special Meeting

We are asking for the authority to vote your shares for a proposed adjournment of the meeting if it is needed. See "Proposal No. 3: Adjournment of Special Meeting."

GENERAL INFORMATION

Proxy Solicitation

This proxy statement is furnished to the holders of our common stock and preferred stock in connection with the solicitation by our board of directors of proxies for use at the special meeting to be held on May 25, 2004, at 10:00 a.m., local time, or at any adjournment thereof. The purposes of the meeting and the matters to be acted upon are set forth in the accompanying Notice of Special Meeting of Stockholders. The board is not currently aware of any other matters that will come before the special meeting.

Our principal executive offices are located at 6120 South Yale Avenue, Suite 813, Tulsa, Oklahoma 74136.

We will make arrangements with brokerage houses and other custodians, nominees and fiduciaries to send proxies and proxy material to the beneficial owners of the shares and will reimburse them for their expenses in so doing. Should it appear desirable to do so in order to ensure adequate representation of shares at the special meeting, officers, agents or employees of Beta and/or Petrohawk may communicate with stockholders, banks, brokerage houses and others by telephone, facsimile or in person to request that proxies be furnished. All expenses incurred in connection with this solicitation will be borne by us.

We have retained Georgeson Shareholder to assist with the solicitation of proxies for a fee not to exceed \$7,500, plus reimbursement for out-of-pocket expenses.

Certain stockholders of Beta who together own approximately 28% of our voting shares, including two of our directors Robert E. Davis, Jr. and Rolf N. Hufnagel, have entered into a stockholders agreement with Petrohawk and us pursuant to which they have agreed to vote all of the voting shares of Beta owned by them or over which they have voting control in favor of both proposals being presented at the special meeting.

Revocability and Voting of Proxy

A form of proxy for use at the special meeting and a return envelope for the proxy are enclosed. Stockholders may revoke the authority granted by their execution of proxies at any time before their effective exercise by filing with the Secretary of Beta, at our headquarters at 6120 South Yale Avenue, Suite 813, Tulsa, Oklahoma 74136, a written notice of revocation, or a duly executed proxy bearing a later date, or by voting in person at the special meeting. Shares of common stock and preferred stock represented by executed and unrevoked proxies will be voted in accordance with the choice or instructions specified thereon. If no specifications are given, the proxies intend to vote the shares represented thereby to approve Proposal No. 1 and Proposal No. 2 and, if needed, Proposal No. 3, as set forth in the accompanying Notice of Special Meeting of Stockholders and, in accordance with their best judgment, on any other matters which may properly come before the special meeting.

Record Date and Voting Rights

Stockholders of record at the close of business on April 16, 2004 are entitled to notice of and to vote at the special meeting. As of the record date, 12,429,307 shares of common stock were issued and outstanding, and there were 604,271 shares of our preferred stock issued and outstanding. Each share of common stock and each share of preferred stock is entitled to one vote on all matters that may properly come before the special meeting. The common stock and preferred stock vote together as one class. The holders of a majority of the outstanding shares of common stock and preferred stock, present in person or by proxy, will constitute a quorum at the special meeting.

Approval of Proposal No. 1 (issuance of common stock pursuant to the Petrohawk transaction) and Proposal No. 3 (adjournments of special meeting) require a majority of the total votes cast on the proposal in person or by proxy. Each outstanding share of common stock and each outstanding share of preferred stock is entitled to one vote. Approval of Proposal No. 2 (increase in authorized common stock) requires the affirmative vote of a majority of the total votes represented by the outstanding common stock and preferred stock. Stockholders will not have appraisal or similar rights with respect to Proposal No. 1 or Proposal No. 2. See the section of the summary above entitled "Stockholder Approval" for information regarding the effect of a failure to approve Proposal No. 1 and/or Proposal No. 2.

With respect to all three proposals, abstentions and broker non-votes will be counted to determine whether a quorum is present. In determining whether Proposal No. 1 and Proposal No. 3 have received the requisite number of favorable votes, abstentions and broker non-votes will not be counted as part of the total number of votes cast on such proposal and will have no effect in determining whether the proposal has been approved by the stockholders. With respect to Proposal No. 2, both abstentions and broker non-votes will have the same effect as votes against the proposal. A broker non-vote occurs when a nominee holding shares of common stock for a beneficial owner does not vote on a particular proposal because the nominee does not have discretionary voting power with respect to that item and has not received instructions from the beneficial owner.

At the special meeting, ballots will be distributed with respect to each proposal to be voted upon to each stockholder (or the stockholder's proxy if not the management proxy holders) who is present and did not deliver a proxy to the management proxy holders. The ballots will then be tallied, one vote for each share of common stock owned of record and one vote per share of preferred stock owned of record, the votes being in three categories: FOR, AGAINST or ABSTAIN.

Votes at the special meeting will be tabulated by an inspector of election appointed by us.

FORWARD-LOOKING STATEMENTS

From time to time, in written reports and oral statements, we may discuss our expectations regarding our future performance. Generally, these statements relate to business plans or strategies, projected or anticipated benefits or other consequences of such plans or strategies or other actions taken or to be taken by us, including the impact of such plans, strategies or actions on our results of operations or components thereof, projected or anticipated benefits from operational changes, acquisitions or dispositions made or to be made by us, or projections involving anticipated revenues, costs, earnings or other aspects of our results of operations. The words "expect," "believe," "anticipate," "project," "estimate," "intend" and similar expressions, and their opposites, are intended to identify forward-looking statements. These forward-looking statements are not guarantees of future performance but rather are based on currently available competitive, financial and economic data and management's operating plans. These forward-looking statements involve risks and uncertainties that could render actual results materially different from management's expectations. Such risks and uncertainties include, without limitation, whether the Petrohawk transaction will be consummated, as well as business conditions and growth and consolidation in the oil and gas industry and the energy business generally and in the economy in general, risks related to our ability to generate capital to complete our planned drilling and exploration activities, risks inherent in oil and gas acquisitions, exploration, drilling, development and production, fluctuations in oil and gas prices, government regulations and environmental matters and other risk factors described from time to time in our reports filed with the SEC as well as the risks associated with the proposed Petrohawk transaction which are described below under "Proposal No. 1 The Petrohawk Transaction Certain Risks Associated with the Proposed Petrohawk Transaction."

All statements herein that are not statements of historical fact are forward-looking statements. Although we believe that the expectations reflected in such forward looking statements are reasonable, there can be no assurance that those expectations will prove to have been correct. Certain other important factors that could cause actual results to differ materially from management's expectations are disclosed in this proxy statement and in our other filings with the SEC. All written forward-looking statements by or attributable to management in this proxy statement are expressly qualified in their entirety by the risk factors and the cautionary statements mentioned above. Investors must recognize that events could turn out to be significantly different from what management currently expects.

SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

Current Beneficial Ownership

The following table reflects, as of March 1, 2004, the beneficial ownership of our common stock and preferred stock by (i) all persons known by us to be beneficial owners of more than 5% of each class of stock, (ii) each of our directors, (iii) each of the persons who will become a director in connection with the closing of the Petrohawk transaction in accordance with the terms of the purchase agreement (see "Director and Executive Officer Information" on page 50); (iv) each of our executive officers named in the Summary Compensation Table below, and (v) all of our executive officers and directors as a group and provides the percentage of outstanding shares of stock of each class held. The table also shows the number of shares of common stock and the percentage of the outstanding common stock that will be owned by the persons described above and Petrohawk if the issuance of the securities under Proposal No. 1 is approved and consummated.

Name of Beneficial Owner	Shares of Common Stock Beneficially Owned(1)	Percent of Class(2)	Shares of Common Stock Beneficially Owned After the Issuance of Securities to Petrohawk(1)	Percent of Class After Issuance of Securities to Petrohawk(2)(3)
Robert E. Davis, Jr	364,583(4)	2.91%	364,583	1.21%
Steve A. Antry 11814 S. Sheridan Road Tulsa, OK 74008	1,138,000(5)	9.14%	1,138,000	4.11%
Robert C. Stone, Jr.	180,000(6)	1.43%	195,000(6)(16)	*
David A. Wilkins	166,667(7)	1.32%	600,000	2.12%
Rolf N. Hufnagel	820,000(8)	6.57%	820,000	2.96%
David A. Melman	50,000(9)	*	50,000	*
Joseph L. Burnett	189,333(10)	1.50%	256,000	*
Floyd C. Wilson			25,151,515(15)	66.82%
David B. Miller			25,151,515(13)(14)	66.82%
D. Martin Phillips			25,151,515(13)(14)	66.82%
Larry L. Helm			15,000(16)	*
Tucker Bridwell			15,000(16)	*

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James L. Irish III	15,000(16)			*
Petrohawk Energy, LLC 1100 Louisiana, Suite 3650 Houston, Texas 77002	25,151,515(12)			66.82%
EnCap Energy Capital Fund IV, L.P. 1100 Louisiana, Suite 3150 Houston, Texas 77002	25,151,515(13)(14)			66.82%
EnCap Energy Acquisition IV-B, Inc. 1100 Louisiana, Suite 3150 Houston, Texas 77002	25,151,515(13)(14)			66.82%
EnCap Energy Capital Fund IV-B, L.P. 1100 Louisiana, Suite 3150 Houston, Texas 77002	25,151,515(13)(14)			66.82%
EnCap Equity Fund IV GP, L.P. 1100 Louisiana, Suite 3150 Houston, Texas 77002	25,151,515(13)(14)			66.82%
EnCap Investments L.P. 1100 Louisiana, Suite 3150 Houston, Texas 77002	25,151,515(13)(14)			66.82%
EnCap Investments GP, L.L.C. 1100 Louisiana, Suite 3150 Houston, Texas 77002	25,151,515(13)(14)			66.82%
RNBD GP LLC 1100 Louisiana, Suite 3150 Houston, Texas 77002	25,151,515(13)(14)			66.82%
Gary R. Petersen 1100 Louisiana, Suite 3150 Houston, Texas 77002	25,151,515(13)(14)			66.82%
Robert L. Zorich 1100 Louisiana, Suite 3150 Houston, Texas 77002	25,151,515(13)(14)			66.82%
All officers and directors as a group	1,770,583(11)	13.73%	2,285,583(17)	6.46%

*

Represents less than 1% of that class of stock outstanding.

(1)

Unless otherwise indicated, all shares of stock are held directly with sole voting and investment power. Securities not outstanding, but included in the beneficial ownership of each such person

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are deemed to be outstanding for the purpose of computing the percentage of outstanding securities of the class owned by such person, but are not deemed to be outstanding for the purpose of computing percentage of the class owned by any other person. The total number includes shares issued and outstanding as of March 1, 2004, plus shares which the owner shown above has the right to acquire within 60 days after March 1, 2004. Information is provided for reporting purposes only and should not be construed as an admission of actual beneficial ownership.

- (2) For purposes of calculating the percent of the class outstanding held by each owner shown above with a right to acquire additional shares, the total number of shares excludes the shares which all other persons have the right to acquire within 60 days after March 1, 2004, pursuant to the exercise of outstanding stock options and warrants.
- (3) The percentages are based on the assumption that 27,690,322 shares of common stock and 604,271 shares of preferred stock will be outstanding immediately following the issuance of the securities to Petrohawk. The table also assumes that the Petrohawk transaction will be consummated upon the terms of the transaction documents described in this proxy statement.
- (4) Includes 114,583 shares of common stock underlying stock options.
- (5) Shares held with spouse as community property. Includes 25,000 warrants held on behalf of minor children.
- (6) Includes 175,000 shares of common stock underlying stock options.
- (7) Represents shares of common stock underlying stock options.
- (8) Includes 50,000 shares of common stock underlying stock options.
- (9) Represents shares of common stock underlying stock options.
- (10) Includes 183,333 shares of common stock before closing the Petrohawk transaction and 255,000 shares of common stock after closing the Petrohawk transaction which are issuable upon exercise of outstanding stock options and warrants.
- (11) Total for the 6 persons who were officers or directors prior to the issuance of the securities to Petrohawk. This includes 100,000 shares of common stock underlying stock warrants and 611,250 shares of common stock underlying stock options.
- (12) Includes 15,151,515 shares of common stock and warrants to purchase 10,000,000 shares of common stock exercisable within 60 days after the date hereof.
- (13) Represents shares owned by Petrohawk. These entities or persons may be deemed to share voting and dispositive control over the shares of common stock owned by Petrohawk. EnCap Energy Capital Fund IV, L.P. and EnCap Energy Acquisition IV-B, Inc., each of which is a member of Petrohawk, have the contractual right to nominate a majority of the members of the board of directors of Petrohawk pursuant to Petrohawk's limited liability company agreement. These two entities are controlled indirectly by David B. Miller, Gary R. Petersen, D. Martin Phillips and Robert L. Zorich. In addition, Mr. Miller and Mr. Phillips are members of Petrohawk's board of directors. Messrs. Miller, Petersen, Phillips and Zorich are the members of RNBD GP LLC which in turn has management control, directly or indirectly, over the other EnCap entities listed on this beneficial ownership table, including EnCap Investments GP, L.L.C., EnCap Investments L.P., EnCap Equity Fund IV GP, L.P., EnCap Energy Capital Fund IV-B, L.P., EnCap Energy Capital Fund IV, L.P. (a member of Petrohawk) and EnCap Energy Acquisition IV-B, Inc. (a member of Petrohawk). All the EnCap entities listed in the preceding sentence, other than the two EnCap entities which are members of Petrohawk, have management control, directly or indirectly, over these two EnCap entities with membership in Petrohawk.

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- (14) Each of EnCap Energy Capital Fund IV, L.P., EnCap Energy Acquisition IV-B, Inc., EnCap Energy Capital Fund IV-B, L.P., EnCap Equity Fund IV GP, L.P., EnCap Investments L.P., EnCap Investments GP, L.L.C., RNBD GP LLC, David B. Miller, Gary R. Petersen, D. Martin Phillips, and Robert L. Zorich disclaim beneficial ownership of the reported securities in excess of such entity's or person's respective pecuniary interest in the securities.
- (15) Represents shares owned by Petrohawk. Floyd C. Wilson may be deemed to share the voting and dispositive control over the shares of common stock owned by Petrohawk. FCW, LLC, a member of Petrohawk, has the contractual right to nominate one of the members of the board of managers of Petrohawk pursuant to Petrohawk's governing documents and has nominated Floyd C. Wilson, a majority member of FCW, LLC. Floyd C. Wilson disclaims beneficial ownership of the reported securities in excess of his pecuniary interest in the securities.
- (16) Includes 15,000 shares expected to be granted after the closing to each of the non-employee directors who will then be serving on our board for his service on the board of directors.
- (17) Total for nine persons who will be officers or directors after the issuance of the securities to Petrohawk will be 25,391,515 shares (representing 67.15% of the shares then outstanding) after the closing of the Petrohawk transaction and the termination or resignation of all of the current directors and executive officers other than Mr. Stone. This will include 15,216,515 shares of common stock, 10,000,000 shares of common stock underlying stock purchase warrants and 175,000 shares underlying stock options.

PROPOSAL NO. 1:

THE PETROHAWK TRANSACTION

The first proposal to be considered and voted upon at the special meeting is the issuance of common stock in connection with the Petrohawk transaction. Pursuant to the securities purchase agreement entered into with Petrohawk on December 12, 2003, at closing we will issue to Petrohawk:

15,151,515 shares of common stock;

warrants entitling the holder to purchase up to 10,000,000 shares of common stock at an exercise price of \$1.65 per share of common stock, subject to adjustment as described below under "Terms of the Warrants;" and

a convertible promissory note in the original principal amount of \$35,000,000 which is convertible after two years into shares of our common stock at a conversion price of \$2.00 per share, subject to adjustment as described below under "Terms of the Convertible Note."

As the consideration for these securities, Petrohawk has agreed to pay us a total of \$60,000,000 in cash, of which \$25,000,000 is attributable under the purchase agreement to the shares of common stock and warrants and \$35,000,000 is attributable to the convertible note. For a description of the events leading to the approval by our board of directors of the Petrohawk Transaction and the agreements related thereto, see "Background of the Petrohawk Transaction" below.

Certain Risks Associated with the Proposed Petrohawk Transaction

In addition to the other information contained in this proxy statement, in determining whether to approve the Petrohawk transaction, our board of directors did consider, and, in determining how to vote on this proposal, each of you should consider the following important factors:

Our stockholders will experience substantial dilution. The consummation of the Petrohawk transaction will have an immediate dilutive effect on the ownership interests and voting power of our existing stockholders and the future voting power of warrant and stock option holders. Upon closing the Petrohawk transaction, Petrohawk will own approximately 55% of our outstanding shares of common stock (which will represent approximately 54% of the total voting shares after taking into account the outstanding voting shares of our preferred stock). As a consequence, for as long as Petrohawk retains over 50% of the total voting shares, Petrohawk will have complete control over the election of directors and many other matters that may be presented to the stockholders from time to time. Conversion of the convertible note into common stock or exercise of the warrants will further dilute the voting rights of existing stockholders.

Petrohawk will assume control of our management. Following the closing, there is to be a board of directors consisting of seven members. Under the terms of the purchase agreement, Petrohawk and its owners will designate six of the seven members. In addition, Floyd C. Wilson, the president and chief executive officer of Petrohawk, will become the chairman of the board, president and chief executive officer of Beta. See "Director and Executive Officer Information Directors" for information regarding Mr. Wilson and the other persons who will become members of our board of directors. We anticipate that most or all of our current management personnel will have their employment with us terminated or will resign.

The amount of our indebtedness will increase significantly. At December 31, 2003, our long-term indebtedness was \$13,284,652, with a debt to equity ratio of approximately 0.45 to 1.0. As a result of the Petrohawk transaction, our long-term indebtedness will increase by \$21.7 million which is the original principal amount of the convertible note of \$35 million to be issued to Petrohawk less the immediate paydown of our existing long-term debt of \$13,284,152, and we estimate that we will then

have a debt to equity ratio of approximately 0.64 to 1.0. See "Unaudited Pro Forma Consolidated Financial Information." Thus, the indebtedness incurred with respect to the convertible note is material in relation to our current level of indebtedness, our ability to service the debt from our operating cash flow and, if the convertible note is not converted to common stock, our ability to repay the principal amount of the debt in full at maturity. See "Terms of the Petrohawk Transaction Terms of the Note" and "Unaudited Pro Forma Consolidated Financial Information."

We may not be able to profitably deploy the funds that we will receive. If we complete the Petrohawk transaction, our growth and profitability will be largely dependent upon our ability to profitably deploy the \$60,000,000 in new capital that we will receive. Prices of oil and natural gas are higher than they have been in recent years. As a result, acquisition prices of producing oil and gas properties, the costs of obtaining leases and drilling oil and gas wells and acquiring other oil and gas companies are expected to be higher than in recent periods. The prices of oil and gas production are volatile and could decline significantly in the future. Also, the funds provided in the Petrohawk transaction may not be adequate to complete a specific acquisition or acquisitions we may pursue, in which case we may seek additional funds by incurring additional indebtedness, issuing additional equity securities, or by other means. This could increase even more the risks of being able to produce a profitable return for our stockholders. Currently, we have no agreements, arrangements or understandings with respect to our acquisition of any entity or business except it is anticipated that the properties of Petrohawk will be offered to us after closing. See "Information About Petrohawk Properties and Operations."

Petrohawk's ownership position could inhibit takeover offers from other companies. After the closing, the significant ownership interests of Petrohawk could effectively deter a third party from making an offer to buy us, which might involve a premium over the current stock price or other benefits for stockholders, or otherwise prevent changes in the control or management of us. Except as described under "Terms of the Stockholders Agreement" there are no restrictions, in the form of a standstill agreement or otherwise, on the ability of Petrohawk or its affiliates to purchase additional Beta securities and thereby further consolidate its ownership interest.

The warrants and the conversion rights under the convertible note could result in significant "market overhang" which could restrain or limit increases in the market value of our stock. The 10,000,000 warrants to be issued to Petrohawk will be exercisable at any time over the five-year period beginning with the closing at an exercise price of \$1.65 per share. Additionally, beginning with the second anniversary of the closing and until its maturity at the end of five years, the \$35 million convertible note will be convertible into shares of common stock at a conversion price of \$2.00 per share. The availability of these shares at these prices could discourage potential investors in our common stock from paying as much for our shares as they would if these shares did not exist. This could restrict increases in the value of our common stock that might otherwise occur without this "market overhang."

Consummation of the Petrohawk transaction will substantially limit our ability to use our current net operating loss carryforwards to offset future income for Federal income tax purposes. Because Petrohawk will obtain more than 50% of the voting power of our outstanding capital stock, we will be limited in the amount of our net operating loss carryforwards that we will be able to use on an annual basis to offset our taxable income for Federal income tax purposes. See "Tax Consequences" below. This will defer to a material extent, and could eliminate altogether, a portion of the future economic benefit that we would otherwise be entitled to under the current Federal income tax laws as a result of our past operating losses.

Our financial advisor who rendered the fairness opinion to our board has a substantial financial interest in the consummation of the Petrohawk transaction. Under the terms of its amended engagement letter with us, Petro Capital Advisors, LLC received \$100,000 in connection with the delivery of its fairness opinion to the board of directors. In addition, it has been paid and will continue to be paid a monthly fee of \$6,250 unless and until the Petrohawk transaction closes, at which time the monthly fee will

terminate. If the Petrohawk transaction is completed, Petro Capital will be paid an additional \$500,000 fee (for a total of \$600,000, including the fee for the fairness opinion to the board). Thus, there is a substantial financial incentive to the board's financial advisor for the Petrohawk transaction to be approved and closed.

The fairness opinion rendered by Petro Capital Advisors, LLC relied upon estimates of our proved oil and gas reserves which were substantially lower than the amount reported by Netherland, Sewell & Associates, Inc. as of December 31, 2003, but our board has not requested, nor has it received, an update of that opinion taking such new information into consideration. The Petro Capital fairness opinion was rendered to our board on November 5, 2003 at the meeting at which our board considered the Petrohawk transaction and determined to proceed with finalization of documentation with respect to the transaction. As noted in the section below captioned, "Petro Capital Advisors, LLC Fairness Opinion," in rendering its opinion, Petro Capital reviewed and relied upon various studies, analyses and inquiries, including information regarding our proved oil and gas reserves. Petro Capital specifically reviewed and relied on the Ryder Scott report of its estimates of our proved oil and gas reserves at December 31, 2002 (approximately 18.3 Bcfe) and our internal update of those estimates as of September 30, 2003 (approximately 22.9 Bcfe), with its primary reliance placed on the September 30 estimate. Our board met again on December 11, 2003 to approve the Petrohawk transaction and related documentation. The purchase agreement was signed on December 12, 2003.

On February 12, 2004, we issued a press release announcing our estimated proved oil and gas reserves at the end of 2003 based on the third party engineering report issued on February 9, 2004, by Netherland, Sewell & Associates, Inc., which is described under "Recent Developments" above. Prior to signing the agreement in December 2003 and again after the issuance of the year-end reserve report for 2003, our board considered whether it should obtain an updated fairness opinion. In the board's deliberations on this issue, the board discussed the issue and considered all developments with respect to Beta since the issuance of the fairness opinion and whether any of those changes had, in the board's opinion, resulted in a fundamental or material change in the value of Beta or our securities.

After careful consideration of a number of factors, including those discussed below, the board decided that it would continue to recommend to the Beta stockholders that the Petrohawk transaction is in their best interests and should be approved. In this regard, our board determined that it did not need an updated fairness opinion to reach this conclusion. Among the factors our board considered were the following:

Prior to its decision to approve the Petrohawk transaction, and using the September 30, 2003 updated reserves estimate as its starting point, our board reviewed a range of estimates provided by management of our proved oil and gas reserves, which indicated that our estimated oil and gas reserves at year-end 2003 could be higher than our internal estimate at September 30, 2003. Estimates of our proved reserves include only those quantities of oil and gas which geological and engineering data demonstrate with reasonable certainty to be recoverable in future years from known reservoirs under existing economic and operating conditions. These estimates are adjusted from time to time to reflect actual production history, updated technical data, results of ongoing operations and prevailing product prices. The upward revisions in estimates of our reserves that occurred throughout 2003 were attributable to the drilling and workover successes in key areas of operations as supported by significant technical work. Netherland, Sewell & Associates, Inc. evaluated 100% of our oil and gas properties, including the results of our operations through the end of 2003, and prepared its estimate for the proved oil and gas reserves as of December 31, 2003. Netherland, Sewell & Associates, Inc.'s estimate of our proved reserves at year-end 2003 was higher than our internal estimate at September 30, 2003; however, it was within the range of estimates presented to our board in advance of its approval of the Petrohawk transaction.

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Although the board could have withdrawn its recommendation in favor of the Petrohawk transaction, our purchase agreement with Petrohawk does not permit us to terminate the agreement or renegotiate its terms based on changes in estimates of our proved oil and gas reserves. In this respect, our board also considered the market reaction to the news of the Petrohawk transaction, including the increases in the market price of our stock and the average daily trading volume of our stock since the date the Petrohawk proposal was first presented. In contrast, the market reaction to the release of the Netherland, Sewell & Associates, Inc. report of our estimated proved reserves at December 31, 2003 appeared to be muted.

After careful consideration of these and other factors, our board concluded that it should continue to recommend the Petrohawk transaction.

Use of Proceeds

The net proceeds (after expenses of the transaction, which we estimate to be approximately \$1,775,000) from the sale of the securities will be added to our working capital and will be available for retirement of our outstanding long-term debt, the acquisition, development and exploration of oil and gas properties and for general corporate purposes. As a result of the issuance of the convertible promissory note, our long-term debt will increase by approximately \$21.7 million, which is the original principal amount of the note minus the amount of our existing debt of \$13.3 million at December 31, 2003. It is anticipated that oil and gas properties currently owned by Petrohawk will be offered to us after the closing. See "Information About Petrohawk Operations and Properties." We currently have no agreements, arrangements or understandings with respect to an acquisition of any entity or business.

Background of the Petrohawk Transaction

In September 2002, our board of directors agreed that in order to improve our overall performance and create a more balanced growth model, a significant change in our senior management was necessary. Accordingly, in October 2002, our board identified and interviewed candidates for the position of president and CEO and ultimately hired David A. Wilkins to fill both positions. Mr. Wilkins came to us from Vintage Petroleum, Inc. where he had worked for approximately 10 years holding various positions with his last position being the General Manager of Latin America. Mr. Wilkins' mandate was to assess our existing asset base, focus our work effort on lower-risk opportunities, optimize operating and administrative costs, and build a new team capable of achieving our desired growth through strategic investments in exploitation, exploration and acquisitions opportunities.

Mr. Wilkins initiated his mandate by recruiting several key employees to strengthen our exploitation and development team. Our new management began the process of optimizing the existing assets including plans for disposition of assets with limited potential. In addition, the team sought out property acquisitions and new drilling opportunities that would provide attractive economic return under the reality of our limited available capita